

Catholic Approaches to Mining: Cases of Impact

The Legal Defense of Indigenous Peoples in Puno, Peru

Province of Puno, Southern Andes, Peru

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Summary

The region of Puno is mainly inhabited by rural communities of Quechua and Aymara origin whose ways of life are deeply linked to the land and the high Andean ecosystems. Nearly a third of the Puno region is under mining concessions. The state has systematically granted mining concessions without adequate prior consultation processes, negating their right to Free, Prior and Informed Consent (FPIC), despite the fact that International Labour Organisation (ILO) Convention 169, which enshrines the right to FPIC (ILO, 1989), is in force in Peru and is legally binding. The case study discusses how rural communities in the Puno region have asserted their rights, and how their cases represent legal precedents in favour of prior consultation processes on mining concessions and respect of the right to FPIC. It analyses how a human rights organisation, Derechos Humanos y Medio Ambiente (Human Rights and Environment), which emerged from the Vicariate of Solidarity of the Prelature of Juli, has translated principles of Catholic Social Teaching into legal language, especially those of human dignity, preferential option for the poor, social participation, universal destination of goods and wealth redistribution, and care for our Common Home. The case also highlights the critical role of educational work towards rural and indigenous communities, primarily through training and capacity-building activities and leadership formation.

1. Background

In recent decades, Peru has consolidated an economic development model based on the intensive exploitation of natural resources, particularly minerals. This model has been especially strongly implemented in the region of Puno, which is mainly inhabited by rural communities of Quechua and Aymara origin whose ways of life are deeply linked to the land and the high Andean ecosystems.

The granting of mining concessions in Puno has followed a centralised approach, whereby the Peruvian state owns and exploits the subsoil without ensuring the effective participation of the communities who inhabit the territories and who own the surface soil. The state has systematically granted mining concessions without adequate prior consultation processes, negating communities' right to Free, Prior and Informed Consent (FPIC), despite the fact that International Labour Organisation (ILO) Convention 169, which enshrines the right to FPIC (ILO 1989), is in force in Peru and is legally binding.

According to the Observatory on Mining Conflicts in Peru (OCM 2025c), mining concessions covered 15.88% of Peru's territory at the end of 2025. They have been expanding since 2023 in line with rising demand and prices for minerals, particularly copper and gold. Whilst not all concessions are currently in operation, the extent of mining concessions reflects a sustained expansion of extractive interests. In Andean regions such as Apurímac, Moquegua, Arequipa, Cusco and Puno, the proportion of territory covered by concessions may exceed 30% in certain provinces, leading to overlaps with communal lands, river headwaters and fragile ecosystems. This mining expansion, accompanied by a violation of the right to FPIC, has led to persistent socio-environmental conflicts, as well as resistance and territorial defence by local communities.

The southern Peruvian Andes are home to some of the country's most significant mining projects and, at the same time, some of the most protracted socio-environmental conflicts. These include Las Bambas in Apurímac, Quellaveco in Moquegua, Cerro Verde and Tía María in Arequipa, and gold exploitation and lithium exploration projects in Puno. These conflicts have centred around water-related impacts, financial compensation, amendments to environmental impact assessments and the distribution of mining royalties. The opposition

of Indigenous rural communities in the southern Peruvian Andes to the granting of new mining concessions, particularly in the regions of Puno, Cusco and Apurímac, is not driven by a single cause, but by a convergence of legal, environmental, economic and cultural factors. To reduce it to mere “anti-mining” opposition is to oversimplify a far more complex phenomenon: at its core, it is a defence of their territory and of the minimum conditions required for a dignified life.



It is within this context that human rights organisations have emerged and consolidated. These organisations have adopted a critical stance towards the dominant extractive economic development model. While they acknowledge the mining sector’s economic importance, they are also questioning its social, environmental, cultural and legal impacts. In the southern Peruvian Andes, civil society has played an especially important role in mediation, reporting abuses, and litigation. In several cases, civil society organisations, guided by the principles of Catholic Social Teaching, have brought constitutional appeals, administrative lawsuits and cases before international bodies. They have also documented patterns of excessive use of force during states of emergency and issued statements opposing regulatory reforms that weakened environmental oversight. For example, organisations such as Human Rights and the Environment (*Derechos Humanos y Medio Ambiente*, DHUMA), the Institute for Legal Defence (*Instituto de Defensa Legal*, IDL), Pax Christi International (PCI), the Muqui Network (*Red Muqui*), amongst others, are civil society organisations committed to defending communities affected by mining activities. Their work combines research, policy advocacy, community training and support in dealing with socio-environmental conflicts. These organisations have produced various reports on the criminalisation of environmental defenders, the cumulative impacts of mining, and regulatory reforms that relax environmental standards.

For these organisations, the policy debate is not only a matter of technical regulation of mining activities or opposition to specific extractive projects, but rather it is a matter of questioning the primary-export-oriented economic development model. They highlight the model’s limitations in ensuring sustainable development and productive diversification, and in reducing territorial inequalities. The socio-environmental conflicts arising from natural resources extraction are thus not merely technical in nature, but also political and structural. Economic development cannot be assessed solely on the basis of GDP growth or the volume of exports, but rather on its compatibility with fundamental rights, intergenerational sustainability, environmental justice and the distribution of benefits. Furthermore, the above civil society organisations have also been involved in high-profile cases in relation to fundamental rights, FPIC, the use of law enforcement, and judicial safeguards. Their approach centres on strategic litigation and constitutional defence. These organisations have contributed to the public debate on the state’s obligation to guarantee the right to FPIC for Indigenous Peoples, access to environmental information, and proportionality in the state’s response to social protest. They have advocated for reforms to strengthen environmental assessment, guarantee effective FPIC and ensure redress in cases of harm. At the same time, they have emphasised the need to move towards a model that incorporates criteria of just transition and territorial governance.

In the southern Andean region, the work of these human rights organisations stands out through their coordination in legal defence, human rights education and community support. They have worked together consistently with rural communities on territorial defence processes against mining concessions, initiating

legal proceedings and strengthening local capacities for environmental monitoring. Their approach integrates collective rights, water protection (river catchment headwaters), territorial integrity, effective citizen participation, and the preferential option for the poor as a pillar of Catholic Social Teaching.

The support work carried out by human rights organisations linked to the Catholic Church focuses on defending the right to FPIC, as provided for in ILO Convention 169, protecting and remediating water bodies and their sources, challenging the criminalisation of social protest, and demanding international standards of corporate due diligence on human rights, as well as transparency and access to public environmental information.

Thus, the region of the southern Peruvian Andes remains caught in an ongoing tension between, on the one hand, the economic importance attributed to mining by the Peruvian state and private investment, and, on the other, the defence and effective protection of human rights and ecosystems. The expansion of mining concessions, the fiscal dependence on extractive revenues and the pressure to maintain international competitiveness coexist with growing demands for public participation and environmental protection.

In the regions of Cuzco, Apurímac and Puno, several landmark legal cases took place. These were brought by rural communities and Indigenous Peoples who sued the Peruvian state for failing to carry out prior consultation processes and respect the right to FPIC before granting mining concessions. These proceedings consisted primarily of constitutional amparo actions¹ against the Ministry of Energy and Mines (*Ministerio de Energía y Minas*, MINEM) and the Geological Institute of Mining and Metals (*Instituto Geológico Minero y Metalúrgico*, INGEMMET). Among these cases are the Arboleda and San José de Principio rural communities in Puno, which are discussed in the next section (DHUMA 2025a,d), as well as other cases such as the Jatucachi rural community in Puno (DHUMA 2025b), the Asacasi rural community in Apurímac (IDL 2023), and the Huisa rural community in Cusco (IDL 2025). Through these legal defence initiatives, these rural communities have begun to establish new paradigms regarding mining and the rights of Indigenous Peoples, lending particular significance to the legal and political debate surrounding these cases, both nationally and internationally. These legal disputes have opened the door to a deeper and wide-ranging discussion on issues such as whether mining concessions constitute administrative measures subject to prior consultation processes, the meaning of the concept of “direct impact” and its scope, the Indigenous nature of Andean rural communities, and, fundamentally, the tensions between extractive policies and territorial rights.

The cases discussed in the next section, along with the others mentioned above, have made it possible to incorporate standards of compliance with international human rights treaties, primarily ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples, the case law of the Inter-American Court of Human Rights, as well as Peruvian constitutional case law handed down by the Constitutional Court in rulings of its Civil and Constitutional Chambers. In particular, the cases of the communities of Arboleda and San José Principio represent legal precedents in favour of prior consultation processes and respect for the right to FPIC. Through these, the Peruvian judiciary made a fundamental and unprecedented contribution in support of Indigenous Peoples not only in the southern Andes but also at a national level.

¹ An amparo is a legal tool that allows for legal action in the face of human rights violations by public authorities.

2. The two cases

The Community of Arboleda

In 2011, the mining sector in Peru experienced a significant expansion, with mining concessions covering nearly 19 % of the national territory by June of that year, equivalent to more than 24 million hectares (OCM 2011). Aymara communities in the southern part of the Puno region, near the border with Bolivia and Chile, began to organise a sustained movement of resistance against the presence of extractive projects on their lands, which primarily sprang from the socio-environmental conflict known as the “Aymarazo” (BHRC 2017; DHUMA 2023a). The conflict erupted in 2011 when the Aymara Indigenous communities rejected the presence of the Santa Ana mining project run by the Canadian company Bear Creek, which sought to extract silver and other minerals in the area.

Following the resolution of the conflict, Quechua and Aymara communities gained access to the Ministry of Energy and Mines (MEM) database, which contains the national mining cadastral maps. This enabled them to constantly monitor whether their territories were affected by mining concessions or not, to avoid a social protest once mining exploration had become visible to them. Thus, in September 2011, having learnt that mining concessions had been approved on their territories, the Quechua community of Arboleda, in the district of Tiquillaca in the province of Puno, took the lead in defending its rights before the courts. They initiated a constitutional challenge to protect its territory, way of life, and rights as descendants of the ancient Colla culture,² one of the most representative in this part of the Puno highlands.

The community of Arboleda decided to form a Committee for the Defence of Natural Resources and the Environment (*Comité de Defensa de los Recursos Naturales y del Medio Ambiente*), which would be responsible for bringing the case before the judiciary and would represent the community in legal proceedings against the government bodies which granted mining concessions on their community’s territory without carrying out prior consultation (i.e., MEM and INGEMMET), thereby violating FPIC and territorial rights as stipulated in ILO Convention 169. The lawsuit also included the claim that the presence of mining concessions on their territories had infringed upon their right to cultural identity, as the state had imposed a conception of development different from that which the community traditionally practised without taking into account the conflict between the concession titles and the community’s right to property and territory. Furthermore, the lawsuit argued that the mining concessions, which had been granted without consultation processes, constituted a real and imminent threat to the right to a suitable environment and to access to water, in terms of both quantity and quality. The filing of this legal claim was a historic event for rural communities in Peru, as it was the first time that an Indigenous community had brought legal proceedings against the Peruvian state to assert its rights.

At first instance, the Third Civil Court of Puno dismissed the claim on the ground that the administrative remedies had not been exhausted beforehand, and that the claim was

² The Colla (or Qulla) was an Aymara kingdom in the High Andes around Lake Titicaca between the 12th and 15th centuries.



time-barred because “the administrative measure had already been adopted, thereby creating rights for the owners of the mining companies, who had acquired such rights in good faith, and the situation had become irreparable” (Tribunal Constitucional, 2012). In a second instance, following an appeal lodged by the community, the Civil Chamber of the Superior Court of Puno, in its ruling number 06-2012, upheld the contested ruling on the same grounds as those given by the judge of the tribunal of first instance, adding that “it is presumed that the regulations in force must have been complied with in order to grant the mining concessions” (Tribunal Constitucional, 2012).

In 2019, the case reached the Peruvian Constitutional Court, marking the final instance of the proceedings before the highest interpreter of the Constitution of Peru. The Court held that the arguments put forward by the Civil Chamber of Puno were not sufficient to justify a dismissal of the claim. It ruled that the claim must be re-examined and that a decision should be reached after a more thorough examination of the case, annulling all previous proceedings. From the filing of the claim in 2011 to the issuance of this ruling by the Constitutional Court in 2019, eight years of litigation elapsed without a substantive decision being reached.

In accordance with the Constitutional Court’s ruling, the legal proceedings were resumed in September 2022, once again at first instance, before the same Third Civil Court of Puno. However, the judge took a different view this time. Having previously dismissed the claim as inadmissible, he now declared it well-founded, ruling in favour of the Arboleda community and ordering the annulment of the contested mining concessions that had been granted to private parties by the Peruvian state. In June 2025, the Civil Chamber of Puno upheld this annulment. After 14 years of legal battles, justice was done at last for the community of Arboleda (OCM, 2025a).

Arboleda was the first rural community in Peru to take legal action against the State, demanding compliance with the rights recognised in ILO Convention 169 in relation to mining concessions, and it was a pioneer in the defence of territorial rights before the Peruvian courts. The community members of Arboleda turned to the judiciary as an alternative to social protest.

Community of San José Principio

Drawing on the experience of the Arboleda community, another Indigenous community, San José de Principio in the Atuncolla District of the Puno Region, filed a lawsuit with the judiciary in 2015. Similarly, the claim centred on the failure to carry out prior consultation processes, thereby violating the right to FPIC, and taking into account the concessions’ impact on communal territory. Alongside MEM and INGEMMET, the mining company Cal & Cemento Sur S.A. – holder of the non-metallic mining concession and part of the Gloria Group, one of Peru’s largest and most powerful business conglomerates – was named as a defendant (DHUMA 2025d; OCM 2025b).

As in the previous case, the court of first instance, in this case the Second Civil Court of Puno, dismissed the claim, stating that the right to FPIC was not a constitutional right that can be enforced through legal proceedings. However, upon appeal, the court of second instance, the Civil Chamber of Puno, handed down a judgement of far-reaching significance for the protection of the right to FPIC, as it establishes binding legal precedents regarding its application, the timing of its implementation and the consequences of its omission.

Firstly, the judgement reaffirms that ILO Convention 169 is not merely a treaty but has constitutional status, i.e., that it carries the same legal weight and is as binding as Peru’s constitution. This means that the rights recognised in the Convention are binding on all branches of the Peruvian state, including MEM and INGEMMET.



These state entities cannot invoke lower-ranking regulations to circumvent the right to FPIC.

Second, the ruling establishes that the failure to carry out prior consultation processes renders null and void administrative acts that grant mining concessions without such processes. In this case, after establishing that the concession was granted without consulting the rural communities whose territory it overlapped, and that carrying out such consultation processes constituted an inalienable obligation on the part of the Peruvian state, the Chamber declared that the mining concession

“Acumulación Puno”, which covered an area of approximately 7,000 hectares, was null and void (OCM 2025c). The Chamber rejected the argument put forward by the state institutions and the defendant company that consultation was only necessary from the stage of mining exploitation onwards, thereby putting an end to the debate as to whether the granting of the concession title already constitutes a direct impact on the communities. The Chamber ruled that it did, as these are real rights granted to third parties over the property of a private individual—the community—and are not merely “expectative rights” —legal expectation to be granted rights effectively in the future—as the defendants alleged (see section 3.3 for further details). The Chamber ordered that prior consultation processes must take place regarding the administrative decision so that Indigenous Peoples may have a real influence on the project. Carrying out consultation processes afterwards would eliminate this participation and could be considered a breach of good faith, a fundamental characteristic of the prior consultation process. This final judgment was handed down by the First Civil Chamber of Puno on 19 September 2025. There is no scope for any further appeal. The defendants have to comply with the judgment.

3. Actions by the Church and its organisations

The two cases discussed above were supported by DHUMA, which accompanied the communities throughout the legal proceedings through its legal expertise and services. The organisation originated in the work of the Vicariate of Solidarity of the Prelature of Juli, whose main objective was centred on the defence and promotion of life and human rights, particularly in the Aymara-speaking region of the department of Puno. Although no longer formally and officially linked to the Catholic Church, DHUMA draws on a long history of work within the Church in the Southern Andes and with the Episcopal Commission for Social Action (CEAS) on the national level, and maintains close links with the religious congregation of the Maryknoll Sisters.

Since 1988, it has been an active force against human rights violations committed by terrorist groups (such as the Shining Path and Tupac Amaru Revolutionary Movement in the 1980s-1990s), paramilitaries and the security forces. It publicly denounces such violations, advises families and communities on their rights, and supports and accompanies rural communities. It serves on the Steering Committee of the National Human Rights Co-ordinating Committee (*Comité Directivo de la Coordinadora Nacional de Derechos Humanos*), as well as networks committed to human rights and forums for dialogue between the state and civil society. From its creation in 1988 until today, DHUMA’s work has been characterised by a commitment to providing legal support and carrying out educational work with leaders of Indigenous communities and social organisations.³

³ See its website for further information about its work, DHUMA (n.d).

All this work is rooted in and sustained by social teachings of the Catholic Church and its preferential option for the poor, which states that “the poor, the marginalised and in all cases those whose living conditions interfere with their proper growth should be the focus of particular concern” (PCJP 2004, par. 182). Embracing this preferential option, DHUMA focuses on addressing cases of human rights violations against Indigenous Peoples, as they have historically suffered from extermination, discrimination, exclusion and racism, and they continue to do so. The preferential option for the poor has also been a guiding principle of the works of the other civil society organisations mentioned in the first section, such as IDL, PCI and the Muqui Network. Their work has yielded significant results ranging from court rulings to advocating for regulations and public policies in favour of Indigenous Peoples. This section analyses the work that these organisations, and especially DHUMA, have undertaken in the context of mining-affected communities. It focuses on how they translate the principles of Catholic Social Teaching into legal language and promote educational initiatives for integral ecological peace. It then details how these actions have been carried out in the case of the Arboleda communities, highlighting the long-term accompaniment of these communities and the role of community leadership formation.

Translating the social teachings of the Church into legal language

With the handing down of these two judgements by the Civil Chamber of Puno, a significant body of case law has been established. This provides a firm and sound defence of Indigenous Peoples which is based on social justice concerns, and which coherently integrates international treaties with the provisions of the Peruvian national legal system. Similarly, the legal and philosophical foundations of this emerging case law and jurisprudence clearly reflect principles that are deeply in harmony with those of Catholic Social Teaching, especially those of human dignity, social participation, universal destination of goods, and care for creation. We briefly examine how the court rulings have embedded each principle.

Human Dignity

The judicial rulings emphasise that the cornerstone of justice lies in the recognition and defence of human dignity. They are based on the premise that the protection of the human person and respect for their dignity is the most fundamental objective of Peruvian society and state, as the first principle of the Peruvian Constitution. Respect for human dignity is the cornerstone of both modern human rights legislation and Catholic Social Teaching (PCJP 2004, chapter 3). The rulings maintain that rights are not merely rigid rules but are also instruments for enacting respect for human dignity through justice.

The human dignity of Indigenous Peoples is profoundly and fundamentally linked to the right to FPIC. Prior consultation processes are not merely an administrative procedure; they recognise Indigenous Peoples as collective holders of rights, capable of deciding on their own development, their territories and their future. When the state takes decisions on mining, hydrocarbon or infrastructure projects, or legislative measures that directly affect Indigenous Peoples without consulting them, it treats them as mere objects of decision-making rather than as subjects with the capacity to participate. This constitutes a violation of their dignity as peoples and as individuals.

In contexts of extractive projects, “sacrifice zones” emerge, i.e., places where residents, often Indigenous Peoples, suffer devastating environmental and social consequences as a result of living in areas designated for mining to satisfy demand for mineral resources in other places. In these zones, people are treated as if they

were “disposable”.⁴ Their voices are ignored, and they are excluded from decision-making. Their dignity and human rights are trampled upon as they are experience, or risk, exposure to toxic substances as a result of mining activities, with negative consequences for their health and the health of ecosystems. Carrying out prior consultation processes proclaims loud and clear that Indigenous Peoples have every right to be heard and to participate effectively and directly in decisions that may affect their lives and those of their descendants, as well as their territory.



The struggle for and assertion of the right to FPIC has been reflected in other court cases, such as the case concerning water pollution of the Torococha River in the Coata district in Puno, where the judges of the Civil Court of San Román-Juliaca ruled that situations of pollution affect human dignity by degrading people’s basic conditions of subsistence. They ruled that pollution reduced their living conditions to an undignified state, particularly due to the lack of essential services and exposure to serious health risks (DHUMA 2025c). The Court also added that cultural identity is indispensable for a “dignified life” for peoples. The rulings recognised that culture—and the preservation of cultural customs and worldviews—constitutes fundamental rights and “human resources” which deserve protection. Without such recognition, the claimant communities (Quechua Indigenous Peoples) would remain in a state of defencelessness and, as a result, deprived of their other rights. It is therefore a paramount duty of the Peruvian justice system and its judicial officials to protect the ethnic identities of the peoples who bring cases before them. The Court emphasised that the right to FPIC seeks to reverse the marginalisation to which Indigenous Peoples have been subjected, preserving their right to a dignified livelihood, and calling for action to combat the historical exclusion suffered by Indigenous Peoples in various parts of the world.

In another court case brought by two Aymara communities in the Puno region (DHUMA 2023b), the judges of the Puno Judiciary, whose ancestry was Quechua and Aymara, demanded that they should prove, through documentary evidence, their membership of an Indigenous group. The judges who presided over the Civil Chamber of Puno stated that there was a lack of clarity regarding these two communities’ Indigenous character and that their self-identification was not sufficiently substantiated to determine the protection provided for under ILO Convention 169. In other words, they were being denied their identity as Aymara peoples. Eventually, the views of the judges changed, and the Judiciary ruled that the definition of a community as Indigenous is based on the fulfilment of both objective and subjective criteria set out in Peruvian Law No. 29785 (Law on the Right to Prior Consent, *Ley del Derecho a la Consulta Previa*) and ILO Convention 169. Although the rulings did not detail every technical criterion of the law or the Convention, they emphasised the importance of self-identification (subjective criterion), whereby community members recognise themselves as indigenous. In addition, the judges took into account the Official Database of Indigenous and Native Peoples (*Base de Datos Oficial de Pueblos Indígenas u Originarios*) administered by the Peruvian Ministry of Culture. The rulings also clarified that Indigenous Peoples exercise their collective rights even when they have not been formally identified or recognised. The information in the official database is, however, not exhaustive, and there are some Indigenous groups who are not yet listed in the register. Furthermore, as indicated in Articles 13-19 of ILO Convention 169, the possession of ancestral territories, the existence of spiritual sanctuaries and the

⁴ This is in reference to Francis (2013, paragraph 195), “We may not always be able to reflect adequately the beauty of the Gospel, but there is one sign which we should never lack: the option for those who are least, those whom society discards.”

maintenance of their own institutions and economic activities (such as traditional agriculture and livestock farming) are considered elements that reinforce their identity, and highlight that land, territory and culture are strongly bound together, a point which Pope Francis also makes in *Laudato Si'*.⁵

Social participation

Catholic Social Teaching emphasises that people must be the protagonists of their own development (PCJP, 2004, paragraphs 189-191). The court judgements described earlier reflect this principle of social participation by defining free, prior and informed consent (FPIC) as a mechanism for democratisation and an intercultural dialogue that ensures that peoples have a real say in decisions that affect their way of life. The right to FPIC is not merely a matter of informing and asking peoples about their position regarding a particular activity; rather, consultation processes through which the right to FPIC is exercised must be framed by and draw upon other rights, such as the right to active participation, within an atmosphere of interculturality and, crucially, good faith.

It is worth noting that the Escazú Agreement⁶ plays an important role as a complementary instrument for strengthening the participatory rights of Indigenous Peoples in extractive contexts. While it neither replaces the right to prior consent nor establishes a new consent regime, it does reinforce state obligations to ensure effective participation, access to environmental information, and the protection of human rights and environmental defenders. Its primary contribution lies in complementing and reinforcing state obligations already recognized in ILO Convention 169, the United Nations Declaration on the Rights of Indigenous Peoples, and the jurisprudence of the Inter-American Court of Human Rights. For instance, Article 7 of the Escazú Agreement recognizes the right of all persons to participate in environmental decision-making processes—particularly regarding the participation and securing of consent of Indigenous Peoples.

By declaring that prior consent be mandatory before mining concessions are granted, and not afterwards, the court rulings put in practice the Catholic Social Teaching principle of social participation. The rulings ensure that communities are not merely recipients of information, but that they influence the decisions that affect their lives. For its part, good faith and intercultural dialogue serve to emphasise that consultation processes must take the form of a genuine dialogue aimed at reaching agreements or consent, and not a mere formality as has been the case in Peru to date. Furthermore, this intercultural and good-faith approach resonates with the pursuit of the common good (PCJP 2004, paragraphs 164-170) and the principle of solidarity (PCJP 2004, paragraphs 192-196), seeking consensus that respects diversity and promotes wealth redistribution amongst the state, businesses and Indigenous Peoples.

Universal destination of goods

Another key aspect of the court rulings which resonates with Catholic Social Teaching is its reflection of the principle of the universal destination of goods (PCJP 2004, paragraph 174; Francis 2015, paragraphs 93-95;

⁵ “It is essential to show special care for Indigenous communities and their cultural traditions. [...] For them, land is not a commodity but rather a gift from God and from their ancestors who rest there, a sacred space with which they need to interact if they are to maintain their identity and values. [...] [i]n various parts of the world, pressure is being put on them to abandon their homelands to make room for agricultural or mining projects which are undertaken without regard for the degradation of nature and culture.” (Francis, 2015, paragraph 146)

⁶ This refers to the “Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters”, which was signed in 2018 in the Costa Rican city of Escazú. The agreement makes access to information a precondition for being able to provide consent, and guarantees the right to a safe environment for environmental defenders.

Francis 2020, paragraphs 118-127). In the cases reviewed, the Courts stated that Indigenous Peoples must derive significant benefit from industries on their territories, with fair compensation and respect for their traditional economic activities guaranteed.

Peoples' right to benefit from natural resources in the context of mining and other extractive activities remains a matter of debate in Peru, particularly in the judicial sphere as no ruling has yet been issued on the matter. However, many legal experts on the subject indicate that there is no doubt that the right of Indigenous Peoples to benefit from extractive activities carried out on their territories is expressly recognised in treaties, regulations and case law, and this also includes benefit sharing in relation to conservation activities, tourism and Indigenous Peoples' ancestral and intangible knowledge about plants and others. Such benefit sharing must also respect the collective rights of Indigenous Peoples, and take place within an intercultural perspective in accordance with their own conception of development and worldviews (Ruiz Molleda 2024).

In both cases described in the previous section, the Civil Court of Puno emphasised that the state had sovereignty over resources, but that this sovereignty could not override the rights of the communities inhabiting the territory. The Court demanded that these communities share in the benefits of the mining activities and not merely suffer the harm. As Pope Francis reminded us in *Laudato Si'*, quoting Saint John Paul II:

God gave the earth to the whole human race for the sustenance of all its members, without excluding or favouring anyone [...] A type of development which did not respect and promote human rights – personal and social, economic and political, including the rights of nations and of peoples – would not be really worthy of man. [...] The Church does indeed defend the legitimate right to private property, but she also teaches no less clearly that there is always a social mortgage on all private property, in order that goods may serve the general purpose that God gave them. It is not in accord with God's plan that this gift be used in such a way that its benefits favour only a few. (Francis 2015, paragraph 93)

Care for Creation

The court ruling in the case of the community of Arboleda described above reflects the community's concern regarding the potential pollution of river and lake water. By upholding the claim, the judiciary safeguards the constitutional right to access to clean water. In line with the Catholic Social Teaching principle of care for our common home (Francis, 2015), the ruling recognises that nature is the source of sustenance and life for these communities. It emphasises the right to a balanced environment and safeguards traditional economic activities (agriculture and livestock farming) against the environmental risks posed by mining, thereby protecting the spiritual and material bond with Creation. The ruling also implicitly acknowledges that the social and environmental dimensions of life deteriorate together, and that “we cannot adequately combat environmental degradation unless we attend to causes related to human and social degradation,” as “deterioration of the environment and of society affects the most vulnerable people on the planet” (Francis 2015, paragraph 48). As the cases of the Quechua communities of Arboleda and San José Principio illustrate, it is Indigenous Peoples who suffer the most from environmental degradation linked to mining in the Puno region. Water is a particular concern, and the court ruling emphasised the right to safe drinking water as a basic, fundamental and universal right, and a condition for the fulfilment of other human rights, in line with *Laudato Si'* (Francis 2015, paragraph 30).

Education for integral ecological peace

As a civil society organisation linked to the Catholic Church, DHUMA also carries out educational work towards rural and Indigenous communities, primarily through training and capacity-building activities and leadership

formation. These are important avenues for strengthening their knowledge, skills and various tools for the defence of their collective, territorial, environmental and cultural rights in the face of threats arising from extractive activities, socio-environmental conflicts and the criminalisation of protest.

It is essential for human rights and Indigenous rights training to cover topics such as ILO Convention 169 and the rights it upholds, including the right to prior consent, territorial and communal rights, the assertion of Indigenous identity, the right to water and the rights of Mother Earth, the rights of Indigenous women and political participation, as well as the legal mechanisms for the protection of human rights within the national justice system and international systems. In the case of Puno, this capacity-building also seeks to ensure a solid foundation of Aymara, Quechua and Uro Indigenous leaders with the technical, legal, organisational and political skills to defend the territory, water, cultural identity and collective rights of their communities.

Each case must be taken on directly by the communities and their representatives. The role of human rights organisations should be limited to providing support and technical assistance. In accordance with the Catholic Social Teaching principle of subsidiarity (PCJP 2004, paragraphs 185-188), human rights organisations that are not direct organisations emerging from these communities should never take a leading or central role. Equipped with the necessary knowledge of their rights and the existing avenues for ensuring their fulfilment or redress, the peoples take charge of their own defence before the various bodies provided for by law in each specific case. In strategic constitutional litigation, the participation of Indigenous Peoples is fundamental and must not be supplanted by lawyers or human rights organisations. Therefore, for a case to yield favourable results, the Indigenous community must possess a minimum level of organisational coherence, underpinned by a sense of self-assertion and the conviction that what is sought and intended to be achieved through the judicial process is rightfully theirs. This can only be achieved through a thorough understanding and practical application of the concepts learnt in training sessions. If this is not achieved, the litigation loses its original purpose, and the legal defence is distorted, becoming merely the work of any law firm without social backing. The next paragraphs analyse this process in further detail in the case of the rural community of Arboleda accompanied by DHUMA and other human rights organisations.

Legal accompaniment and education in litigation processes

Prior to the Arboleda community filing its claim, various strategic considerations were taken into account ahead of constitutional proceedings. These included social aspects, such as community organisation and the level of empowerment of its leaders and the community at large; as well as legal considerations, such as the procedural requirements for admissibility, the merits of the claim and the evidence to be presented.

Regarding the latter, a careful examination needed to occur, through dialogue and debate, in order to identify and define the human rights violations which, by their nature, must be of a legally significant gravity to justify intervention and the initiation of legal proceedings. As it was the first time the Peruvian State was sued over mining concessions, the assessment of the case and the definition of the legal course of action were crucial. The Arboleda case centred on rights enshrined in the Constitution and international human rights treaties (ILO Convention 169). The constitutional route was therefore necessary to defend the community. It was similarly essential to ascertain whether there were specialised professionals who had a local presence, could be allies in the city of Lima, and who could undertake the technical defence at all levels of the judicial system (civil court, civil division and the Constitutional Court).



The documentation held by the community was an essential requirement, and was submitted as annexes to the statement of claim. As there was no evidential stage in constitutional proceedings, there must be “clear evidence” establishing the violation of fundamental rights. This evidential substantiation was based on demonstrating: 1) the recognition of Arboleda as a community; 2) Arboleda’s ownership of the communal territory; 3) the validity of the powers of representation held by the community leaders; 4) the community’s self-identification as Indigenous Peoples and its recognition as such by the Peruvian Ministry of

Culture; and 5) the resolution containing the mining concession title issued by the mining sector, as well as the mining cadastre (map of the concession).

Once the case had reached the courts, the participation of representatives from the community itself was essential during the hearings convened by the judges. The lawyers requested that the judges authorise the submission of the statement of facts and the legal submission, with the community president – or their delegate – being permitted to address the judge orally so they could present their arguments regarding the case. This was supplemented by the defence lawyer, who set out their legal arguments.

In the *amparo* proceedings as well as at the hearings, both parties, the Arboleda community as claimant and the Ministry of Energy and Mines and INGEMMET as respondents, each presented their arguments. The community based its claim primarily on the protection of its collective rights and ancestral territory. They stated that they were a Quechua community of 243 families engaged in agriculture, livestock farming, fishing and tourism, and that the mining concessions affected their communal territory, including areas beneath temples, schools, health centres, rivers and the Umayo lagoon. They argued that the main breach was the state’s failure to carry out the prior consultation process required by ILO Convention 169 before granting the concessions. They also maintained that the granting of these concessions seriously jeopardised their livelihood and would pollute the waters of the community and of Tiquillaca (the district to which the community belongs), as well as those of neighbouring localities, thereby infringing their constitutional right to access to clean water. They asserted that they were never notified of the mining concessions, thereby violating their right to participate in decisions that affect them.

On the part of the defendants, the state bodies opposed the claim on the basis of technical and legal criteria specific to the state mining sector. They maintained that the mining concession title was an administrative act that granted a future, “expectational,” right to exploit resources, but did not confer ownership of surface land nor authorise the immediate commencement of exploration or exploitation activities. They argued that, according to the Regulations on Mining Procedures (Supreme Decree 018-92-EM), the concession in itself did not cause a “direct impact” on collective rights. Consequently, they considered that prior consultation processes were only required before authorising physical exploration or exploitation activities, and not before granting the title. They asserted that they acted in accordance with the General Mining Act and ministerial resolutions which identify the authorisation to commence activities as the sole act subject to consultation. Both MINEM and INGEMMET argued that the Right to Free Prior and Informed Consent was not a fundamental right expressly recognised in the Constitution, basing their argument on an isolated ruling by the Constitutional Court.

It has taken years of constant monitoring of the legal proceedings and exhausting all judicial avenues to reach a final judgment. The community of Arboleda has been pursuing these legal proceedings for more than 15 years, a true testament to their resilience and their continued hope for socio-environmental justice from the Peruvian judicial system.

4. Concluding Reflections

In the court ruling cases of the communities of Arboleda and San José Principio, the judges recognised, both implicitly and explicitly, the historical exclusion of Indigenous Peoples. They sought to reverse it by ensuring effective access to justice through the *amparo* proceedings, on the grounds that other ordinary legal remedies were not “equally satisfactory” for protecting the collective rights of Indigenous Peoples. One can therefore conclude that these judgements serve as tools for the protection of human rights by subordinating extractive activities to respect for Indigenous identity and territory. At the same time, they also embody the values of Catholic Social Teaching by prioritising the protection of the most vulnerable and the integrity of their culture and environment over purely economic and financial considerations.

Supporting communities such as those of Arboleda and San José Principio in their quest for justice demonstrates that it is possible to create new paradigms which place Indigenous Peoples in a leading role and enable them to build, from within, autonomous and dynamic movements with their own agenda. Training and strengthening these communities as actors capable of exercising and demanding rights, protecting their territories, facing legal proceedings, participating in decision-making and reinforcing the autonomy of the Indigenous Peoples of Puno is an ongoing task with no end in sight. Given that leadership changes over time, the challenges arising from the extractive model are ever-changing, and rights violations often intensify – and the elections in June 2026 of Keiko Fujimori as President of Peru announce that human rights violations might deepen and the road ahead for local communities to defend their rights even more challenging.

Strategic litigation is establishing itself as an important tool for structural change. The cases involving the communities of Arboleda and San José Principio demonstrate that legal defence seeks not only to win a particular court case, but also to bring about a change in case law and in the state’s conduct. These proceedings have set historic precedents by confirming that prior consent is mandatory before mining concessions are granted, thereby invalidating the state’s argument that it is only necessary during the exploitation phase.

As the previous section has discussed, there is convergence between international legal principles (such as ILO Convention 169) and the principles of Catholic Social Teaching. Among the common grounds are care for our common home, the preferential option for the poor, the defence of land and water, social participation, and the universal destination of goods, within the framework of restoring the spiritual and material bond with Creation. Compliance with the requirement for prior consent is a guarantee of respect for the dignity of Indigenous Peoples. The judgements handed down by upright judges in Puno help redress the historical marginalisation to which they have been subjected. The role of the communities themselves in the success of the legal defence being undertaken cannot be emphasised enough. These achievements depend largely on Indigenous leaders and the ability to strengthen their skills, as they must not only be familiar with the full content of the claim but also be prepared to speak at hearings convened by judges and articulate their position.

Strategic litigation has taken on enormous importance in the defence of the rights of Indigenous Peoples in extractive contexts in Latin America, and particularly in Peru. It constitutes a legal and political tool for

challenging the expansion of mining and other extractive activities that affect ancestral communal territories without consent or adequate consultation. Strategic litigation does not seek merely to win a specific court case, but to bring about structural changes in the state's actions, in case law and in public opinion. For this reason, legal actions brought by rural communities and Indigenous Peoples often combine legal, political, social, communications and organisational objectives.

It has taken years for DHUMA to properly implement the use of strategic litigation in support of rural communities. The cases documented above were the first lawsuits concerning mining concessions in Peru, with the legal process starting in 2011. The fact that DHUMA had the legal backing of national and international legislation did not necessarily mean that it would automatically secure favourable judgements. The legal approach was by no means straightforward. During the legal proceedings, many other factors (economic, social, political, etc.) came to the fore, often hindering institutional support. As noted earlier, these legal disputes have a significant cross-cutting political dimension that often takes precedence over the purely legal debate. That is why, alongside the legal reasoning and the expertise of lawyers, it is essential to have strategic coalitions that can focus on the central issues of the case, such as the violations of the right to FPIC and the right to water, among others.

The courts have come to recognise that they are obliged to always apply the rule or interpretation most favourable to the protection of human rights (the “*pro homine*” principle), particularly in cases involving vulnerable populations, such as Indigenous communities, thereby preventing administrative and legal formalities from hindering the genuine realisation of justice. In this way, justice structures are being built that enable these peoples to regain what has long been denied them: respect for their human dignity and respect for the rights to which they are entitled. That is why the judges held that, in recognising the right to FPIC, they were not merely assessing prior consent in conceptual terms but that they were safeguarding a set of interconnected and interdependent rights, such as those of communal property, cultural identity, and religious freedom.

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