

Universitat de Barcelona

Faculty of Law

Political Analysis and Institutional Assessment

Authoring Governance from the Margins:

How Grassroots Procedures Become Governing Standards

Giulia Azevedo de Oliveira Caldeira Baptista

Supervisor: Prof. Laura Chaqués Bonafont, PhD

Master's Thesis

Academic Year 2025-2026

Disclosure of the Use of Artificial Intelligence

Artificial intelligence (AI) tools were used as auxiliary research and writing aids during the preparation of this thesis. AI-assisted writing software, including Grammarly, was used exclusively for language editing, grammar, and stylistic refinement of the author's original prose. NotebookLM was employed as a literature engagement tool to facilitate navigation of the bibliography, identify conceptual connections across sources, and support the mapping of the research puzzle during the early stages of theoretical development. Claude was used as a coding assistant to support the development and refinement of the spreadsheets employed in the qualitative content analysis and coding process. ChatGPT was used primarily for informal brainstorming, discussion of conceptual alternatives, and editorial feedback on argumentation and manuscript structure. Lastly, visual aids (*e.g.*, diagrams) have been generated utilizing the aforementioned tools. All research design decisions, theoretical arguments, methodological choices, coding criteria, analysis, interpretations, and final written content were developed, applied, evaluated, and approved by the author.

Acknowledgements

To my grandmother, for the remarkable example she set through her courageous pursuit of impact, leaving her mark in the world through education, philanthropy and acts of service.

To my grandfather, for his unwavering support, trust, and belief as I set out to expand the limits of my world, only to find myself returning to the very continent he once left, guided by the roots he planted here for me.

To my older sister, who inadvertently exposed me to the world of human rights long before I understood what they stood for in practice, and to the potential impact that a handful of brave people can have in the great struggles our shared world faces.

To my younger sister, for whom I have spent the last seventeen years demanding ever more of myself in the hope of inspiring her, and who, in return, has pushed me to reach new heights. In doing so, she taught me to learn through my attempts to teach her.

To my father, whose faith in my potential compelled me to seek challenges worthy of the person he always believed I could become.

To my partner, for a life of transcontinental adventures shared with me; for giving me a second family so far away from home; and for being someone whose support is met with ever greater admiration from me.

To all the animals¹ who have been part of my life and have taught me that I, too, am Nature.

To my mother, for everything she is and therefore, I am. Above all, for being my guide through life, my steadfast lighthouse, my anchor, and my wings.

To my thesis supervisor, Prof. Laura Chaqués Bonafont, for her time, her support, and her generosity in sharing her knowledge, which greatly improved this work.

To all the academic institutions that have shaped my intellectual journey: Fundação Getúlio Vargas (FGV), Sciences Po, Sorbonne, and now, the Universitat de Barcelona.

I hope this thesis tells a story that sheds light on the struggles and hopes you have all taught me to care about.

Most importantly, to the brave people who speak on behalf of all Humanity by protecting our Natural World, some of whose stories I have taken the liberty of portraying here in an attempt to learn from them and to carry their voices into the new spaces I now occupy beyond the borders of my home country, *Brasil*.

¹ *Mel, Vita, Belinha, Kiwi, Fofa, Santiny, Cler, Mickie, Romeu, Coral, Dani-Fitz, Tróia, Otar, Dralion, Visón, Nina, Nino, Miumi, and my eternal Amy.*

Abstract

This thesis examines how actors positioned at the margins of governance become authors of governance itself. Through the case of traditional peoples' Autonomous Consultation Protocols in the Brazilian Legal Amazon, it investigates how communities have mobilised the international right to Free, Prior and Informed Consent (FPIC) to gain political standing. Although FPIC is legally binding, its implementation procedures remain largely undefined. Communities have responded to this institutional ambiguity by drafting their own consultation protocols, several of which have later been recognised by courts and administrative authorities. Existing scholarship documents these protocols but provides limited explanation for how community-authored procedures acquire institutional authority.

Drawing on legalisation and signalling theory, this thesis tackles that gap and develops a theory-generating qualitative content analysis of consultation protocols alongside the judicial and prosecutorial decisions that reference them. It argues that procedural authority emerges when community-authored rules credibly signal organisational and procedural capacity, making them suitable for incorporation into institutional decision-making. The findings indicate that protocols demonstrating greater documented production effort are more likely to achieve operative incorporation, defined as the adoption of community-authored procedures as governing standards. Operative incorporation is proposed as the mechanism through which challengers move toward membership within institutional arenas they previously occupied from the margins.

With the findings from the Brazilian case, this thesis advances a broader account of how procedural authority can emerge via bottom-up strategies under conditions of institutional ambiguity. It demonstrates that institutional change may occur through the gradual adoption of procedures designed by historically excluded actors, identifying a plausible pathway through which the smallest parties to an environmental dispute can come to author the rules that bind the largest and how environmental stewards can acquire authority within governance systems.

Keywords: procedural authority; institutional authority; institutional ambiguity; signalling theory; legalisation; governance from below; operative incorporation; Autonomous Consultation Protocols; environmental governance; Free, Prior and Informed Consent (FPIC).

Table of Contents

Acknowledgements.....	3
Table of Contents.....	5
List of Figures.....	7
List of Annexes.....	8
1. Introduction.....	9
2. Autonomous Consultation Protocols: Community-Authored Procedures for Environmental Governance	11
3. The Puzzle: Authoring Governance from the Margins.....	13
4. Literature Review and the Derivation of the Argument	15
4.1. From Challenger to Institutional Member: Authority in the Governance Arena.....	16
4.2. Institutional Ambiguity: Legalisation and the Opportunity for Conversion from Below .	16
4.3. Institutional Capacity as a Credible Signal.....	17
4.4. Credibility Under Incomplete Information: Signalling as the Proposed Mechanism.....	18
4.5. From Recognition to Authority: Legitimacy and Operative Incorporation	20
4.6. Institutional Absorption: The Counter-Mechanism / Unintended Effect	21
4.7. Durability and Rival Explanations.....	22
5. The Case, the Variables, and Their Operationalisation	23
5.1. The Case and its Institutional Boundaries	24
5.2. Case Selection Limitations: A Theory-Generating Plausibility Probe	25
5.3. The Unit of Analysis and the Observation Windows	26
5.4. Operationalising Operative Incorporation	26
5.5. Operationalising Production Effort and the Auxiliary Variables	29
6. Research Design and Limitations	30
6.1. The Research Design: Justification and Appropriateness.....	30
6.2. The Citation-Opportunity Design	30
6.3. Defining Citation Opportunity.....	31
6.4. Venue Boundaries and the Dependent Variable	32
6.5. Legal Visibility as an Intermediate Stage	34
6.6. The Empirical Study as a Theory-Generating Pilot.....	34
6.7. Data sources	34
6.9. Analytical Strategy and Reliability.....	35
6.10. Limitations of the Design.....	35
7. Findings	37

7. Conclusion	43
8. Bibliography	45

List of Figures

Figure 1. The proposed mechanism, *page 23*

Figure 2. Decision rule for coding the dependent variable, *page 30*

Figure 3. Variable definitions, *page 35*

Figure 4. Finding - Distribution of outcomes across the thirteen protocols.

Figure 5. How the analysed protocols travel: year published, dispute filed, and the ruling that cited them

Figure 6. Production Scores and Costs

List of Annexes

Annex A. Coding instrument, Protocol_Citation_Coding_Tool_Coded.xlsx (full coded dataset, codebook, search log, reliability). Referenced throughout the text.

1. Introduction

Environmental governance is ultimately concerned with the distribution of authority over environmental decision-making. It determines how decisions are organised, who participates in shaping them and under which institutional arrangements they may acquire legitimacy (Bennett & Satterfield, 2018). As environmental challenges have become increasingly interconnected with questions of political representation, territorial rights, and social, epistemic & distributive justice, governance has likewise expanded beyond the sole implementation of environmental policies. It now encompasses the institutions through which environmental authority is negotiated. This transformation has drawn growing attention to the role of Indigenous peoples and traditional communities, whose contributions extend beyond environmental stewardship to also include their production of institutional arrangements, as stakeholders, that have been shaping governance itself (Neugebauer, 2003).

The growing prominence of the Human Rights (HR) framework within environmental governance reflects this broader institutional evolution. International legal instruments originally conceived to safeguard collective rights, have progressively become mechanisms through which communities influence environmental decision-making and reshape the procedures governing state action (Jensen, 2016; Neugebauer, 2003). Among the most influential of these is the right to Free, Prior and Informed Consent (FPIC), articulated most explicitly in Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which states that *"States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them"* (United Nations, 2007, Art. 19).

The consultation obligation is further established as a legally binding commitment under ILO Convention No. 169, particularly Article 6, although the Convention leaves the procedures through which consultation should be conducted largely undefined. In the language of legalisation, the obligation of the Convention is strong while procedural precision remains comparatively limited (Abbott et al., 2000). Despite the subsequent incorporation of FPIC in the National Brazilian jurisprudence, therefore making it enforceable countrywide, this pre-existing

institutional ambiguity has created space for communities to participate in defining the procedures through which the right itself is implemented (Rojas, 2021).

However, as consultation protocols have increasingly been recognised by courts and administrative authorities, they have also begun to occupy a different institutional position. Their significance extends beyond the norm diffusion and subsequent localisation of FPIC and raises a broader question concerning the emergence of authority within governance systems: *Under which conditions do community-authored procedures become recognised as authoritative by the institutions they seek to influence?*

To that end, the argument developed in this thesis centres on the interaction between institutional ambiguity and credible signalling theory (Connelly et al., 2011; Riley, 2001). It proposes that consultation protocols communicate organisational capacity, procedural coherence, as well as collective commitment to the external institutional audiences. These signals become more credible when they embody substantial production effort, consistent with the broader literature on costly signalling (Bliege Bird & Smith, 2005). Under these conditions, community-authored procedures (such as the published consultation protocols) become suitable for institutional adoption, enabling what this research conceptualises as operative incorporation: the observable incorporation of community-developed procedural rules as governing standards within judicial and administrative decision-making.

Along this proposition, the thesis hypothesises that community-authored procedures are more likely to acquire institutional authority when they credibly signal organisational and procedural capacity. Accordingly, protocols displaying greater documented production effort should be more likely to achieve operative incorporation within judicial and administrative decision-making. At the same time, institutional incorporation does not necessarily imply substantive redistribution of power. This thesis, therefore, also examines whether the operative incorporation of consultation protocols coincides with the continuation or expansion of extractive licensing within the affected territories, exploring the possibility that procedural recognition and extractive governance may advance simultaneously.

By explaining how authority emerges through this process, the thesis advances a broader account of institutional change through grassroots movements. The findings help illustrate how communities are not simply demanding participation, they are actively building procedural

authority; the subsequent institutional authority can emerge be acquired when state institutions adopt the procedural tools as governing standards.

This thesis is structured as follows. First, I provide a contextual overview on the consultation protocols as the tool developed for exploiting the institutional ambiguity of FPIC by its marginalized governance actors; then, I conduct a literature overview on i) the movement from challenger to member of a governance arena; ii) institutional capacity and costly signalling under incomplete information; iii) institutional legitimacy and the potential side effect of institutional absorption, from which I derive the hypotheses. Third, I lay out the research design. Fourth, I will establish that where a high-effort protocol met an in-frame dispute within Brazil's Legal Amazon, courts and prosecutors made the protocol's own content the governing standard, through a qualitative citation-opportunity analysis bounded to the federal justice of the First Region and the MPF. Fifth, I will show that operative incorporation rests on the protocol itself rather than on the Convention behind it, which answers to the first hypothesis. Then, I will explore how that incorporation is absorbed when licensing competence shifts and the consultation is contested, which answers to the second hypothesis. Finally, I will link this process to the broader field of local advocacy networks and establish how right-holders exercise their agency in adapting global norms to fit local realities. By exploring the disseminated promotion of consultation protocols in the BLA, I will consider the implications for the human-rights and climate-change regimes currently facing the national enforcement of internationally binding prerogatives. I will then conclude presenting the implications of the findings and my final remarks.

2. Autonomous Consultation Protocols: Community-Authored Procedures for Environmental Governance

Throughout Brazil, Indigenous peoples and traditional communities have responded to the institutional ambiguity of the FPIC norm by developing Autonomous Consultation Protocols, public documents which articulate how consultation should be conducted according to their own institutional practices and collective decision-making processes. These documents localise an international legal norm within specific territorial, cultural, and political contexts, reflecting the capacity of local actors to reinterpret and reshape global norms through locally legitimate institutional arrangements (Acharya, 2004; Acharya, 2011).

In 2004 Brazil ratified the International Labour Organisation's Convention 169 (C169), binding itself to the right of Free, Prior and Informed Consent (FPIC) for indigenous, quilombola and other traditional peoples². C169 is the principal international treaty on the rights of indigenous and tribal peoples; its core demand is that the state consult those communities in good faith, seeking their free, prior and informed consent, before authorising projects (dams, railways, mines) that may affect their lands or livelihoods. Neither the Convention nor its domestic incorporation specified how consultation was to be conducted, and for a decade the state's silence was treated as licence by industrial developers. Consultation, where observed at all, was reduced to perfunctory public hearings held after the relevant decisions had been taken. The right-holders the Convention was meant to protect remained formally recognised and substantively excluded. FPIC is therefore a procedural right with substantive consequences: the procedure determines whether an affected people can shape a decision while it is still open.

From 2014, indigenous, quilombola and riverine communities across the Legal Amazon began to publish Autonomous Consultation Protocols, community-authored procedural constitutions. Each is a published document, usually ten to twenty pages, built collectively in line with the community's own governance rules. It states who may speak for the community, how decisions are taken, how information must be delivered and in what language, and what makes a consultation valid rather than a formality, in its stronger form seeking consent (United Nations General Assembly, 2007). The Wajãpi of Amapá published the first in 2014 (Caporino, 2019); within five years several dozen had followed, and by the end of the period more than fifty existed (Joca et al., 2021). The protocols thus convert FPIC from a general right into a concrete institutional script. The Brazilian Federal Prosecution Office (MPF) and federal courts then began, in recorded instances, to treat them as the standard against which compliance with FPIC is assessed. The gap the state left for a decade was filled by the right-holders themselves, not by the agencies or commercial actors usually advantaged by ambiguity.

In the vocabulary of international governance, these communities are peripheral non-governmental actors: parties with no seat in the institutions that decide, who press claims from outside, as advocacy networks and other non-state actors do more broadly (Keck & Sikkink, 1998).

² Indigenous peoples and the other ethnically and culturally differentiated groups recognised under Article 1 of ILO Convention 169 and, in Brazilian law, under Decree No. 6.040 of 7 February 2007: indigenous peoples, quilombolas, riverine communities (ribeirinhos), and other traditional peoples whose collective rights national jurisprudence recognises.

What is distinctive is the instrument they use: where an advocacy network lobbies, litigates or shames, these communities have instead explored an ambiguity in an institution meant to serve them as right-holders. A consultation protocol, from this angle, is an act of advocacy in the form of a procedure: it tells the state, in operational detail, how a particular obligation, drawn from international law and codified in national jurisprudence, must be met. That is what the protocols stand for, and why they repay study as governance instruments instead of individual legal petitions.

International environmental institutions often rest on considered ambiguity. States accept obligations whose general purpose is clear while leaving the precise manner of compliance unsettled, since precision can make agreement harder to reach. Abbott and colleagues (2000) call this a precision deficit: a rule binds a state while saying little about the conduct required in concrete cases, leaving compliance to be settled later, and often by other means. The conventional reading holds that the party left to settle an ambiguous obligation is the party already possessed of power. This case runs the other way: the weaker party, not the state or the developer, takes the opening the ambiguity creates and supplies the missing procedure. Rojas (2021) names this endogenous change, driven by historically marginalised groups, *conversion from below*. This thesis asks why that inversion occurred, and more precisely why some community organisations had their protocols recognised as authoritative by organs of the Brazilian state while others, producing seemingly similar instruments, did not.

The question matters on practical grounds: FPIC governs the lawfulness of dams, railways and extractive concessions across a territory of over 27 million people, several hundred thousand of them in traditional communities. Whether a protocol attains operative status before a court or the MPF decides whether an affected community can contest a project before, rather than after, it proceeds. Specifying when the labour of producing a protocol is rewarded with recognition bears directly on the choices facing communities yet to draft one.

3. The Puzzle: Authoring Governance from the Margins

The tension at the centre of this thesis is that the prevailing expectation in international relations scholarship is that vague treaty language favours the party already possessed of power, since that party is best placed to settle the language's operative meaning once the treaty is in force. This is the standard reading of Abbott and colleagues' (2000) precision dimension: low precision functions, ordinarily, as a resource for the strong. The Brazilian case points in a different direction.

From 2014 onward, communities whom FPIC was designed to protect supplied much of the missing operative content themselves, and state organs later treated *some* of that content as authoritative.

The case therefore raises a theoretical question about how a precision deficit can become an opening for right-holders rather than only a resource for the powerful. I proceed on that premise and pose the following research question: *Why are some community-authored consultation protocols taken up by Brazilian courts and prosecutors as the binding standard, while others are not?* Put in a form that is easy to carry through the analysis: *what makes the state treat a community's protocol as law?*

Stated in terms of its variables, the dependent variable (DV) is operative incorporation: whether a state organ treats the protocol itself as the normative standard it applies, rather than merely acknowledging it. Incorporation is operative when a court or prosecutor uses the protocol's own content as the rule it relies on. It differs from citation, where the protocol is only mentioned, and from rhetorical incorporation, where the protocol is praised while the decision rests on other grounds.

The independent variable (IV) of principal interest is documented production effort, treated as a trace of institutional capacity: deliberation depth, juridical grounding and institutional formalisation. The proposed mechanism begins from a practical problem: the State cannot guess how organised a community actor is, and therefore what degree of legitimacy and centrality to attribute to it. In the judicial sphere, courts and prosecutors cannot directly observe how much organisational work, internal deliberation or juridical preparation preceded the publication of a protocol. What they can observe is the completed document. The argument developed here is that protocols displaying extensive procedural specification, legal grounding and evidence of collective deliberation may function as costly, credible signals of organisational capacity.

Empirically, this pilot study examines whether the protocols that displayed the greatest documented production effort were also those most likely to achieve actual operative incorporation within the observed legal arena. This formulation is also thought to protect the inference from overclaiming, as production effort is treated as an observable trace of capacity, rather than as capacity itself in full. Courts may respond to the document, to the dispute, to the sponsor, to prior litigation, or to combinations of these factors. The pilot can test whether the pattern is consistent with the proposed mechanism and whether obvious rivals remain open. It cannot show that judges

consciously reasoned in signalling terms. In brief, production effort explains operative incorporation because effort is costly. That cost makes the protocol a credible signal of capacity where the state cannot otherwise verify it, and the capacity so signalled is read as legitimacy that courts and prosecutors are pressed to honour. An assertion of rights that costs nothing to make changes nothing in practice; one that costs a great deal (by definition, is a costly signal) has, in this case, begun to reorder the governance of the Amazon.

As the following section will explore in greater detail, this inquiry holds theoretical relevance, because it sits where literatures usually travel separately. Norm-domestication scholarship explains how international norms become local practice (Acharya, 2004; Levitt & Merry, 2009; Restoy & Elbe, 2021), but treats successful translation as the outcome to be explained, not as one that varies, and so cannot say why one local instrument is recognised and a similar one is not. It grows from the broader study of how norms emerge, cascade and are internalised through norm entrepreneurs (Finnemore & Sikkink, 1998; Nadelmann, 1990), and from the insistence that a norm's content keeps being remade through contestation (Krook & True, 2012). Signalling theory (Spence, 1973; Connelly et al., 2011) explains how credibility is established under incomplete information, but has been applied to labour markets and corporate disclosure, and seldom to contests between marginalised actors and the state over a norm's meaning. Work on mobilisation and governance arenas names the move from marginality to access (Tilly, 1978; Gaventa, 2006), but focuses on the destination, not the vehicle.

This thesis joins them around one observable outcome, operative incorporation, the moment a state organ applies the protocol itself as the rule it relies on. Signalling theory supplies the missing link within a broader story of conversion from below: it explains why a community-authored instrument becomes credible to an institution that did not produce it.

4. Literature Review and the Derivation of the Argument

The argument builds on the research developed in the scope of a bachelor's thesis, which demonstrated, through process tracing and text-network analysis of fifty-three protocols, that grassroots articulation rather than transnational advocacy alone drove the movement, and that the protocols narrowed the gap between Brazil's rhetorical commitment to FPIC and its enforcement (Baptista, 2023). That work established the phenomenon; it did not account for the credibility mechanism by which a document authored by disregarded communities came to be treated by the

state's own organs as an authoritative statement of law. The present study takes up that mechanism and tests the conditions under which it operates to a greater or lesser extent. The design is theory-generating, asking whether the mechanism is plausible, where it is most visible, and which rivals later research should consider.

The argument is assembled in six steps, each answering a question the previous literature leaves open. The governance literature supplies the destination: a movement from challenger toward membership in a decision-making arena. Legalisation and conversion from below supply the structural condition, a binding but imprecise obligation that right-holders can redirect. Institutional-capacity theory explains the resource communities build when they author a protocol; signalling theory, why that resource becomes credible to courts and prosecutors; legitimacy, the inferred mechanism through which credibility becomes procedural authority. Absorption then qualifies the claim, showing how recognition may coexist with continued licensing.

4.1. From Challenger to Institutional Member: Authority in the Governance Arena

Tilly (1978) divides the contenders in any polity into members, who hold routine and low-cost access to the making of binding decisions, and challengers, who do not and must struggle for it. In plain terms, members are the insiders for whom access to decisions is automatic, and challengers are the outsiders who must force their way in. The process that moves a challenger toward membership is mobilisation, the accumulation of organised capacity. Read into the present case, traditional peoples begin as challengers to a governance arrangement that recognises them nominally and decides without them. The question of how they acquire standing is, in Tilly's terms, the question of how a challenger becomes a member. Gaventa (2006) supplies the spatial vocabulary that suits an arena of courts and prosecutorial offices. His concept of power cube distinguishes closed spaces, from which the marginalised are excluded; invited spaces, into which they are admitted on terms set by others; and claimed spaces, which they open or create for themselves. A protocol, on this reading, is an attempt to convert a closed space into a claimed one. Neither author, however, specifies the instrument through which capacity is made legible to those who control access.

4.2. Institutional Ambiguity: Legalisation and the Opportunity for Conversion from Below

Abbott and colleagues (2000) decompose any international institution along three dimensions: obligation, the degree to which signatories are bound; precision, the degree to which a rule specifies the conduct it requires; and delegation, the degree to which third parties are authorised to interpret and apply it. Coded against this scheme, Free, Prior and Informed Consent (FPIC) under C169 shows a marked asymmetry: high obligation, since Brazil's ratification admits no reservation as to its binding character; low precision, because neither the Convention nor domestic implementation supplied a complete consultation procedure; and a divided delegation profile, strong as to dispute resolution, given the standing of federal courts, but weak as to rulemaking, given the absence of any body charged with specifying the procedure *ex ante*. This profile is the structural condition on which the rest of the argument depends.

Rojas (2021) explains why a profile of this kind generates a political opening rather than a simple governance and implementation failure. Where an institution binds a state in principle while leaving its operative content imprecise, marginalised actors gain the opportunity to redirect that content toward their own ends; her proposed mechanism of conversion-from-below occurs when marginalised actors redirect a binding but imprecise institution toward their own purposes. The state cannot openly repudiate an obligation it has ratified, yet the absence of a precise procedure leaves the obligation's content open to contestation. Rojas names two conditions for conversion to succeed: i. the actors must exploit the ambiguity in venues favourable to them, ii. and they must credibly signal a capacity for sustained, disruptive contention. The first condition explains the opening, while the second condition creates the need for a theory of credibility, which signalling theory supplies. Conversion from below, via the redirection of a binding but vague rule by the very people it was meant to protect, who turn the gap the powerful left into an opening they can occupy, is therefore the structural engine of the thesis. The *capacity* aspect explains what communities build; signalling explains how that work becomes *credible*; *legitimacy* explains why state actors may treat it as proper. Conversion from below explains why the opening exists in the first place. Without the binding-but-imprecise character of FPIC, the protocol would have fewer legal footholds through which to enter state reasoning.

4.3. Institutional Capacity as a Credible Signal

Before a capacity can be signalled it must be built. Ostrom (1990) shows that communities dependent on a shared resource can craft durable institutions to govern it themselves, and that the arrangements which endure share identifiable design features: clearly defined boundaries, rules matched to local conditions, collective-choice procedures, monitoring, and graduated means of resolving disputes. Capacity, on this account, is built from within, by the resource users, rather than delivered from outside by a donor or a state. An institution, in this minimal sense, is simply a durable set of rules a group makes and follows, and its strength is a matter of how reliably the rules are enforced and how stable they remain over time (Levitsky & Murillo, 2009). A consultation protocol is exactly such an instrument of self-governance: it defines who must be consulted, by which sequence of steps, under whose authority, and to what end. The labour of producing one, the deliberation, the translation across languages, the juridical drafting, the formal publication, is the labour of building an institution and a trace of institutional work.

This, however, does not require all capacity to originate within the community. Lawyers, NGOs, think tanks, among others, may take part in a protocol's production, and one predictable objection is that a document shaped by them signals legal support more than community capacity. The central point to be considered for this investigation is that courts and prosecutors encounter a completed governance instrument, not the process that produced it. The empirical analysis conducted in this instance asks whether the institution adopts the protocol itself as a governing standard, irrespective of the mix of actors behind it. The resource the community accumulates is the protocol as an institutional artefact, and the later stages of the mechanism ask whether that artefact becomes legible and authoritative within state decision-making. Still, sponsoring-network involvement is accordingly treated as a rival explanation to be held constant.

4.4. Credibility Under Incomplete Information: Signalling as the Proposed Mechanism

Signalling theory supplies the account that Rojas requires but does not fully provide. Spence (1973) demonstrated that where one actor cannot directly observe a quality held by another, a costly action can communicate that quality, provided the action is harder for actors lacking the quality to imitate. Connelly and colleagues (2011) generalise the logic beyond labour markets: a signal is informative precisely insofar as its cost is differentially distributed across potential senders, such that imitation by those lacking the underlying quality is prohibitively expensive. A

costly signal, in plain terms, is an observable action that is only worth taking only if the claim behind it is true, because faking it would cost more than it is worth.

Applied here, the Brazilian state cannot directly observe whether a given community possesses the organisational coherence, juridical literacy and durable capacity for mobilisation required to be a credible party to a contest over FPIC's meaning. The community cannot establish these qualities by assertion, since assertion costs nothing and is therefore uninformative. A protocol resolves the difficulty because its production is costly. The audience (courts and prosecutors) can simply observe whether the protocol is detailed, collectively grounded, legally articulated and institutionally formalised. External assistance does not eliminate the signalling logic. Even where lawyers or supporting networks contribute to production, the protocol remains difficult to imitate without sustained collective coordination, internal deliberation and a coherent governance framework. The signal received by courts is the protocol itself. For that reason, sponsoring-network involvement is treated as a rival explanation for incorporation rather than as evidence that the signalling mechanism has failed. It is worth noting that protocols are often collective, hybrid and supported. What matters for the argument is that the final instrument remains anchored in community deliberation and purports to state the community's own procedure. Where that claim is thin, the signal weakens. Where the document records assemblies, representation rules, translation practices and legal grounding, the signal becomes harder to dismiss as mere customary advocacy packaging.

Months of deliberation, juridical consultation, translation and formal publication together constitute a cost that a community lacking the underlying organizational capacity could not readily bear. The protocol's content supplies the explicit message; its production cost supplies the implicit one, and it is the latter that does the principal explanatory work. This yields the first hypothesis:

H1 (signalling). The greater a protocol's documented production effort, the more likely a state organ is to incorporate it operatively as the binding consultation standard.

Disconfirming conditions would be: Should production effort show no association with operative incorporation, the signalling account is mistaken. Should an apparent association disappear once the presence of a sponsoring organisation, such as Instituto Iepé or the Rede de Cooperação Amazônica, is held constant, the credibility at issue would belong to the sponsor rather than the community, and the account would again be unsupported.

4.5. From Recognition to Authority: Legitimacy and Operative Incorporation

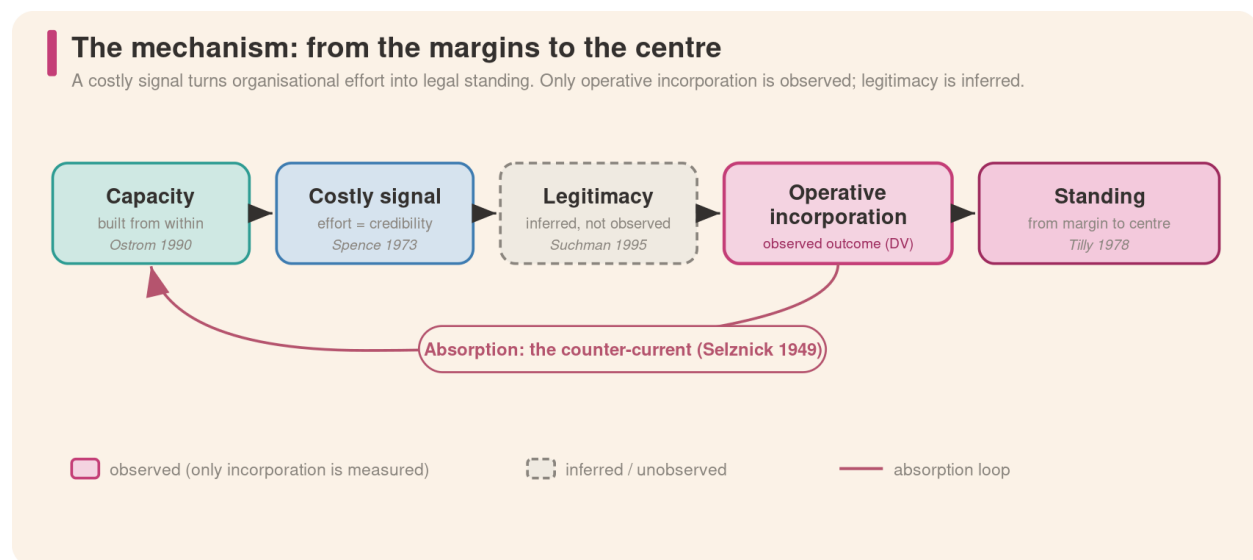
Cost explains why a signal is believed; it does not explain why belief obliges anyone to act. The signalling account proposes that legitimacy is the channel through which a credible signal becomes a standard the state applies. Legitimacy, in plain terms, is an audience's sense that an actor's conduct is proper, and therefore deserving of deference. It is an intervening mechanism in the argument developed: the design observes the signal and the outcome and posits legitimacy as the link between them. Suchman (1995) defines legitimacy as a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions, and distinguishes pragmatic, moral, and cognitive bases for it. His point of consequence here derived is relational: the audience that grants legitimacy is thereby disposed to support, defer to, and incorporate the actor it has legitimated.

A published protocol is a legitimacy claim addressed to courts and prosecutors. Once those organs read it as a proper expression of a people's own procedure for a right the state concedes, they are pressed to treat it as the standard, because to ignore a legitimate statement of an obligation the state has accepted is itself improper. Meyer and Rowan (1977) sharpen the mechanism for a document. Formal, rationalised structures earn legitimacy and the external conformity that follows, and they do so partly by being seen and recognised rather than by any efficiency they secure. A protocol works, on this reading, partly by existing on paper, formally published, in a form the state's organs recognise as the kind of thing that carries authority. March and Olsen (1998) add that actors frequently follow the rule they take to be appropriate to their role, which is why an organ may defer to a standard it reads as fitting even where no superior rule compels it.

This last step completes the proposed chain of mechanism: communities build or display institutional capacity through protocol production (Ostrom 1990). The labour invested in the protocol can make that capacity credible to a state actor operating under incomplete information (Spence 1973; Connelly et al. 2011). Judges and prosecutors may then read the protocol as a legitimate expression of self-determination and apply its provisions as the governing standard (Suchman 1995; Meyer and Rowan 1977). Operative incorporation is the observable moment of these conversions (treated as the observable indicator that such conversion may be occurring.) The aspect of standing (i.e., also thought of as the political place occupied) remains a broader concept, because communities may acquire influence through negotiation, agenda-setting or informal

prosecutorial practice (Allan & Hadden, 2017; Gaventa, 2006; Bäckstrand et al., 2017). Of the four links in this chain only the last, operative incorporation, is directly observed; capacity, the signal and legitimacy are inferred from it and from the documentary record; legitimacy, in particular, is posited as the mechanism rather than demonstrated as a measured step. Operative incorporation is the observable moment of the proposed conversion, and it is the dependent variable explored and detected in the empirical case study. The following figure illustrates the chain, from institutional capacity to standing, with legitimacy as the inferred (unobserved) step and institutional absorption as the undesired potential result (explained in the following section).

Figure 1. The proposed mechanism



By the author.

4.6. Institutional Absorption: The Counter-Mechanism / Unintended Effect

Formal or informal political recognition stands on different grounds than redistribution, and the literature on co-optation cautions against treating it as such. Absorption, in plain terms, occurs when an institution takes a challenge into its own procedures and thereby reduces the disruptive force of the claim. It is the counter-current to conversion from below and institutional inclusion of the challenger, a manner in which the institution can settle a conflict without conceding what the conflict was about. Selznick (1949), in his study of the Tennessee Valley Authority, and Coy and Hedeem (2005), in their later account of social-movement co-optation,

show that incorporating challengers into formal procedure can stabilise an institution precisely by attenuating the disruptive content of their claims.

Two dynamics may then follow. First, recognising a protocol may improve procedural authority while leaving extractive licensing largely intact, relocating the conflict into a form the state can administer, so that concessions continue within a frame it has come to accept. Second, once the procedural vacuum is filled, the pressure that produced disruptive contention tends to dissipate, since the recognised organisation now speaks for the constituency and loses some autonomy outside the channel it occupies. Co-optation, on this reading, is not the antithesis of recognition but one of its modes, a continuing possibility within recognition rather than a failure outside it. This matters for the environmental-governance contribution as community may win procedural authority and still face a project that advances through revised licensing or partial consultation. Operative incorporation can move a community toward the centre of the arena, and the arena can still reshape that movement in ways that preserve extraction. This yields a second hypothesis, formulated to qualify H1 and posed as a descriptive claim about co-occurrence:

H2 (institutional absorption): The operative incorporation of community-authored procedures is compatible with the continuation or expansion of extractive governance within the affected territory.

Regarding the limits of this claim, the counterfactual, namely what licensing would have occurred without incorporation, cannot be observed directly, and coincidence does not establish causation. H2 is therefore advanced as a falsifiable claim about co-occurrence and as a cautious account of the dialectic such co-occurrence may reveal. It serves to qualify H1 instead of serving as an equally strong causal hypothesis.

4.7. Durability and Rival Explanations

Two further claims complete the scheme. The first concerns durability, distinguishing the signalling account from a more parsimonious rival about executive sympathy. Should protocols be incorporated only because a sympathetic federal executive permits it, the standing would be borrowed from whichever administration holds office rather than acquired by the communities. Should incorporation instead reflect a legibility the protocol itself has attained, that legibility ought to survive a change of executive, even a hostile one. The period from 2019 to 2024 furnishes a natural probe, spanning the administration of President Bolsonaro, openly antagonistic to

indigenous rights, and the subsequent administration of President Lula. This yields a third hypothesis, held as illustrative, given the small number of observations available within this pilot empirical study:

H3 (durability): Operative incorporation, once attained, persists across a hostile administration; citation density may diminish under an unsympathetic executive but does not collapse to zero.

The principal rival to the thesis is that standing is produced by transnational advocacy networks (Keck and Sikkink 1998) rather than by the domestic signalling logic proposed here. My undergraduate work confirmed the role of grassroots articulation but could not exclude this alternative. The two accounts are not always cleanly separable, since a network may help produce the legitimacy a court later recognises, and I treat them as competing only at the proximate step: which source of authority an incorporating document actually relies upon. Where an organ treats an international instrument, C169 itself, the United Nations Declaration on the Rights of Indigenous Peoples, or a decision of the Inter-American system, as the operative standard more often than it treats the protocol as such, R1 finds support at that step. Where the organ instead treats the protocol itself as authoritative, the signalling account finds support. R1 and H1 are tested on the same evidence, so that the evidence arbitrates between them. The configuration of venues that makes incorporation possible at all, what Vanhala (2018) calls the legal opportunity structure, is treated as a scope condition rather than a competing cause, given that opportunity determines whether a protocol can be taken up, capacity determines which protocols are.

Alternative explanations cannot be excluded: a protocol's uptake may also reflect the quality of its drafting, the legal support of a sponsoring organisation, the salience of the underlying conflict, or the intensity of litigation in the territory; and production effort may itself be a response to anticipated litigation rather than a cause of incorporation. Where the cost of producing the protocol is borne largely by an external advocate, the signal may belong to the sponsor rather than the community. The purpose here is therefore not to establish exclusive causality but to develop a plausible mechanism linking organisational investment in protocol production to subsequent institutional incorporation, one that a larger comparative study can test against these rivals.

5. The Case, the Variables, and Their Operationalisation

This section presents the case, the unit of analysis, how each variable is measured, and sets out the citation-incorporation distinction on which the dependent variable rests.

5.1. The Case and its Institutional Boundaries

A reader may ask why the Legal Amazon, and not one of the better-known sites of consultation politics. This particular case concentrates, unusually, the conditions under which the mechanism could both operate and be observed: environmental stakes of global consequence; a strong, unreserved FPIC obligation; an almost total absence of procedural precision, which leaves room for communities to supply the content; an exceptional volume of protocol production, more than fifty in a decade; and a documented record of judicial and prosecutorial uptake. Colombia and Ecuador have richer constitutional jurisprudence but less of the procedural vacuum that makes authorship from below necessary and legible; Canada and New Zealand channel such claims through treaty frameworks Brazil lacks. The Brazilian configuration therefore isolates the phenomenon, communities writing the procedure the state failed to write, more cleanly than the more studied cases (Wright & Tomaselli, 2019; Falleti & Riofrancos, 2018; Zaremborg & Wong, 2018).

The case is, therefore, Brazilian consultation-protocol movement within the Legal Amazon (BLA). Brazil ratified C169 in 2004; the protocols emerge from 2014; the present study observes their reception through to early 2026. For the citations, I attend to two judicial organs: the federal regional court of the first region (TRF1), whose jurisdiction covers the Amazonian states; and the Sixth Chamber of the Federal Public Ministry (MPF 6ª Câmara), which holds the prosecutorial mandate for indigenous and traditional communities. The superior courts, the Supreme Federal Court (STF) and the Superior Court of Justice (STJ), are excluded, to preserve comparability. Their docket, jurisdictional function and constitutional register differ from the administrative-procedural arena in which operative incorporation is most visible. The exclusion is in no way a claim that the superior courts are unimportant: the STF has led, and been favourable to communities, on hard questions of constitutional and environmental law. Yet, as commentators on its consultation case law observe, most of its precedents and monocratic decisions still fall short of guaranteeing the right to consultation as other Latin American constitutional courts and the Inter-American Court have recognised it. Holding the forum constant trades that breadth for comparability. Therefore,

the findings speak to the TRF1 and MPF arena and are not, without further work, generalisable to the superior courts or to other regions.

Free, Prior and Informed Consent is no marginal provision of international law. In the thirty-five years since C169 brought it into international law, the Inter-American Court of Human Rights has recognised it as a general principle. Constitutional courts in Colombia and, more recently, Ecuador have built demanding jurisprudence around it. Indigenous peoples have themselves shaped the standard, pressing the distinction between consultation and consent. The institution that confronts the Brazilian state is therefore a developed one; the Brazilian problem concerns implementation, not doctrine. The standard was mature enough to matter in court, yet imprecise enough to leave a procedural gap. The appropriate point of comparison is a right-holder procedure, not ordinary public participation.

The gap is most visible on the Xingu. The Belo Monte dam, licensed and built without genuine prior consultation, cut the river's flow and the lives that depended on it, a harm jurists euphemistically call a *fait accompli* (Conselho Nacional dos Direitos Humanos, 2017). Litigation by the Federal Public Ministry (MPF) did not stop it, but it made C169 and the duty to consult legible to officials, judges and civil society for the first time. A decade on, the warnings of the scientists and indigenous leaders who opposed the dam have largely been borne out: deforestation has advanced, the rainfall cycle has shifted, as the forest nears a threshold beyond which it would become dry savanna (Lovejoy & Nobre, 2018). The same stretch of river now hosts the Belo Sun dispute, where a federal court first treated a community's own protocol, authored by the Juruna (Yudjá) of Paquiçamba, as the binding standard for consultation. The case examined here is situated between the absence of consultation at Belo Monte and the emergence of consultation authored from below at Belo Sun.

5.2. Case Selection Limitations: A Theory-Generating Plausibility Probe

The study employs a theory-generating qualitative content analysis as a plausibility probe in the sense of George and Bennett (2005). In this approach, a plausibility probe serves as an initial, theory-oriented assessment of whether a proposed mechanism is conceptually coherent and sufficiently observable in empirical material to warrant further investigation. This methodological choice defines the scope of the study's claims, as the analysis conducted aims to establish the

plausibility of the proposed mechanism, identify remaining rival explanations, and refine the coding framework. It does not seek to demonstrate causal effects or estimate their magnitude.

5.3. The Unit of Analysis and the Observation Windows

The individual protocol constitutes the unit of analysis, while each citation event serves as the nested unit of observation. A citation event is defined as a single instance in which a TRF1 or MPF document references a protocol. To preserve chronological consistency, the analysis distinguishes between two temporal windows. The production window spans 2014 to 2024 and captures the period during which protocols were authored and published. The observation window extends from 2014 to early 2026 and records all citation events, ensuring that recently published protocols have sufficient time to appear in institutional documents. Each protocol is coded once for its production characteristics, using the protocol itself and its accompanying documentation. Its institutional incorporation, by contrast, is assessed across every citation event observed during the observation window. Distinguishing these two windows prevents protocols from being evaluated against outcomes that precede their publication while making the interval between publication and institutional incorporation analytically visible.

5.4. Operationalising Operative Incorporation

The dependent variable requires a precise definition, because the concept it refines, legal standing, is easily conflated with mere visibility. Incorporation, in the logic of this research, refers to the extent to which a consultation protocol becomes part of the legal reasoning and the decision-making of courts or prosecutors. The governing distinction is between citation and incorporation. A court may cite a protocol simply by mentioning that it exists; that is reference, acknowledgement or recognition, and the protocol remains external to the legal reasoning. Operative incorporation occurs only when the protocol's own content sets the standard the decision relies upon, through direct mention of the Protocol or its explicit contents in a final court's ruling.

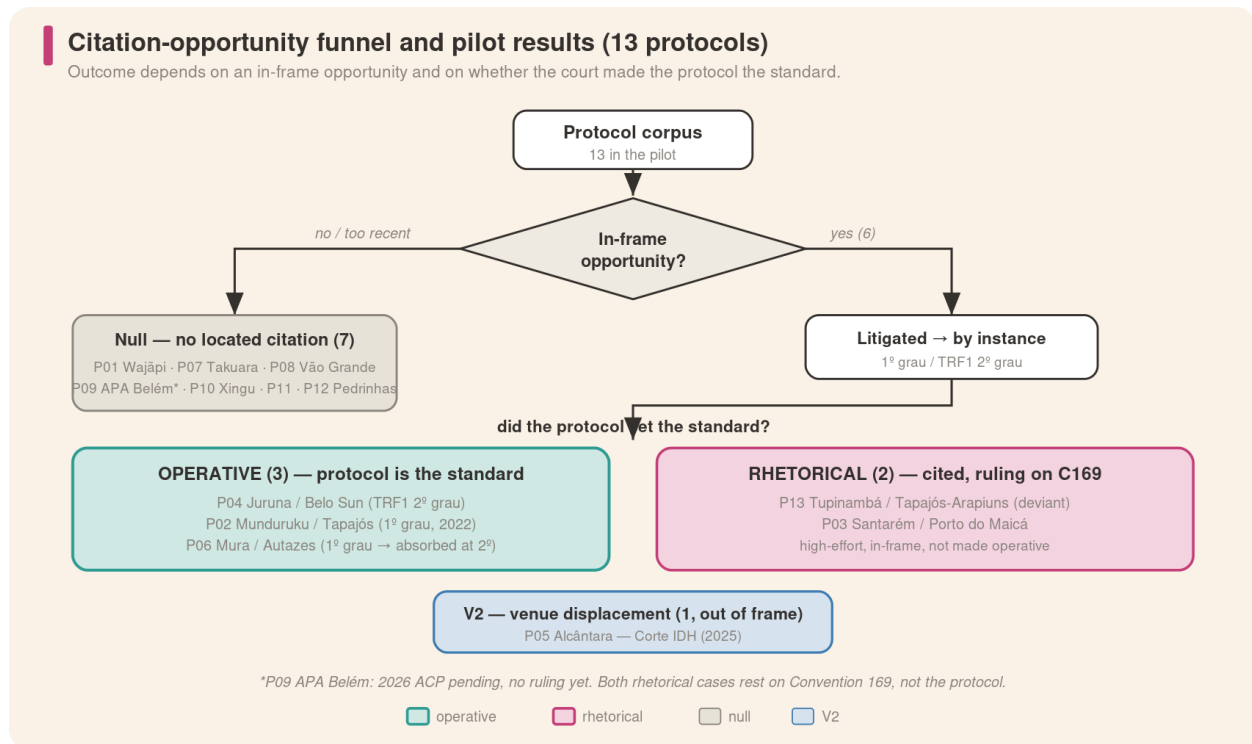
I therefore distinguish three tiers: first, there is no incorporation where a decision observes that a community has produced a protocol and then rests its outcome on C169, constitutional provisions, administrative law or prior jurisprudence (the protocol is present in the case but does not influence the result). Second, there is rhetorical incorporation where a decision presents the protocol as an important expression of self-determination while grounding the ruling elsewhere

(the protocol carries symbolic weight but little operative effect). Third, there is operative incorporation where the court holds, in substance, that any consultation process must follow the procedures established in the community's own protocol. At which point, the protocol itself becomes part of the governing legal standard. The court is no longer merely recognising the protocol; it is using it to determine who must be consulted, how, on what timelines, through which representatives, by what decision procedures, and with what communication requirements.

A worked illustration in the following page clarifies the distinction: suppose a court notes only that the community has produced a consultation protocol and then decides the case entirely on C169, the Constitution, administrative law or prior jurisprudence: the protocol is present but inert, and there is no incorporation. Suppose instead the court says that the protocol is an important expression of the community's self-determination while still resting the ruling on other sources: the protocol carries symbolic weight but little operative effect, and the incorporation is rhetorical. Now suppose the court holds that any consultation must follow the procedures established in the Juruna Consultation Protocol: the protocol has become part of the governing legal standard, and the court is using it to fix who must be consulted, how, on what timelines, through which representatives, by what decision procedures, and with what communication requirements. Only the third is operative incorporation - when a court ordered consultation according to the community's own protocol, not merely that it acknowledged the protocol's existence.

Where the reading is uncertain, the event is coded as rhetorical so that generous interpretation does not inflate the central outcome. The distinction is my own construct, but it draws on broader socio-legal discussions of legal uptake, judicial adoption and norm internalisation, adapted here to the particular setting of consultation protocols (Levitt & Merry, 2009; Restoy & Elbe, 2021). The underlying question is the one the thesis turns on: under what conditions does a community-authored document stop being merely a political claim and start functioning as a legally operative source of authority? Operative incorporation is not the whole of legal standing, which is broader and may also be won through negotiation, through informal influence over prosecutors, or through agenda-setting that never reaches a ruling. It is treated as a particularly observable manifestation of standing, the manifestation a documentary design can actually detect, and the claims are confined accordingly

Figure 2. Decision rule for coding the dependent variable: no incorporation, rhetorical, or operative (with the actual cases for visualization).



By the author.

To discipline the operative-rhetorical line in practice, each citation is additionally classified by the framing function it performs, after Entman's (1993) scheme of problem definition, causal attribution, moral evaluation and treatment recommendation. The reasoning is simple: a protocol invoked to define the applicable standard or to ground a remedy is doing operative work, whereas one invoked only in passing description is not.

The Juruna (Yudjá) protocol of Paquiçamba, in the Volta Grande do Xingu, North Region of Brazil, supplies the positive anchor for the coding (Protocol nº 04). In the Belo Sun licensing dispute the TRF1 held, in substance, that the licensing process must follow the procedure set out in the people's own protocol rather than merely acknowledging that the protocol existed (Zangerolame Taroco, 2023). That is the clearest documented instance of operative incorporation within the frame, and it is the reference point against which the other events are read. The anchor also marks where the exposure problem bites hardest, a point Section 5 takes up: the Volta Grande is the site of one of Brazil's most contested mining projects, so the protocol's repeated engagement

may reflect the salience of its territory as much as the qualities of the protocol itself. Applying these criteria to the thirteen protocols reveals three clear cases of operative incorporation, two rhetorical incorporations, and one theoretically important deviant case. The following sections explain how those cases were identified.

5.5. Operationalising Production Effort and the Auxiliary Variables

The independent variable, production effort, is coded as the trace of institutional capacity along three components, each on an ordinal three-point scale. Deliberation depth runs from no documented process, through generic mention of assemblies or workshops, to a documented sequence of assemblies, workshops and translation cycles. Juridical grounding runs from no legal reference, through generic reference to C169 or the Constitution, to specific articles and a sustained juridical argument. Institutional formalisation runs from informal circulation, through online publication by the community or a supporting organisation, to formal publication accompanied by a launch and institutional backing. The three are combined into a single ordinal ordering. I treat their equal weighting as a simplifying assumption rather than a measurement claim, and Section 5 reports a sensitivity check that re-orders the protocols under alternative weightings to see whether the ranking is stable. The variable is an ordinal ordering of effort, read from documented traces, not a metric of cost; no cardinal quantity, in money, meetings or staff hours, is claimed, and the construct is the visible evidence of capacity, not the underlying expenditure that Spence's labour-market model measures directly.

Three further variables are coded: the rival, sponsoring-network presence, records whether a supporting organisation backed the protocol's production, and is the variable against which H1 is held constant, since institutional formalisation in particular risks measuring sponsor involvement rather than community effort. The scope condition, citation opportunity, records whether a litigated or prosecutorial occasion arose in which the protocol could have been cited at all.³ The absorption indicator records whether extractive licensing in the affected territory continued or expanded in the interval following an operative incorporation, with the limits noted at H2. The administration period in force at each citation event is recorded for the durability probe.

³ This ensures that a protocol's absence from the record is not mistaken for a failure of incorporation when no occasion to incorporate it ever existed.

6. Research Design and Limitations

This section sets out the empirical strategy: the technique, the citation-opportunity logic that replaces a conventional sample, the venue boundary, and the limits of the design.

6.1. The Research Design: Justification and Appropriateness

Because the research question asks what a body of communication means, what a court or prosecutor does with a protocol when it cites one, the appropriate proposed technique is content analysis: considering the question and the way it turns on extracting meaning from communication, content analysis is the method that fits. I apply it to two bodies of text: the protocols themselves and the TRF1 and MPF documents that may cite them. Following Hermann's (2008) eight-step procedure, I code both manifest content, the explicit references and standards a document states, and latent content, the function a reference performs within the reasoning. The distinction is central because operative incorporation is a latent property: it is not enough that a protocol is named; what counts is whether its content does the work of *setting the standard*.

The method rests on two working premises, which I state so that the reader may weigh them in consideration. The first, after Holsti (1969: 32), is that what an author commits to the record is a fair reflection of the position the author holds, so that a court's written reasoning can be read as a guide to the basis on which it decided. The second is that the frequency with which a source is invoked carries some information about its salience to the writer. A court may, for instance, cite a protocol prominently for reasons of form while resting its decision elsewhere, which is exactly why the operative-rhetorical distinction is coded from what the reasoning does and not from the prominence of the mention. Considering the inquiry centers on the functions documents perform in institutional practice, making qualitative content analysis more appropriate than either doctrinal reading or keyword counts.

6.2. The Citation-Opportunity Design

The judicial materials in this study have been deliberately not sampled, for the reasons presented as follows: they were reached through the protocols already selected, so the logic runs in one direction, from each protocol to the proceedings that could have cited it. Two filters fix the forum before any search begins: the window is 2014 to 2024, matching the protocol production window. The analysis is restricted to the TRF1 and the Sixth Chamber of the MPF in order to hold

the institutional forum constant. Together, these bodies constitute the principal judicial and prosecutorial arenas in which consultation protocols circulate within the federal legal governance of the Legal Amazon. Limiting the analysis to this common institutional setting allows observed differences in citation behaviour to be interpreted without conflating them with venue-specific dynamics. The superior courts are excluded because they exercise distinct jurisdictional functions, face different patterns of litigation, and operate under different citation incentives. Their inclusion would introduce institutional heterogeneity into the dependent variable, obscuring the mechanism the study seeks to observe.

Within this framework, the dataset is treated as a census of observable citation events. Citation events may occur in unpublished judicial decisions, internal prosecutorial opinions, or first-instance filings that fall outside the reach of the specified sources. Such events exist but cannot be observed. The population claimed by this study is therefore limited to citation events identifiable through the defined search strategy, making search completeness, rather than selection bias, the principal methodological concern. This distinction also seeks to address a common criticism of designs of this kind: that the sample is conditioned on the outcome by focusing only on protocols that became visible through litigation. The present design reverses that logic, as it begins with the universe of protocols and traces their appearance in judicial and prosecutorial proceedings. As a result, protocols that never entered litigation remain within the analytical frame, allowing institutional silence to still be analysed as an observed outcome.

6.3. Defining Citation Opportunity

To identify when a protocol could plausibly influence institutional practice, the analysis defines a citation opportunity as any judicial or prosecutorial proceeding within the study frame that (i) postdates the publication of a consultation protocol, (ii) concerns legal obligations of prior consultation, and (iii) affects the community or territory governed by that protocol. Each condition narrows the population of eligible cases; temporal precedence ensures that a protocol can only be cited after it exists, and restricting the analysis to proceedings concerning consultation obligations excludes disputes in which the community appears for unrelated reasons. Limiting the opportunity to the protocol's own right-holder community or territory prevents the concept from expanding into consultation litigation more generally. Applying these criteria identifies three citation opportunities within the observation window: the first arises from the Belo Sun litigation concerning the Volta Grande do Xingu, where the TRF1 held that the environmental licensing process must

follow the consultation procedure established in the affected people's protocol. The second encompasses the Rio Tapajós proceedings and the related appellate litigation concerning proposed hydroelectric development, both involving the Munduruku people. The third concerns the Potássio do Brasil litigation in Autazes, involving the Mura people. No citation opportunity meeting these criteria was identified for the remaining protocols during the observation period. These cases are recorded as having no observed citation, acknowledging the limits of the available sources while preserving their place within the analytical frame.

6.4. Venue Boundaries and the Dependent Variable

Restricting the analysis to the TRF1 and the Sixth Chamber introduces one important inferential risk: venue truncation. Some consultation protocols may achieve their most consequential institutional incorporation outside the analytical frame. The Alcântara Protocol illustrates this possibility. Its principal legal trajectory unfolds through constitutional litigation and the Inter-American human rights system rather than through the TRF1. Treating such a case as simply lacking operative incorporation would conflate the absence of incorporation within the selected forum with the absence of incorporation altogether. The consequence would be a systematic understatement of protocols whose institutional influence materialised elsewhere, potentially biasing the analysis against the proposed mechanism if the most influential protocols are also those most likely to reach higher or international jurisdictions.

To preserve the comparability afforded by a constant institutional forum without introducing this distortion, the study distinguishes between two outcomes. The primary dependent variable records operative incorporation within the TRF1 and the Sixth Chamber alone. A separate variable captures venue displacement, defined as documented operative incorporation of the same protocol in another judicial or quasi-judicial forum. Under this coding, the Alcântara Protocol is recorded as exhibiting no operative incorporation within the analytical frame but documented incorporation elsewhere. The following table summarises the two outcome variables together with the intermediate process indicator introduced in the next subsection:

Figure 3. Variable Definitions

CODING SCHEME		
VARIABLE DEFINITIONS		
Dependent variable, venue-displacement indicator, and intermediate stage marker used to code TRF1 and MPF citation events.		
VARIABLE	DEFINITION	VALUES
DV (V1)		
Operative incorporation in frame	Whether a located TRF1 decision or MPF Sixth Chamber act gives the protocol operative force, as opposed to mentioning it rhetorically.	- Operative - Rhetorical - No located citation
V2		
Venue-displacement indicator	Whether operative incorporation of the same protocol is documented outside the frame (STF, STJ, Inter-American system, or other forum).	- No evidence elsewhere - Evidence outside frame
Stage marker		
Legal visibility (intermediate)	Whether the protocol appears at all in a proceeding within the frame, prior to and independent of operative incorporation.	- Not litigated - Appears in proceeding - Operatively incorporated

By the author

The analysis does not seek to measure the overall legal influence of consultation protocols. Its objective is to explain variation in operative incorporation within a single institutional environment. Protocols that achieve institutional recognition in other venues remain analytically relevant and are recorded separately, but they do not contribute to the primary dependent variable.

Protocols for which no citation is located are coded as *no observed citation*, not as no citation. The distinction is methodologically important because legal archives are inherently incomplete: judicial and prosecutorial records are unevenly preserved, and many documents remain unpublished or inaccessible. Throughout the analysis, the absence of an observed citation is therefore treated as a limit of observation rather than as evidence that no citation occurred. This distinction also shapes the interpretation of null cases. A protocol for which a citation opportunity exists but no citation is observed constitutes meaningful evidence about institutional incorporation within the analytical frame. By contrast, a protocol for which no citation opportunity exists cannot be interpreted in the same way. The two forms of null are analytically distinct and are treated separately throughout the study.

6.5. Legal Visibility as an Intermediate Stage

The operative incorporation is conceptualised as the final stage of a broader institutional trajectory. Before a protocol can shape judicial or prosecutorial practice, it must first be produced and subsequently become visible within a legal proceeding. Only then can it be operatively incorporated. This sequence distinguishes three analytically distinct stages: elaboration, legal visibility, and operative incorporation. Legal visibility functions as an intermediate process indicator, recording whether a protocol entered the institutional arena regardless of its subsequent treatment. Introducing this stage prevents the analysis from conflating access to legal proceedings with institutional uptake. It distinguishes protocols that were never invoked from those that were invoked but not adopted, thereby separating variation in exposure from variation in legal authority. The conceptual distinction resolves an ambiguity that has often characterised the treatment of consultation protocols, where visibility, litigation frequency, and institutional incorporation have tended to be treated as interchangeable indicators of legal influence.

6.6. The Empirical Study as a Theory-Generating Pilot

The study is executed as a pilot, on a reduced sample of approximately one fourth of all available protocols published in the country as of this moment, which were selected for full citation treatment, under the provision in the Guia Docent for the TFM for primary-data and pilot designs. A definitive study would code the full corpus of more than fifty protocols and the complete docket of two organs across a twelve-year window, which exceeds what a thesis of this length and timeframe can properly complete. The pilot is sized so that its coding can be carried out and checked within the available period, with computational assistance for the retrieval and first-pass classification of citation events, followed by the author's verification of every coded judgement. The purposive selection deliberately includes high-effort and low-effort protocols and at least one deviant case, a high-effort protocol with no located operative incorporation, because the cases that most discipline the mechanism are the ones the theory would not predict. Once again, I fully disclose that my main goal, empirically, is to conduct a checkable demonstration of the coding scheme and a first reading of the pattern.

6.7. Data sources

The protocol corpus is drawn from the public listing maintained by the Observatório dos Protocolos and from the Iepé and Rede de Cooperação Amazônica compilation (Joca et al., 2021), supplemented for individual cases by the dedicated studies that document a protocol's production, such as Caporino (2019) on the Wajãpi. The citation record is drawn from the public jurisprudence databases of the TRF1 and the MPF. Both sources are documentary and public, which supports replicability, and both are partial in known ways: the Observatório listing reflects what communities and supporting organisations have chosen to publish, and the court databases reflect what has been digitised and indexed. These partialities bear on coverage, not on the validity of a coded judgement about a document that is in hand.

6.9. Analytical Strategy and Reliability

The strategy proceeds in four moves. First, each pilot protocol is scored on the three effort components and ordered. Second, the citation record for each protocol is assembled and each event coded for operative or rhetorical incorporation, for the proximate source of authority (protocol or international instrument, which arbitrates H1 against R1), and for the administration in force. Third, the effort ordering is set against the incorporation outcome, holding sponsoring-network presence constant, to read H1 and its disconfirming condition. Fourth, the absorption indicator and the administration record are read for H2 and H3 respectively, with the stated limits. Reliability is addressed by an intra-coder check after Holsti (1969): a subset of documents is re-coded by the author after an interval, blind to the first pass, and disagreements are reconciled against the codebook, with the reconciliation recorded. With a single coder the appropriate guarantee is stability over time rather than agreement across coders, and it is reported as such rather than overstated.

6.10. Limitations of the Design

The design can establish three things: whether a positive association between production effort and operative incorporation is present in the pilot sample; whether that association survives holding sponsoring-network presence constant; and whether incorporation, where it occurs, relies on the protocol or on an international instrument as its proximate authority. It can locate cases in which incorporation co-occurs with continued licensing, and it can observe whether incorporation persists across a hostile administration. It cannot establish a causal effect of effort on incorporation,

cannot exclude unobserved differences between communities that produce high-effort and low-effort protocols, and cannot, given the sample, support claims about magnitude.

Three threats remain that the design reduces but cannot remove, and I name them rather than absorb them into the prose. The first is endogeneity. A community that anticipates litigation may organise, retain lawyers and formalise its procedures, so that the same expectation produces both a high-effort protocol and the litigation in which it is cited; effort would then be a consequence of litigation prospects rather than an independent cause of incorporation. The citation-opportunity frame addresses one half of this loop, by recording whether an occasion to cite arose at all. But it cannot rule out that anticipation drives effort, and a fuller study would need a measure of effort fixed before any litigation is in prospect. The second is exposure, as a protocol may be cited because its territory hosts a salient dispute rather than because the protocol is costly, and the positive anchor is also the clearest example: the Juruna protocol is engaged repeatedly, but the Volta Grande do Xingu is the site of one of Brazil's most contested mining projects. Recording citation opportunity separately is the partial remedy, since it distinguishes a protocol never tested from one tested and refused, but it does not fully separate the quality of a protocol from the opportunity its territory creates. The third is the residual possibility that incorporation reflects the legal sophistication a sponsoring lawyer supplied rather than the community's own capacity, which is why sponsoring-network presence is held constant rather than assumed away. None of these threats is fatal to a plausibility probe; each is decisive for the fuller, hypothesis-testing study the probe is meant to justify, and each is carried into the conclusion as a design specification for that study rather than as a disclaimer.

A different limitation concerns the proposed causal mechanism itself. The argument rests on legitimacy as the mechanism linking documented production effort to operative incorporation, yet legitimacy is not directly observed. The analysis captures the observable inputs to the mechanism and its institutional outcome, but not the perceptions through which judges or prosecutors come to regard a protocol as authoritative. Documentary evidence can establish that an institution treated a protocol as the governing standard and grounded its reasoning in the protocol's own provisions. Such observations are consistent with the proposed mechanism, but they cannot demonstrate that the protocol was incorporated because it was perceived as legitimate rather than for reasons left unstated in the record. Legitimacy therefore remains an intervening theoretical construct whose plausibility is assessed rather than directly measured. Establishing the

mechanism more fully would require evidence beyond the documentary record, particularly interviews with judges, prosecutors, and legal practitioners capable of illuminating the reasoning that underlies institutional decisions. This limitation is consistent with the study's methodological purpose. As a theory-generating plausibility probe, the analysis is designed to refine and assess a proposed mechanism rather than to establish it conclusively or support statistical inference (George & Bennett, 2005; Lamont, 2015).

This study does not claim that organisational effort is the sole determinant of institutional uptake. Litigation support, NGO involvement, judicial context and political salience may also shape incorporation. The proposed mechanism should therefore be interpreted as a plausible explanatory pathway rather than an exhaustive causal account.

7. Findings

Figure 4. Pilot Results

TABLE 1

PILOT RESULTS

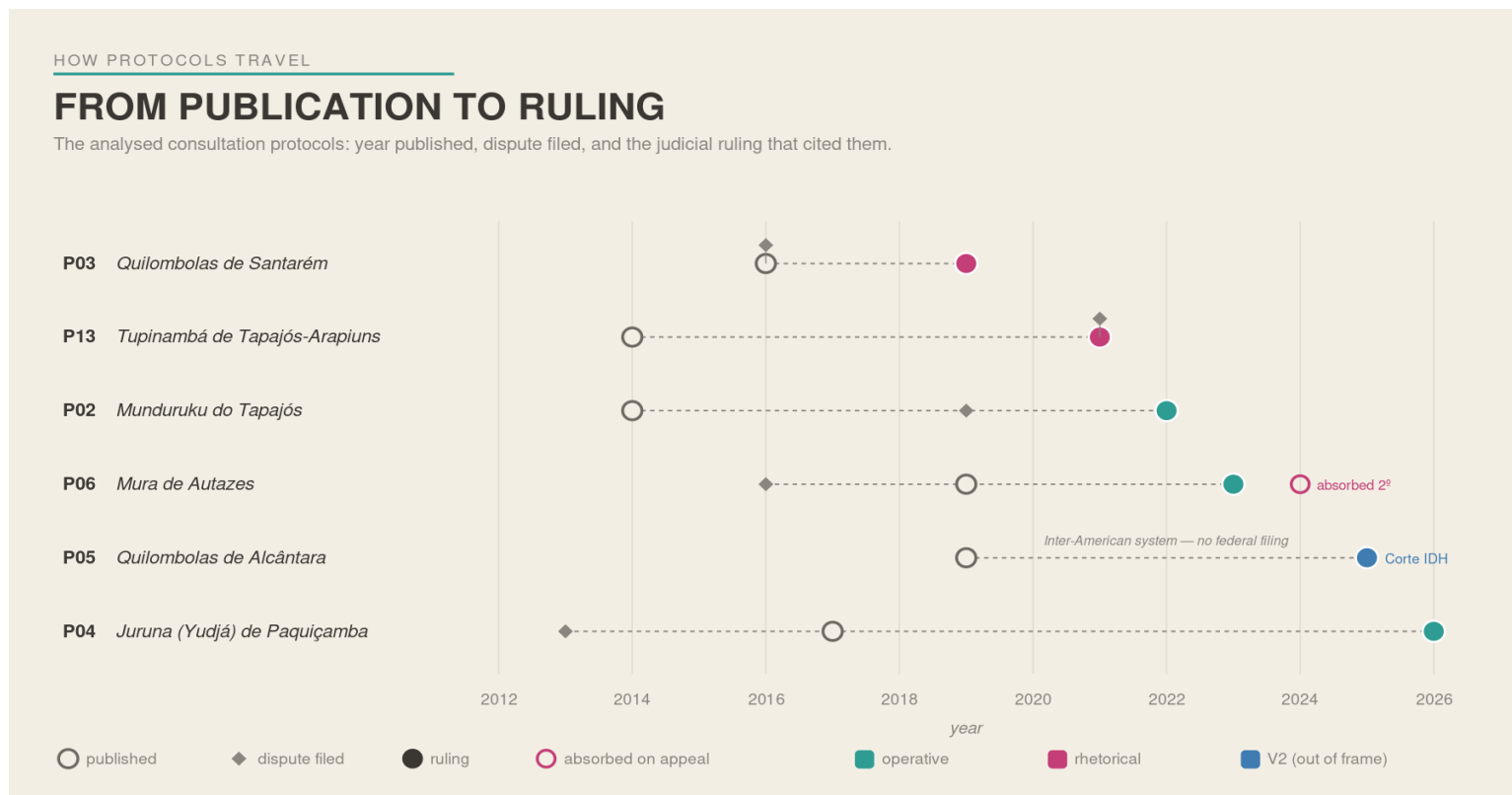
Located citation events by protocol, instance, and proximate authority.

PROTOCOL	DISPUTE (PROCESSO)	INSTANCE	OUTCOME	PROXIMATE AUTHORITY	ABSORPTION / ADMIN
P04 Juruna	Belo Sun (0002505-70.2013; 1004658-74.2026)	TRF1 2°	 Operative	Protocol + C169	Licence dispute ongoing
P02 Munduruku	Rio Tapajós (1000487-34.2019)	1° grau	 Operative	Protocol + C169	Withheld; 2022 (Bolsonaro)
P06 Mura	Potássio/Autazes (0019192-92.2016; 1011342-54.2022)	1° → 2°	 Operative → absorbed	Protocol → LC 140	2-1 validated partial consulta
P13 Tupinambá	RESEX Tapajós-Arapuiuns (1014278-86.2021)	TRF1 2°	 Rhetorical (deviant)	C169	—
P03 Santarém	Porto do Maicá (0000377-75.2016)	1° grau	 Rhetorical	C169	Licensing suspended
P05 Alcântara	Corte IDH (2025)	Outside frame	 V2 displacement	Inter-American	—
P01, P07-P12 (7)	none located in frame	—	 Null	—	—

 Operative
  Rhetorical
  V2 displacement
  Null

By the author.

Figure 5. How the analysed protocols travel: year published, dispute filed, and the ruling that cited them



By the author.

This section presents the application of the coding procedure and the empirical form of the findings. The complete pilot tabulation, produced through the coding instrument developed in the preceding sections, constitutes the principal empirical output of the study. Consistent with the logic of a theory-generating plausibility probe, the findings are presented as a sequence of conditional propositions whose evidentiary strength reflects the exploratory nature of the design. Together, the pilot supports five interrelated findings. First, documented production effort alone does not account for variation in operative incorporation. Second, the existence of an in-frame citation opportunity is a necessary condition for incorporation but not a sufficient one, as illustrated by the Tupinambá Protocol. Third, operative incorporation does not guarantee doctrinal stability and may subsequently be reversed on appeal. Fourth, whenever operative incorporation occurs, judicial or prosecutorial reasoning relies on the protocol's own provisions rather than on the abstract obligations of Convention No. 169. Finally, the proposed mechanism remains observable even

under administrations characterised by political hostility towards the communities whose rights the protocols seek to protect.

Finding 1. High production effort alone does not sort the outcomes. On H1, the test reads the effort ordering against operative incorporation. Three protocols met an in-frame citation opportunity, a federal consultation-licensing dispute in the first region touching the specific community or territory the protocol governs: the Juruna (Yudjá) of Paquiçamba in the Belo Sun dispute, the Munduruku of the Tapajós in the Rio Tapajós Logística dispute, and the Mura of Autazes in the Potássio do Brasil dispute. All three sit in the upper part of the effort ordering, and all three were operatively incorporated at some stage. The protocols with no operative incorporation fall into two groups. Some met no in-frame opportunity, the Wajãpi and the 2024 instruments, too recent to have been tested. Others had their opportunity outside the frame, such as Alcântara, whose trajectory runs through the Inter-American system and is recorded as venue displacement. The pattern is consistent with H1, and it locates the scope condition precisely: where a high-effort protocol met an in-frame dispute, the organ made it the standard; where it did not, the null records the absence of an occasion, not a refusal. The principal limit follows from the same pattern. The pilot contains no in-frame deviant, a high-effort protocol that had an opportunity and was not incorporated, so on this evidence the effect of effort cannot yet be separated cleanly from the effect of opportunity. I report that confound rather than write around it.

Finding 2. An in-frame opportunity is necessary, yet not sufficient: the deviant case. That confound is, in the event, narrower than first stated. With the coding completed, five protocols, not three, were reached by an in-frame proceeding: the three operative cases above, and two in which a court cited the protocol without making it the standard, the Tupinambá of the Tapajós-Arapiuns extractive reserve and the quilombolas of Santarém. The Tupinambá case is the in-frame deviant this section had treated as absent, a high-effort protocol that met an in-frame opportunity and was not operatively incorporated: the Regional Federal Court held that Convention 169 offers no reference as to how consultation must be conducted and that consultation had, in any case, taken place. Because opportunity was present and incorporation did not follow, the effect of effort can be at least partly distinguished from the effect of opportunity, which is the separation the pilot otherwise lacked.

Finding 3. Where incorporation occurs it spans instances, but can be reversed on appeal. The three operative cases differ in instance and in durability, and the differences carry the argument. In the Juruna case the TRF1, at second instance, conditioned the validity of the installation licence on consultation conducted in conformity with the people's own protocol, and the 2026 enforcement rulings test compliance by the protocol's own terms. In the Munduruku case a first-instance federal court built the terms of reference for consultation around the protocol, adopted its rule on who must be consulted, and ordered the state and the municipality to respect it. The Mura case a first-instance judge made the protocol the binding standard and suspended the licensing, because the consultation had distorted it. The TRF1 then, by a divided vote, validated the licences and a partial consultation, and reassigned licensing competence to the state environmental organ. Operative incorporation thus occurred at both instances, and the Mura indicates that a first-instance operative use can be undone on appeal. Recording the instance of each event, and treating first-instance uses as more reversible than appellate ones, is what makes that visible rather than letting a single protocol read as simply operative or not.

Finding 4. Operative incorporation runs through the protocol's own content. On R1, the same citation events are read for their proximate source of authority. In each of the three operative cases the incorporating document rests on the protocol itself, read together with C169, rather than on C169, the United Nations Declaration, or an Inter-American decision treating the protocol as illustrative. The one located proceeding that relied on C169 without the protocol is the earlier São Luiz do Tapajós dam litigation, in which the protocol was not cited at all. On this evidence the proximate authority of the operative incorporations leans to the signalling account over the network account. The arbitration is at the proximate step only, and a network may still stand behind the legitimacy a court recognises; what the coding shows is which authority the reasoning actually rests on, not the full causal history behind it.

The two rhetorical cases sharpen the same arbitration from the other side, given that in both the Tupinambá and the Santarém proceedings the court rested its reasoning on Convention 169 rather than on the protocol, filing or acknowledging the community's instrument without treating its content as the governing standard. Where the protocol was made operative the reasoning ran through the protocol itself; where it was only cited, the reasoning ran through the Convention. The

proximate authority thus tracks the outcome, which is what the signalling account predicts and what the network reading, taken alone, does not.

Finding 5. The mechanism survives hostile administrations. On H3, the citation events are sorted by the administration in force. The Munduruku merits sentence was signed on 30 May 2022, under the Bolsonaro administration, openly antagonistic to indigenous rights, and the Juruna conditionante set before that administration was enforced through it and into 2026. Operative incorporation therefore recurs under a hostile executive rather than tracking executive sympathy, which is what H3 predicts. The reading rests on few events, as a pilot must, so it is offered as consistent with durability rather than as a powered test, but it is no longer hypothetical: at least one operative incorporation is documented under the administration the hypothesis names.

On H2, the operative incorporations are examined for co-occurrence with continued licensing. The three cases vary in a way that is more instructive than uniform co-occurrence would be. The Mura case is the clearest instance of absorption in Selznick's sense. The protocol was operative at first instance; the appellate court then validated a partial consultation and reassigned licensing competence to the state organ, relocating the conflict into a procedural form the state could administer while the project advanced. The Juruna case shows partial absorption, operative incorporation alongside a licence that was suspended and contested rather than resolved. The Munduruku case runs the other way: licensing was withheld in conformity with the protocol, which counts toward substantive protection rather than absorption. Absorption is therefore present but not universal, which is the appropriate footing for a hypothesis held as descriptive, and no causal claim is drawn from co-occurrence. Taken together, the readings suggest the mechanism is plausible, identify the rivals that remain open, and mark the in-frame deviant case a fuller study must seek, which is the most a plausibility probe can honestly deliver. A tentative reading is that substantive protection held where licensing competence remained federal and the protocol's authorship was uncontested, as with the Munduruku, whereas absorption followed where competence shifted to a state organ and the conduct of the consultation was itself in dispute, as with the Mura.

Read against the governance arc the thesis set out, the three cases trace the same movement at different distances. Communities held at the margin of the licensing process authored the procedure the state had left blank; a federal judge or court then treated that procedure as the

standard the state itself had to meet; and in doing so a community moved, for that dispute at least, from the edge of the arena toward its centre. The Mura case shows the movement can be reversed on appeal, and the Juruna case shows it can be held while the underlying conflict grinds on. None of this demonstrates the signalling mechanism, and the pilot does not claim that it does. What the cases establish is narrower and still worth having: that the movement is real, that it runs through the protocol's own content rather than around it, and that its limits lie where a fuller study should look. Institutional authority can emerge from below when communities author procedures that state institutions subsequently adopt as governing standards.

Lastly, I present examples of verbatim extracted from each protocol and coded as evidence of the operationalization (available in full in the coding spreadsheet as Annex A).

- **Operative, Juruna:** *"condicionou a validade da Licença de Instalação n. 2712/2017 ... em conformidade com o Protocolo de Consulta do povo Juruna (Yudjá"*, the licence's validity is tied to consultation conducted per the community's own protocol.
- **Operative, Munduruku:** *"o Termo de Referência ... deve ser construído considerando o Protocolo de Consulta do Povo Munduruku"*, the court builds the consultation standard on the protocol's own content.
- **Operative → absorbed, Mura:** *"o juízo federal não confere qualquer validade à alteração esdrúxula do Protocolo construído de forma legítima por TODO O POVO MURA"*, the first-instance judge voids a consultation that had distorted the protocol.
- **Rhetorical (deviant), Tupinambá:** *"não há referencial legal de como deve ser feita [a consulta]"* ... *«teria havido consulta"*, the court cites the protocol but rules on Convention 169.
- **Rhetorical, Santarém:** *"o MPF junta protocolo ... elaborado pela Federação das Organizações Quilombolas de Santarém"*, filed and acknowledged, yet the suspension rests on Convention 169.
- *Intra-coder reliability: 8 of 8 re-coded events stable (Holsti CR = 1.0). Two calls (C14 Juruna despacho; C17 Mura appellate decision) required codebook adjudication and are flagged for the author's verification.*

7. Conclusion

This thesis began with a deceptively simple question: under which conditions do actors positioned at the margins of governance become authors of governance itself? Through the case of Indigenous and traditional peoples' Autonomous Consultation Protocols in the Brazilian Legal Amazon, it has shown that procedural authority can emerge through the interaction between institutional ambiguity and credible signalling. Where international legal obligations remain procedurally indeterminate, organised communities are presented with a political opportunity to participate in defining the very procedures through which those obligations are implemented. Consultation protocols convert that opportunity into an institutional project. Their production requires sustained collective deliberation, organisational coordination, and procedural articulation, leaving behind a documentary trace that credibly signals institutional capacity to audiences otherwise unable to observe it directly. Under these conditions, community-authored procedures become available for institutional uptake. Operative incorporation captures the observable moment of that transition, as it is the currency through which a challenger moves toward membership in the arena it had previously occupied from its margins. Across the cases examined, protocols displaying greater documented production effort were consistently those most likely to achieve operative incorporation, identifying a plausible mechanism through which procedural authority may emerge from below under conditions of institutional ambiguity.

The significance of this mechanism extends beyond consultation protocols themselves. Existing scholarship has predominantly approached these documents as participatory instruments, legal innovations, or vehicles for implementing the right to Free, Prior and Informed Consent. This thesis instead conceptualises them as institutional artefacts through which historically excluded actors seek to redistribute procedural authority within environmental governance. The Brazilian case demonstrates that organised communities may become authors of the governing standards through which public institutions conduct consultation processes. At the same time, the study also identifies the limits of that transformation. Operative incorporation does not necessarily coincide with the redistribution of material power. The observed coexistence of institutional recognition and the continuation or expansion of extractive licensing suggests that procedural authority and institutional absorption can unfold simultaneously. Recognition may alter the procedural architecture through which environmental decisions are reached while leaving the political

economy surrounding those decisions substantially intact. The contribution of this thesis therefore lies in specifying at least one instance of the institutional conditions under which community-authored procedures acquire authority, but also in identifying the conditions under which that authority becomes incorporated and neutralized without reconfiguring the governance arrangements it entered to challenge.

The implications of these findings extend well beyond the Brazilian Amazon. Whenever international legal frameworks establish binding obligations while leaving their implementation procedurally open, institutional ambiguity creates opportunities through which organised right-holders may participate in authoring governance itself. The mechanism proposed here therefore speaks to broader debates on legalisation, institutional change, environmental governance, and the production of political authority. The present study is deliberately modest in its empirical claims, given it is a theory-generating qualitative content analysis applied to a purposive pilot corpus, it advances a plausible causal mechanism while explicitly delimiting the conditions under which that mechanism has been observed. The measurement of production effort remains an ordinal documentary proxy, the empirical arena is restricted to judicial and prosecutorial institutions operating within a defined period, and the proposed absorption mechanism remains illustrative rather than exhaustively tested. These limitations establish a clear posterior research agenda. Future work should extend the corpus across the full universe of consultation protocols, incorporate additional institutional arenas and judicial hierarchies, refine independent measures of production effort, examine deviant cases that discipline the proposed mechanism, and explore whether operative incorporation travels across other domains of environmental governance characterised by high-obligation, low-precision international commitments. The scope of the argument, at its broadest level, this thesis identifies is a plausible pathway through which the smallest parties to an environmental dispute can come to author the rules that bind the largest. It demonstrates that environmental governance is not solely produced through legislation, administrative regulation, or judicial adjudication. Under identifiable institutional conditions, it can also be redirected, disputed and rewritten from its margins.

8. Bibliography

- Abbott, K. W., Keohane, R. O., Moravcsik, A., Slaughter, A.-M., & Snidal, D. (2000). The concept of legalization. *International Organization*, 54(3), 401-419.
- Acharya, A. (2004). How ideas spread: Whose norms matter? Norm localization and institutional change in Asian regionalism. *International Organization*, 58(2), 239-275.
- Bäckstrand, K., Kuyper, J. W., Linnér, B.-O., & Lövbrand, E. (2017). Non-state actors in global climate governance: From Copenhagen to Paris and beyond. *Environmental Politics*, 26(4), 561-579.
- Baptista, G. A. O. C. (2023). A tale of indigenous grassroots: FPIC norm localization reordering Brazilian environmental governance [Unpublished bachelor's thesis]. Fundação Getúlio Vargas.
- Bennett, N. J., & Satterfield, T. (2018). Environmental governance: A practical framework to guide design, evaluation, and analysis. *Conservation Letters*, 11(6), e12600.
- Caporino, B. (2019). Dos que flecham longe: O protocolo de consulta e consentimento Wajãpi [Master's thesis]. Universidade Federal do Amazonas.
- Connelly, B. L., Certo, S. T., Ireland, R. D., & Reutzel, C. R. (2011). Signaling theory: A review and assessment. *Journal of Management*, 37(1), 39-67.
- Conselho Nacional dos Direitos Humanos. (2017). Relatório sobre os direitos da população atingida pela implementação da usina hidrelétrica de Belo Monte e da mineradora Belo Sun. CNDH.
- Coy, P. G., & Hedeon, T. (2005). A stage model of social movement co-optation: Community mediation in the United States. *The Sociological Quarterly*, 46(3), 405-435.
- Entman, R. M. (1993). Framing: Toward clarification of a fractured paradigm. *Journal of Communication*, 43(4), 51-58.
- Falletti, T. G., & Riofrancos, T. N. (2018). Endogenous participation: Strengthening prior consultation in extractive economies. *World Politics*, 70(1), 86-121.
- Finnemore, M., & Sikkink, K. (1998). International norm dynamics and political change. *International Organization*, 52(4), 887-917.
- Gaventa, J. (2006). Finding the spaces for change: A power analysis. *IDS Bulletin*, 37(6), 23-33.
- George, A. L., & Bennett, A. (2005). Case studies and theory development in the social sciences. MIT Press.

- Hermann, M. G. (2008). Content analysis. In A. Klotz & D. Prakash (Eds.), *Qualitative methods in international relations: A pluralist guide* (pp. 151-167). Palgrave Macmillan.
- Holsti, O. R. (1969). *Content analysis for the social sciences and humanities*. Addison-Wesley.
- International Labour Organization. (1989). *Indigenous and Tribal Peoples Convention* (No. 169). International Labour Organization.
- Joca, P. (Ed.). (2021). *Protocolos autónomos de consulta e consentimento: Um olhar sobre o Brasil, Belize, Canadá e Colômbia*. Iepé / Rede de Cooperação Amazônica.
- Keck, M. E., & Sikkink, K. (1998). *Activists beyond borders: Advocacy networks in international politics*. Cornell University Press.
- Krook, M. L., & True, J. (2012). Rethinking the life cycles of international norms: The United Nations and the global promotion of gender equality. *European Journal of International Relations*, 18(1), 103-127.
- Lamont, C. (2015). *Research methods in politics and international relations*. Sage.
- Levitsky, S., & Murillo, M. V. (2009). Variation in institutional strength. *Annual Review of Political Science*, 12, 115-133.
- Levitt, P., & Merry, S. (2009). Vernacularization on the ground: Local uses of global women's rights in Peru, China, India and the United States. *Global Networks*, 9(4), 441-461.
- Lovejoy, T. E., & Nobre, C. (2018). Amazon tipping point. *Science Advances*, 4(2), eaat2340.
- March, J. G., & Olsen, J. P. (1998). The institutional dynamics of international political orders. *International Organization*, 52(4), 943-969.
- Meyer, J. W., & Rowan, B. (1977). Institutionalized organizations: Formal structure as myth and ceremony. *American Journal of Sociology*, 83(2), 340-363.
- Nadelmann, E. A. (1990). Global prohibition regimes: The evolution of norms in international society. *International Organization*, 44(4), 479-526.
- Neugebauer, R. (2003). Indigenous peoples as stakeholders: Influencing resource-management decisions affecting indigenous community interests in Latin America. *New York University Law Review*, 78(3), 1227-1261.
- Ostrom, E. (1990). *Governing the commons: The evolution of institutions for collective action*. Cambridge University Press.

- Restoy, E., & Elbe, S. (2021). Drilling down in norm diffusion: Norm domestication, 'glocal' power, and community-based organizations in global health. *Global Studies Quarterly*, 1(3), ksab025.
- Rojas, N. C. S. (2021). Institutional conversion from below: Free, prior, and informed consultation in Latin America [Doctoral dissertation]. University of Texas at Austin.
- Selznick, P. (1949). *TVA and the grass roots: A study in the sociology of formal organization*. University of California Press.
- Spence, M. (1973). Job market signaling. *The Quarterly Journal of Economics*, 87(3), 355-374.
- Stickler, C. M., Coe, M. T., Costa, M. H., Nepstad, D. C., McGrath, D. G., Dias, L. C. P., Rodrigues, H. O., & Soares-Filho, B. S. (2013). Dependence of hydropower energy generation on forests in the Amazon Basin at local and regional scales. *Proceedings of the National Academy of Sciences*, 110(23), 9601-9606.
- Suchman, M. C. (1995). Managing legitimacy: Strategic and institutional approaches. *Academy of Management Review*, 20(3), 571-610.
- Tilly, C. (1978). *From mobilization to revolution*. Addison-Wesley.
- United Nations General Assembly. (2007). United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295).
- Vanhala, L. (2018). Shaping the structure of legal opportunities: Environmental NGOs bringing international environmental human rights claims. *Law & Policy*, 40(1), 110-127.
- Wright, C., & Tomaselli, A. (Eds.). (2019). *The prior consultation of indigenous peoples in Latin America: Inside the implementation gap*. Routledge.
- Zangerolame Taroco, L. S. (2023). O protocolo de consulta Juruna (Yudjá) e o caso Belo Sun: Espaços multinormativos e possibilidades descoloniais. *Revista Direito e Práxis*, 14(2), 967-1003.
- Zaremborg, G., & Wong, M. T. (2018). Participation on the edge: Prior consultation and extractivism in Latin America. *Journal of Politics in Latin America*, 10(3), 29-58.

Appendix A. Coded dataset (pilot)

Effort is scored on anchored thresholds (a component scores 3 only where the marker is present: a documented sequence of three or more assemblies with translation; specific articles plus a sustained legal argument; formal publication with imprint/launch and named backing). High = sum 8-9, medium = 6-7, low below. Every citation event is anchored to a verbatim passage and locator, such as the ones presented in the "Findings" section.

Figure 06.. Production-effort scores (independent variable).



By the author.

Annexes

Annex A - Digital Spreadsheet (i.e., the coding instrument). The complete coded dataset is provided as a separate file, Protocol_Citation_Coding_Tool_Coded.xlsx, containing five sheets: Codebook (with the anchored effort thresholds), Protocols (independent-variable scores), Citations (every event with its verbatim passage and locator), Search_Log (the reproducible search protocol) and Reliability. Its summary tables are reproduced in Appendix A above.