



PUBLIC RECORDS AND ITS INCLUSIVE SERVICE TO THE NATIVE COMMUNITIES OF UCAYALI

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ABSTRACT.

Public records play a fundamental role in society by providing a reliable and transparent system to document and protect property rights, as well as other legal and legal matters. Historically, however, Native communities have faced significant challenges in accessing and benefiting from these records. The objective of this work is to conduct an analysis to guarantee inclusive attention to native communities in public records, as well as the existing obstacles and propose workable solutions to overcome them. The method used had a documentary research approach, with a mixed type of bibliographic design. The result was that, although the state has been committing itself to this vulnerable population, these communities still face challenges in terms of the lack of inclusive care, so it is necessary to opt for concrete measures that not only ensure the protection of the rights of native communities, but also promote their economic development and preserve their valuable cultural heritage.

Keywords: Indigenous jurisdiction, autonomy, challenges, strategies.

INTRODUCTION.

Public registries are essential institutions in any society, as they provide a solid legal framework for the protection of property rights and other legal and juridical aspects. However, throughout history, native communities have faced significant challenges in accessing and benefiting from these records, which has generated a significant gap in access to justice and the protection of their rights. (Andrade Olvera, Molina Mora & Robles Zambrano, 2022)

The recent enactment of Law No. 31309 Law for the modernization and strengthening of the services of the National Superintendence of Public Registries (Peru. President of the Republic, 2021) improves the ability, opportunity and dignity

of disadvantaged native communities due to the incorporation of the principle of pro registration into Article 2011 of the Peruvian Civil Code (Ministry of Justice, 2020) where the registrar and the court will facilitate the registrations. This principle was before the enactment of this law only in a directive, as background in numeral 7 of Directive No. 005-2013-SUNARP-SN, which is an effect of Article 8 of ILO Convention 169 (MARRIED GUTIERREZ, 2020), the subject matter principle improves the social inclusion of native communities by facilitating and encouraging registrations in both the land and legal registers.

However, it should not be lost sight of the fact that today this convention constitutes the most important binding international body of law for the protection of the rights of Indigenous Peoples. In fact, Convention 169 and the UN Declaration on the Rights of Indigenous Peoples of 2007 constitute the hard core of the protection of indigenous rights at the international level, despite the fact that the latter document belongs to the so-called soft law and is not binding. However, despite the advances in terms of normative and jurisprudential recognition of the rights of indigenous peoples, far from advancing in the implementation of their rights, there is a very serious regression (MARRIED GUTIERREZ, 2020).

Within the framework of the social inclusion policy implemented by the Government, the National Superintendence of Public Registries (SUNARP), through Registration Zone No. VI, Pucallpa Headquarters, develops in Ucayali, programs aimed at informing, promoting and facilitating the registration of citizens who are in vulnerable conditions. In this case, so that native communities, through access to registration, can be generators of their own social development.

In addition, it has created programs to approach these populations. In 2018, a preferential attention module was opened in the registry office of Pucallpa only for members of native communities and after the signing of an agreement with the main representatives of the Regional Organization of the Interethnic Association for the development of the Peruvian jungle of Ucayali (ORAU), several agreements were reached, among others. Their commitment to collaborate with interpreters, as long as there are no bilingual staff in the office. This module provides specialized guidance for native communities, which allows them to be guided in their various registration procedures, giving each town the opportunity to inform themselves in a simple, personalized way and, in addition, in their original language. (Alva-Arévalo, 2020; Castañeda & Tapia, 2020).

This service was accompanied by awareness-raising programmes for the staff of the registry office. Likewise, with the support of the registration program, the registration brigades of this area have gone to these distant places in order to guide and inform this population about the services they provide and what are the requirements they must present for each required registration.

For these inhabitants of indigenous peoples, it is more difficult to access the services provided by the state unlike the rest of the population. These services provided by SUNARP, are oriented to timely and easy access, which have been designed, in observance of their deficiencies such as: remoteness, lack of economic and material resources, cultural differences, language and other particular aspects.

Native communities, due to their remoteness from urban centers, lack of material resources, language and cultural differences, have greater difficulty in accessing the services of public registries, presenting suitable titles and correcting observations within the deadlines established in the norm. These procedures are sometimes not compatible with the customary functioning of the traditional institutions of government of the Communities. (Castro, 2020).

Within the various institutions of the State where native organizations go to carry out their procedures, public registries are one of the main ones. In their offices they have to submit their application for registration as a legal entity, the renewal of their boards of directors, the granting of special powers and the registration of their territory.

Indigenous communities still cannot access the digital transformation that the world demands today. To this need the Zone VI – Pucallpa Headquarters, has not been alien and the approach to native communities has been complemented in later years with the creation of a bilingual Castilian-Shipibo radio space called, Ninkati Joi Regstral. With this, registration issues are developed for native communities, in addition, it provides an exclusive telephone line for the indigenous population, where all their queries are answered directly and quickly. The development of the Ninkati Joi program is made possible by the signing of an inter-institutional cooperation agreement signed by SUNARP with the Federation of Native Communities of Ucayali and its Tributaries.

In order to reach native communities in a timely manner, SUNARP has seen fit to adopt a general guide for the registration of acts and rights of native communities. Its main objective is to propose guidelines and recommendations based on current laws, in order to facilitate and make viable the largest number of registrations of these communities in public registries. It should be noted that these registration inclusion programs are implemented in coordination with regional and local governments, joining efforts for the benefit of the population.

Likewise, in order to provide an efficient, useful and quality service to citizens, SUNARP provides registration inclusion programs to the vulnerable population free of charge, to contribute to the growth, economic and social development of the different peoples to which the institution has not reached before. In this case, they point out as citizens in conditions of vulnerability the native communities, because for these inhabitants of indigenous peoples it is more difficult to access the services provided by the state, unlike the rest of the population.

Thus, when overcoming geographical, logistical and climatological difficulties, the registry staff travels through the various locations located in the region. (Mayhua, 2020). In order to provide the best of their efforts, they reach the population and provide guidance on the procedures to follow to register certain acts and subsequently publicize them in a timely manner. In addition to carrying out the following registration inclusion programs:

1. SUNARP Entrepreneur: Created in order to guide focused training and advisory campaigns in centers where commercial and entrepreneurial activities are developed, to disseminate the different legal mechanisms that enable the registration of the incorporation of a company in all its modalities, the reservation of name, as well as the registration of other acts related to its economic activity.
2. Women Entrepreneurs: Through which the Registration Zone No. VI-Pucallpa Headquarters, organized a workshop with women entrepreneurs from the native communities of Pucallpa (Ucayali) to provide them with free advice and accompany them in the formalization of their businesses, in an easy and accessible way, through *Emprende SACS*.
3. OSB Workshops: Its purpose is to provide grassroots social organizations (OSB) with access to legal certainty with a simpler and simpler service. For this program, focused workshops are given to the OSBs to facilitate, guide and promote the registration of their constitution in SUNARP. This will allow them to enjoy the benefits of the Registry.
4. Registration Brigade: Its objective is to promote the direct approach of SUNARP personnel to each citizen in their home, workplace or social organization of a district or locality, especially those sectors in a condition of vulnerability due to factors of poverty, extreme poverty and border areas. Through the registry brigade, information is provided to the citizen of the various services provided by public registries and to address the importance of registering and publicizing a right.
5. SUNARP Registration Fair: The aim is to bring registration closer to a greater number of citizens in the different regions of the country. It provides immediate attention and provides relevant information, through the use of technological tools developed for the provision of registry services, in order to encourage the formalization and economic and social development of the community in which it is carried out.
6. Purus: Through this program, the Registration Zone VI-Pucallpa Headquarters, trained on the procedure for renewal of boards of directors and other registration procedures. Likewise, it registered 2 acts in the registry of legal entities, of the native communities of Zapote and Nueva Luz, in the province of Purús. Through these actions, comprehensive care, assistance and accompaniment were provided to the leaders and members of various indigenous peoples.
7. Informative Register: Massive campaign of orientation and free registry advice, aimed at the population so that they know the registry services they can access, informing them about the benefits of formalizing their properties, as well as the risks of not doing so.
8. SUNARP Trains you: It is an information and guidance service aimed at users of the registry and citizens in general that is developed through free academic exhibitions in all registry offices of the registration areas of SUNARP, on topics related to registration services, registration procedures and registry advertising, taught by specialists.

9. SUNARP Educates you: Its objective is to promote and develop a registration education campaign aimed at students from school to higher education, in order to publicize the registration system or expand the knowledge that could be had about it.
10. SUNARP Listens to You: It seeks to establish a direct attention channel for queries, concerns, suggestions or complaints from users and promote ethical values in the population. This program promotes direct attention by the zonal chief, registry manager, cadastre chief and registrar of each registration zone. It is carried out through public or private hearings (personalized attention) on the first Friday of each month, in one of the registry offices of the registration areas at the national level, in which the queries formulated are absolved and the complaints or claims raised are channeled in order to solve them immediately or in the shortest term.
11. Native Communities Workshops: It seeks to disseminate with a clear and simple language, the registry rules around native communities, such as the guide that regulates the registration of the acts and rights of the Native Communities.
12. Radio program aimed at native communities: The bilingual radio micro program Ninkati Joi Registral, is an informative space produced 1 year ago, by SUNARP through Zone VI- Pucallpa, with the aim of sensitizing and informing citizens about the importance and benefits of registering their assets and rights in the Sunarp, that helps native communities to know the registrable acts, opposability effect, legal certainty, prevalence in the best right and publicity.

Also, due to the social impact that this program has had in part of the Ucayali region and the favorable results, this Registration Zone No. VI-Pucallpa Headquarters, has as a project, to sign agreements with the federations of the native communities, located in the province of Purús, province of Atalaya, specifically in the districts of Sepahua and Urpia, for the creation of a radial space in these areas.

Strategic axes.

- Programme aimed at vulnerable groups (indigenous group)
- Specialized program in terms of its subject (general part registrations, legal entities and property rights of its territory)
- Sequential program (each program is part of a thematic structure developed by the radio team)
- Bilingual program (Spanish - Shipibo)

In addition, Law No. 29735, which regulates the use, preservation, development, recovery and dissemination of the original languages of Peru, establishes the right of every person to use his or her native language in the public and private spheres, to be attended in his or her mother tongue, in State agencies or bodies, to enjoy and have at his disposal the means of direct or reverse translation that guarantee the exercise of his or her rights in all areas. (Mendez, 2022). It also seeks to develop and describe the national and international regulatory framework, and the obligations and functions that the State has to promote respect for the native language. In addition, it seeks to improve the conditions in which Peasant and Native Communities, in their own language, access an effective and quality registry advertising service. (CONGRESS OF THE REPUBLIC, 2011).

Public policies with a centralist approach are part of the problem of social exclusion and cultural and linguistic differences between the public official who provides the service and the indigenous population served. These are raised by agents foreign to the culture and the original language of the indigenous settler. For this, the first category of analysis corresponds to cultural and linguistic diversity as mechanisms to shape public policies. The second corresponds to the profile, training and selection of the public servant and, the third, to the type of service provided by public officials, seen through the lens of cultural and linguistic diversity. (Otazu & Delgado, 2020).

Historically, there has been an interest on the part of the State in processing indigenous demands, improving their living conditions, legislating in favour of their rights, recognizing collective rights, promoting development projects in indigenous communities, ratifying international treaties and conventions relating to indigenous peoples, and supporting the creation and strengthening of indigenous organizations. Likewise, empirical evidence indicates that, in Peru, the government, by accepting ILO Convention 169, promotes laws that recognize the collective rights of these populations, in terms of prior consultation in decision-making. (Castro, 2020).

Despite efforts to change the monocultural state vision, in Peru colonial and patriarchal backwardness continues, to such an extent that indigenous people are second-class citizens, people who always expect help from the government or other

cooperation institutions. Likewise, Convention 169 urges governments to respect the organizational models of indigenous peoples, however, in the country indigenous organizations are in a process of decline. That is why this work has as a general objective: Analyze and promote the inclusive attention of native communities in public registries, in order to guarantee the effective protection of their rights and promote their socioeconomic development and cultural preservation.

Specific objectives:

- Identify existing barriers that hinder native communities' access to public records, such as language, cultural, and geographic barriers.
- Propose solutions to improve inclusive attention to native communities in public records, such as the implementation of training and awareness programs, the establishment of mobile or digital offices, and the promotion of community participation in decision-making and policy design related to public records.

METHOD.

The methodology used had a documentary research approach. The general description of the method initially used was based on the choice of the central and complementary theme, in addition to the inductive method of the research. Inductive reasoning or induction is a form of reasoning in which the truth of the premises supports the conclusion, but does not guarantee it, this method aims to conclude and make known the truth.

With the intention of deploying the research document based on the arguments put forward with this modality, a survey was carried out using methods such as the systematic, analytical, critical, reflective of the public registry matter directly related to the subject. This with the intention of obtaining useful information, which represents a significant contribution to the knowledge of the subject raised.

It is appropriate to indicate that, with regard to the research model, the work was developed with the well-known bibliographic design, since through the review of first-hand sources and the study of scientific articles indexed in databases, findings of literary works, catalogs, libraries, digital repositories, among others, It is possible to define, describe and conceptualize the subject studied. The use of these tools is part of the mixed type research process. In relation to the mixed approach, the qualitative research technique used direct observation (Schettini & Cortazzo, 2015).

RESULTS.

Peru's constitution recognizes the legal existence of indigenous communities. Its incorporation into the constitutional text was a step forward in the formal recognition of their rights. This Constitution, which served to capture a new vision on indigenous affairs, also recognized the legal existence of these communities. (DEMOCRATIC CONSTITUENT CONGRESS, 1993).

Native communities, with their rich cultural diversity and close relationship with their ancestral lands, have historically experienced marginalization and discrimination in many countries. This has resulted in a lack of recognition and effective protection of their rights to land, natural resources and cultural heritage. Public registry systems, which should be tools to safeguard these rights, have been inaccessible or insensitive to the needs and realities of native communities. (Faundes Peñafiel, 2020).

The barriers for native communities in accessing public records are multifaceted. First, there is a significant language and cultural barrier. Native communities often have their own distinctive language and cultural practices, making it difficult for them to effectively participate in public registration processes, which are usually conducted in the dominant language and follow different legal and cultural practices. This lack of effective communication and mutual understanding creates a gap in the trust and ability of native communities to protect and enforce their rights.

In addition, the lack of information and awareness about public records and their importance is also a significant obstacle. Many native communities lack adequate knowledge about how to access public records, what rights they can protect, and how they can benefit from them. This lack of information limits their ability to make informed decisions, protect their rights, and access resources available through public records.

Another major challenge is geographical distance. Many native communities are located in remote or hard-to-reach areas, making it difficult for them to interact with public records offices. The lack of adequate infrastructure, cost and logistics of travelling long distances to access these records represent significant barriers for native communities, as well as preventing their full and effective participation in public registration processes.

Barriers to access to public records:

- a) Language and cultural barriers: Native communities often have their own language and distinctive cultural practices, making it difficult for them to participate effectively in public registration processes.
- b) Lack of information: Many native communities lack adequate knowledge about public records and their importance, limiting their ability to protect their rights and access available resources.
- c) Geographic distances: Native communities are often in remote or hard-to-reach areas, making it difficult for them to interact with public records offices.

Importance of inclusive care:

- a) Protection of rights: Ensuring that native communities can properly register their property rights and other legal matters is critical to their protection and legal certainty.
- b) Economic Development: Equitable access to public records allows Native communities to engage in business transactions, obtain loans, and access development programs, thereby promoting their economic growth.
- c) Cultural preservation: Public records can play a vital role in preserving and protecting the cultural heritage of native communities, such as ownership of ancestral lands and other natural resources.

Intercultural public policies have a direct impact on indigenous inhabitants and public officials. Therefore, the revelations allowed to propose public policies to create confidence and respect for the indigenous who speak any of the 47 native languages of Peru.

This socio-legal problem is due to the deficient provision of registration advertising service provided by SUNARP, the violation of linguistic rights, and the non-observance of the native language, whether of a Peasant or Native Community, by the public administration. It must also be added the obstacles imposed by the Peruvian Registry System to legalize both its legal personality and the registration of its territorial properties in the corresponding registry. (Soriano Martinez, 2022).

DISCUSSION.

The lack of information and awareness about public records and their importance has limited the ability of native communities to protect their rights and access available resources. There is a need to provide adequate training and education programs to address this gap. It is essential to ensure inclusive attention to native communities in public registries to protect and preserve their rights. Linguistic, cultural and geographical barriers have been significant obstacles to their effective participation in these systems.

Ensuring linguistic rights and the quality of public management is the responsibility of state institutions, who do not have to confuse the means with the end but have an ambitious project of intercultural public policies that demand the reevaluation of languages historically postponed, minimized and almost extinct.

The implementation of measures such as mobile or digital offices in remote and hard-to-reach areas, as well as the promotion of community participation in decision-making, can facilitate equitable access of native communities to public records and promote their socioeconomic development and cultural preservation.

Solutions for inclusive care

1. Establish training and awareness programs: Specific programs should be developed to provide information and knowledge about public records to native communities, adapted to their languages and cultural practices. This will allow communities to understand the importance of public records and how to access them to protect their rights.

2. Create mobile or digital offices: To overcome geographical barriers, mobile offices can be deployed that move to remote areas where native communities are located. In addition, the development of accessible digital platforms will allow communities to access public records without having to physically travel to offices.
3. Encourage community participation: It is critical to involve native communities in decision-making and policy design related to public records. Creating advisory committees or dialogue forums that include the voice of native communities will ensure that their needs and perspectives are taken into account in the development of public registration systems.

CONCLUSIONS.

Public registries are fundamental instruments to guarantee legal certainty and the protection of the rights of native communities. However, the lack of inclusive care has created significant barriers to their equitable participation in these systems. It is essential to address language and cultural barriers, as well as geographical constraints, and to take concrete measures to promote inclusive care.

The Registration Zone No. VI – Pucallpa Headquarters, through the different institutional programs, aims to ensure that vulnerable populations, in this case, native communities, have timely and dignified access to registry services. This in order that the members of these communities feel that the state through this office includes them in the services it provides, thus improving their quality of life, providing them with legal security in terms of their properties, their legal status and others. Thus, the Registration Zone No. VI-Pucallpa Headquarters, works day by day, so that the distance, plurality of languages, economic situation, technological deficiency and others, are not a factor that prevents the timely service.

Training and awareness programs, establishment of mobile or digital offices in remote areas, and promotion of community participation in decision-making and policy design related to public records should be proposed. By addressing these barriers and promoting inclusive care, progress can be made towards a society that is more just and respectful of the rights of native communities.

It is crucial to address existing barriers to access to public records for Native communities. Concrete measures need to be put in place to ensure inclusive care, taking into account language and cultural barriers, lack of information and geographical distances. In doing so, the effective protection of the rights of native communities will be promoted, their socio-economic development will be fostered and their invaluable cultural heritage will be preserved. Only through inclusive and equitable attention in public registries can progress be made towards a more just society that respects the rights of native communities.

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