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# THE CUCAPÁH INDIGENOUS GROUP STRUGGLE AGAINST GREEN COLONIALISM: SELF-DETERMINATION & FISHING RIGHTS

A LUTA DO GRUPO INDÍGENA CUCAPÁH  
CONTRA O COLONIALISMO VERDE:  
AUTO-DETERMINAÇÃO E DIREITOS DE  
PESCA

LA LUCHA DEL GRUPO INDÍGENA CUCAPÁH  
CONTRA EL COLONIALISMO VERDE:  
AUTODETERMINACIÓN Y DERECHOS  
DE PESCA

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## RESUMO

O grupo indígena Cucapáh vive há 1000 anos na área do Delta do Rio Colorado. Em Baja California, México, várias famílias Cucapáh são pescadoras. O objetivo principal da pesquisa é analisar como os Cucapáh lutam pela sua autodeterminação. Neste artigo concluo com dois pontos principais: 1 Os Cucapáh sofrem atualmente processos de colonialismo verde, típicos do sistema capitalista neocolonial dominante. 2 A luta por os seus direitos de pesca no rio Colorado é sua luta pela autodeterminação indígena, que também está relacionada com sua luta pelo respeito à posse de suas terras comunais. Esta pesquisa baseia-se em uma metodologia qualitativa utilizando uma teoria enraizada, composta por entrevistas em profundidade e observação participante, nas comunidades Cucapáh de *El Mayor Cucapáh*, *Ejido el Indiviso* e *Ejido Cucapáh Mestizo*, em Baja California, México, bem como pesquisa arquivística em Mexicali, Baja California, México.

**PALAVRAS-CHAVE:** México; Cucapáh; Colonialismo Verde; Autodeterminação; Direitos Indígenas.

## ABSTRACT

The Cucapáh Indigenous group has lived for 1000 years on the Colorado River Delta area. In Baja California, México, several Cucapáh families are fishermen and women. The main objective of this research is to analyze how the Cucapáh fight for their self-determination. In this paper I conclude with two main points: 1 The Cucapáh currently suffer from processes of green colonialism, typical of the dominant neocolonial capitalist

system. 2 The struggle for their fishing rights in the Colorado river is their struggle for Indigenous self-determination, which is also intertwined with their struggle for the respect of their communal land possession. This research bases in a qualitative methodology using a grounded theory, composed of in-depth interviews, and participant observation, in the Cucapáh communities of *El Mayor Cucapáh*, *Ejido el Indiviso*, and *Ejido Cucapáh Mestizo*, in Baja California, México, as well as archival research in Mexicali, Baja California, México.

**KEYWORDS:** MÉXICO; Cucapáh; Green Colonialism; Self-determination; Indigenous rights.

## RESUMEN

El grupo indígena Cucapáh ha vivido durante 1000 años en el área del delta del río Colorado. En Baja California, México, varias familias Cucapáh se dedican a la pesca. El objetivo principal de la investigación es analizar como los Cucapáh luchan por su autodeterminación. En este trabajo concluyo con dos puntos principales: 1 Los Cucapáh sufren actualmente procesos de colonialismo verde, típicos del sistema capitalista neocolonial dominante. 2 La lucha por sus derechos de pesca en el río Colorado es su lucha por la autodeterminación Indígena, que también está entrelazada con su lucha por el respeto de la posesión de sus tierras comunales. Esta investigación se basa en una metodología cualitativa utilizando una teoría enraizada, compuesta por entrevistas a profundidad y observación participante, en las comunidades Cucapáh de *El Mayor Cucapáh*, *Ejido el Indiviso* y *Ejido Cucapáh Mestizo*, en Baja California, México, así como investigación de archivo en Mexicali, Baja California, México.

**PALABRAS CLAVE:** México; Cucapáh; Colonialismo Verde; Autodeterminación; Derechos Indígenas.

## INTRODUCTION

The Cucapáh are an Indigenous group that in México, mostly live in the state of Baja California, in the communities of *El Mayor Cucapáh*, *Ejido el Indiviso* and *Ejido Cucapáh Mestizo*, with around 230 Cucapáh Indigenous people between these three communities. There is a smaller community in the state of Sonora, México, in the community of Pozas de Arvizu, with less than 100 Cucapáh individuals. There are also Cucapáh people in United States, around 1000 individuals in the “Indian reservation” of Somerton in Arizona. In the US they are named Cocopah. In this paper I focus on the Cucapáh of Baja California, since the three communities mentioned of Baja California have fishing as their way of surviving, as a way of reinforcing their Indigenous identity, and as a way to fight for Indigenous self-determination.

Although several studies of specific Indigenous groups focus on their relation with the land, in this paper I argue that the Cucapáh Indigenous group rely more on their relation with the river as territory than to the land, since they have been a semi-nomadic group for centuries. As an example, their biggest community in Baja California, *El Mayor Cucapáh*, occupied a different physical space around 50 years ago, but they have always lived by the river and depended on it to survive, especially through fishing. In this research I will explore this relation in depth to learn how the river has influenced their conception of land and territory, and how it has shaped their struggle for Indigenous self-determination, resisting against green colonialism and neocolonial capitalism in general. The emphasis on the relationships with the being and elements in their landscape and ancient environment seem to be central for the Cucapáh, thus, exploring their relationship with others is central for this research. The importance of relationality has been posed by Indigenous

scholars before, which will give an important base for this research (COULTHARD, 2014; RAY, 2016; WILSON, 2008).

Regarding the theoretical frame, Decoloniality, Environmental Political Thought and Indigenous Thought intertwine in this research as epistemological and theoretical approaches that serve as a base to analyze the Cucapáh's struggle towards self-determination. Moreover, authors from both the west (both Indigenous and non-Indigenous) and the Global South, especially the Abya Yala (both Indigenous and non-Indigenous) are discussed in this research, identifying their complementarities and differences, which fill an existing gap: Indigenous studies and Decolonial studies from the west and from the Abya Yala tend to be disconnected, due to the academic culture, language barrier and coloniality of knowledge that marginalizes authors that are not from the west. In this research this gap is filled.

This research is guided by qualitative methodology, with the specific approach of grounded theory. I conducted my fieldwork with in-depth interviews, and participant observation, in the Cucapáh communities of *El Mayor Cucapáh*, *Ejido el Indiviso*, and *Ejido Cucapáh Mestizo*, in Baja California, México, as well as archival research in Mexicali, Baja California, México. It is worth noting that this paper is the result of preliminary findings of a research project that is in progress for my Doctorate Thesis.

## 1 CONTEXT OF THE CUCAPÁH INDIGENOUS GROUP

The Cucapáh Indigenous peoples have lived for over a thousand years in the Delta of the Colorado River (BONADA CHAVARRÍA, 2016). The Cucapáh Indigenous group are part of the family of the Yumanos, along the Kumiai, Kiliwa, Pai pai and Cochimí Indigenous groups, in what is now the state of Baja California (GARDUÑO, 2015).

The Cucapáh Indigenous people in México, mostly, live in the community of *El Mayor Cucapáh*; a rural isolated community, with a population of approximately 170 people. It is located an hour from the city of Mexicali, in the highway between Mexicali and the coast town of San Felipe. The community has extreme weather as it is located in a desert, with temperatures reaching 120-124 Farenheit during summer (especially during July) and 32-36 Farenheit during winter (especially during December and January). The community is characterized by a high level of social marginalization (ANGLÉS HERNÁNDEZ, 2011). There are two other rural isolated communities where Cucapáh people live in Baja California: *Ejido Cucapáh Mestizo* with around 30 Cucapáh people and *Ejido El Indiviso* with around 30 Cucapáh people too. These communities are 45 minutes and 1.5 hours driving from Mexicali, respectively.

Moreover, the Cucapáh Indigenous language is considered as a language with a very high risk of disappearing (EFE, 2020). According to a linguist that has conducted

research with the Cucapáh: “This group’s sociolinguistic situation mirrors that of many indigenous people around the world who are shifting to the economically and culturally dominant languages of their regions. The Cucapáh language has already reached a stage of advanced obsolescence in this community” (MUEHLMANN, 2012, p. 161).

For the Cucapáh Indigenous people, their relation with the river and with fishing is a central part of their cosmovision and way of living (NAVARRO SMITH, 2013). In fact, the word “Cucapáh” has two translations: 1 “people of the river/water” (BONADA CHAVARRÍA, 2016); 2 According to Onésimo González, who was a traditional authority of the Cucapáh community for several decades: “One of the translations of what Cucapáh means, according to what Onésimo told me, means “the man who goes and returns”, because every year the river came and flooded everything, so they had to go to the mountains and then return when the level of the river dropped” (CARDONA, 2022). The Cucapáh Indigenous people (as all the other Indigenous groups part of the Yumanos) didn’t develop a written form of the language, thus, their cosmovision and language have been transmitted only orally (BONADA CHAVARRÍA, 2015; GARDUÑO, 2015).

## **2 THEORETICAL DISCUSSION: DECOLONIALITY, ENVIRONMENTAL POLITICAL THOUGHT AND INDIGENOUS THOUGHT**

As mentioned in the introduction, my theoretical discussion focuses on the approaches of Decoloniality, Environmental Political Thought and Indigenous Thought. These three approaches intertwine in this analysis as both epistemological and theoretical approaches that serve as a base to analyze the Cucapáh’s struggle towards self-determination.

The reason why I choose these three strains of literature to be in dialogue with, is that all of these are strains of political theory rooted in praxis, with and/or from oppressed groups from the Global South, especially Indigenous groups, and with their lands. Both decoloniality and environmental political thought have a rich tradition of considering Indigenous thought of different groups in their arguments, especially from the Abya Yala. Moreover, a majority of literature (both academic and not academic) of Indigenous Political Thought centers in experiences, cosmovision, and struggles of Indigenous groups from the Abya Yala.

Additionally, decoloniality helps me to discuss the structural conditions that were imposed since the colonial invasion, that have lasting consequences to this day, especially for Indigenous peoples and oppressed groups, giving my research an important frame. Environmental political thought helps me to discuss critical understandings of relationships between different peoples and living beings, as well as the

structural conditions that have allowed the destruction of nature, and how these affect Indigenous peoples. Finally, Indigenous political thought gives me an important base to my research, by learning from Indigenous conceptions of self-determination, as well as struggles of different Indigenous groups and how these ideas were identified by both Indigenous and non-Indigenous authors, understanding that these ideas are closely intertwined with decoloniality and environmental political thought.

## 2.1 Decoloniality

Indigenous groups around the world have resisted more than 500 years of oppression: They have resisted the colonial invasion of the European empires; they have resisted the oppression of the nation-states that followed the formal independence of colonized countries; they have resisted the oppression of private corporations. In other words, they have resisted hundreds of years of colonialism, capitalism and racism, which are intertwined manifestations of the coloniality of power (QUIJANO, 2000).

The colonial invasion of the Abya Yala and Turtle Island by European powers (and afterwards perpetuated also by neocolonial capitalism) established not only a global capitalism system, but also a racial hierarchy of power, as Quijano discusses in his prominent piece on coloniality of power, where he argues that “All the forms of labor, production, and exploitation were in ensemble around the axis of capital and the world market: slavery, serfdom...” and in the same page he writes “At the same time... the idea of ‘race’, as biologically structural and hierarchical differences between the dominant and dominated” (QUIJANO, 2000, p. 216). After the formal independence of most nation-states in this continent, this economic-political system has been led by the US under a “capitalist imperialism” (QUIJANO, 1993, p. 146).

The colonial invasion allowed for capital accumulation to happen in a global scale. Massive resource extraction with unpaid slave labor allowed for massive accumulation of surplus in the hands of European elites. The extraction of slave labor and resources was entirely for European empires to accumulate, specifically for their elites.

Moreover, colonized countries that achieved independence have perpetuated colonial oppression through internal colonialism. The minorities (especially Indigenous groups) colonized by the nation-state suffer from similar oppression than colonialism and neo-colonialism: they are prohibited to conduct self-government and are oppressed by the elites of the state (GONZÁLEZ CASANOVA, 2006, p. 86). This system is not only imposed economically but also culturally, where the elites determine what is acceptable and what is not. González Casanova’s ideas are closely linked with Fanon’s arguments discussed in his book *The Wretched of the Earth*: In internal colonialism,

the elites in colonized countries act as an intermediary of the western elites; they seek to serve the perpetuation of the oppressive system that is manifested currently as neocolonial capitalism (FANON, 1963, p. 76, 86). He specifically explains how capitalism reconfigured into (what I call) its neocolonial form: “Capitalism in its ascenden- ce period saw colonies as a raw materials source, that transformed, could be sold in the European market. After a capital accumulation phase, it modifies its profitability conception. Colonies have become markets. The colonized population are clients that buy” (FANON, 1963, p. 32). In neocolonial capitalism, the colonial oppression is more subtle, through economical neoliberal reforms, through privatization and deregulation, in order for transnational companies to keep and increase their profit levels, not only exploiting labor but also consumers of the colonized regions.

Moreover, it is important to discuss the structural conditions of the neocolo- nial and neoliberal capitalist system that establish precedents to Indigenous struggles for self-determination and the attempts of neoliberal governments to assimilate them under an inclusion framework. Neoliberal capitalism encompasses the following ele- ments: “Decentralization, trimming down of the state, affirming basic human rights, and calling for minimally functional democracies” (HALE, 2005, p. 12).

To sum up my discussion on colonial oppression, decoloniality comes up. De- coloniality departs from the different forms of colonial oppression and shows how they are intertwined, in order to challenge them. The colonial oppression is structu- red from the colonial matrix, composed of coloniality of power, coloniality of knowle- dge, coloniality of being and coloniality of mother nature. Coloniality of power refers to the structure imposed by western colonialism in which a hierarchization based on race and class dominates the institutions and is perpetuated by the nation-state. Co- loniality of knowledge refers to the western forms of science and knowledge imposed in the Global South, that marginalized any other forms of knowledge that didn't com- ply with western terms. Coloniality of being refers to the *inferiorization* of all people that are different than the image that western colonial 'modernity' imposed, which is clearly linked with the coloniality of power. Finally, the coloniality of mother nature refers to the ethno- and anthropocentric idea that western colonialism imposed, whe- re certain humans are considered superior, and as such, can appropriate, destroy and privatize all life in the planet (animals, plants, rivers, mountains, forests, jungles, etc.) (QUIJANO, 2000, 2015; WALSH, 2007, 2008, 2013). Decoloniality then can be unders- tood as a process of humanization and liberation of the individuals and societies (in both levels), where the objective is to fight towards emancipation from the colonial matrix of oppression (WALSH, 2013, p. 54).

## 2.2 Indigenous thought on self-determination

To begin with a discussion about Indigenous self-determination is worth noting that, according to Cherokee Indigenous thinker Jeff Corntassel and to Marc Woons, for Indigenous peoples, self-determination notions are based in their relationship with their lands, waters, memory, plants, animals, rituals, languages and cosmovision (CORNTASSEL; WOONS, 2017). Moreover, one important notion of self-determination is the notion of the two levels of Indigenous self-determination, proposed by the Māori Indigenous thinker Dominic O’ Sullivan. This notion entails that Indigenous people have both human rights as individuals, and collective, differentiated rights as Indigenous groups. This implies that for Indigenous self-determination to be a reality, Indigenous peoples should have autonomy in the local level, at the same time they have the rights to participate in public decision-making in the federal level as any other citizen (O’SULLIVAN, 2015).

A more critical approach to self-determination is poised by the Yellowknives Dené Indigenous thinker Glen Coulthard, in his book “Red Skin, White Masks”, where he argues that the liberal ‘politics of recognition’ used in Canada “...promises to reproduce the very configurations of colonialist, racist, patriarchal state power that Indigenous peoples’ demands for recognition have historically sought to transcend” (COULTHARD, 2014, p. 4). He argues that the Canadian state, even if it presents itself as one of the most progressive in the world, tries to accommodate Indigenous claims as issues of inclusion, not self-determination. For Coulthard, the recognition of Indigenous peoples preached by the nation-state, echoing Fanon’s argument “is not posited as a source of freedom and dignity for the colonized, but rather as the field of power through which colonial relations are produced and maintained” (COULTHARD, 2014, p. 17).

Leanne Betasamasoke Simpson, also argues for a more critical notion of self-determination, rejecting the recognition and inclusions framework of the neocolonial Canadian nation-state. She argues that this framework “...can be read as compatible with settler colonialism because it fits within an inclusive narrative of Canada as a multicultural society. Language, cultural expression, and even spirituality...can rather effortlessly be co-opted by liberal recognition” (SIMPSON, 2017, p. 50). She also highlights that dispossession of Indigenous territories have left Indigenous communities almost no place to fish, to hunt, to live. She argues that “...land and bodies are commodified as capital under settler colonialism and are naturalized as objects for exploitation” (SIMPSON, 2017, p. 41). Furthermore she specifies what is needed to exercise self-determination: “I’m interested in unapologetic placed-based nationhoods using Indigenous practices and operating in an ethical and principled way from an intact land base” (SIMPSON, 2017, p. 50).

The arguments put forward by both Simpson and Coulthard, share important elements with the decolonial authors discussed previously. The colonial invasion established a colonial matrix of oppressions and global capitalism violently, dispossessing Indigenous peoples from their land, their bodies, and in several cases, their lives. This oppression continues in the form of neocolonial and neoliberal capitalism. The current system perpetuated by neoliberal governments then establishes liberal frameworks centered on inclusion and recognition in order to keep blocking Indigenous self-determination; by marginalizing and erasing their cosmovisions and values, by taking their lands, by taking their right to autonomy, sovereignty and in general, self-determination.

### 2.3 Environmental Political Thought

For this paper, it is also important to discuss environmental political thought, since the Cucapáh Indigenous group struggle for self-determination is closely related to environmental thought and issues, and it shows more a biocentric approach to existence, rather than an anthropocentric approach.

A first element of environmental political thought that is closely linked with Indigenous thought is the understanding and caring of the land and of all life. For Catherine Walsh, “...Mother nature -mother of all beings- is who establishes and gives order and sense to the universe and to life” (2008, p. 139). She adds that we live in a neocolonial system characterized by the colonial matrix of oppression, where one of the elements of the matrix is “coloniality of mother nature and life itself” (p.138) which destroys the centuries-long spiritual and integral relation between all living beings, including humans, animals, plants, rivers, mountain; relations that are based on the cosmovision of Indigenous peoples. This system exploits and controls nature:

...highlighting the power of the modern civilized individual (that is still considered based in the white European or from the US) above the rest...It is recreated today by practices and policies of development, ethno-tourism (with folklorization and exotization) and “NGOism”, where the individual and its individual-neoliberal development prevail. (p.139)

Another author that discusses these issues is Maristella Svampa. She argues that “we are suffering big anthropogenic and sociogenic changes in a global scale, that endanger life all over the planet (Anthropocene), that translate into questioning current development practices, tied with the unlimited expansion of mercantilization...” (2019, p. 19). She adds that the current system is characterized by neoextractivism: “Neoextractivism can be characterized as a development model based in the overexploitation of nature” (2019, p. 21). Moreover, “neoextractivism presents territorial dynamics that center intensive occupation of the territory and hoarding of land, through processes linked with [capitalistic] agricultural monoculture, which displaces



communities” (p.23). Svampa’s elaboration is closely related with David Harvey’s discussion on accumulation by dispossession, which he explains as:

...the continuation and proliferation of accumulation practices which Marx had treated of as ‘primitive’ or ‘original’...These include the commodification and privatization of land and the forceful expulsion of peasant populations... suppression of rights to the commons...and the suppression of alternative (indigenous) forms of production and consumption. (HARVEY, 2007, p. 159)

Francisco López Barcenas, an Indigenous Nuu Savi (Mixteco) scholar from southern Mexico, also discusses the idea of accumulation by dispossession. He explains it as a process in which capital imposes a dispossession of the lands (and the natural elements thereof) of Indigenous peoples, where rivers, forests, mountains and other elements have been privatized and transformed into commodities, representing a form of neocolonialism (LÓPEZ BÁRCENAS, 2012, p. 123). He also criticizes privatization reforms in Mexico, such as the Constitutional reform of 1992 that allowed the privatization and commercialization of collective lands in Mexico, both ejido and communal lands which were mostly bought by transnational companies (LÓPEZ BÁRCENAS, 2012, p. 135).

Finally, it is important to discuss how so-called green policies or renewable energy projects can also be processes of neocolonial oppression against Indigenous peoples, as several examples show. One of them is the fight of the Indigenous Saami peoples against wind energy megaprojects in their lands. For Aili Keskitalo, the Saami parliament’s president in Norway, there is a more recent form of neocolonial oppression against them: “green colonialism”, where “Some populations are not only vulnerable to climate change, as policies of climate change mitigation can also put their life systems at risk...pinpointing that the processes around wind energy development might intensify colonial losses of land and rights in Norway” (NORMANN, 2021, p. 78). Moreover, it is argued that green colonialism policies are how neoliberal capitalism operates currently:

The idea of “circuits of dispossession and privilege” considers how global neoliberal politics shapes individuals’ and communities’ experiences and possibilities for self-determination...Whereas relatively small companies tend to initiate the license applications for wind power projects, the rights are frequently sold to big, transnational investment funds. (p.79)

These authors address common issues, such as biocentrism/ecocentrism, the importance of the land as a mother, as a living being, and critiques of the capitalist neocolonial and neoextractive structure and system. These main ideas of environmental political thought are closely linked with Indigenous groups’ ideas, such as biocentrism and harmonic coexistence with all living beings, land as a mother and as a living being and a critical posture towards our current system, which is capitalist, neocolonial and neoextractive. For this research it is relevant to study how the Cucapáh coexist not

only with the land, but also with the river. Moreover, it is important to understand the Cucapáh specific collective position as an Indigenous group about environmental problems caused by the capitalist neocolonial and neoextractive system, how these problems affect them according to their own interpretations and what are they proposals and/or demands to the nation-state to address these problems, as well as how they have endured environmental problems in their community. Especially, how the Cucapáh relate with the Colorado river and depend on it to survive, and how they have suffered the pollution and drying of the river by the capitalistic over consumption (especially in the United States) and the pollution by industrial and monoculture agricultural private production.

### **3 GREEN COLONIALISM AND NEOCOLONIAL CAPITALISM AGAINST THE CUCAPÁH FISHING RIGHTS**

As mentioned above, the Cucapáh Indigenous people have an extremely close relationship with the river, not only because historically they have depended on it for its survival, but for what it represents for their identity and for the sacred essence attributed to it in their cosmovision. However, in the western conception imposed since the European invasion, and perpetuated by private corporations, the United States and the Mexican State, the river is a source of exploitable and marketable resources for profit. This system has allowed that economic and political elites impose processes of neo-extractivist dispossession, and of neocolonial oppression (as Quijano has argued) against the Cucapáh Indigenous group. Due to these processes, the flow of water from the river has been greatly reduced, modifying its course. This modification has pushed the Cucapáh families to move, to be close to the river. Thus, the Cucapáh the fight for their river is also the fight for their land. This can be seen in what Inés Hurtado, Cucapáh woman and leader of the biggest fishing cooperatives, has shared: “This struggle was also to conserve the territory, because this part of the river is Cucapáh territory, because we do not fight for the right to fish in the gulf or in San Felipe, it is to fish in our river” (HURTADO, 2022b).

For this section it is relevant to consider the Constitutional recognition of Indigenous rights in México. The rights of indigenous peoples have been enshrined in the Mexican Constitution since the 2001 reforms, which recognize in article 2 that they have the right to self-determination and autonomy, so they have the right to decide their internal forms of coexistence and organization; to elect its authorities to exercise their internal government in accordance with their own system and rules; to preserve and revitalize their languages, knowledge and culture; ownership of their land, to conserve and enhance the natural resources of their lands; to administer justice in accordance with its internal rules; and to elect representatives to the municipalities to

which they belong and to access the total jurisdiction of the state (GAMBOA; VALDÉS, 2018, p. 9; LÓPEZ BÁRCENAS, 2002). This point is extremely important, because not only is the right of self-determination recognized, but also several other rights that are constantly violated by government authorities at the local and federal level and by private corporations. It is also important to note that there is a high degree of harmonization between the international treaties that Mexico has signed and ratified and national legislation. The problem is that some of these rights have to be recognized and specified by each of the states for their exercise, and many of the states of Mexico do not have norms in the issue, making their exercise extremely difficult. Other problems with Mexican legislation on indigenous rights are highlighted by the legal expert Anglés Hernández:

...How is it that the Constitution “guarantees” the right of Indigenous peoples and communities to self-determination, if to date no mechanism has been developed to allow its full exercise? How can we speak of access to the “preferential” use and enjoyment of the natural resources of the places inhabited and occupied by the communities, if it is subject to respect the forms and modalities of ownership and tenure of land established by the Constitution and the laws of the matter? (ANGLÉS HERNÁNDEZ, 2011, p. 73)

Another relevant law for the case of the Cucapáh is the Sustainable Development Law that specifies in Article 175 that Indigenous peoples who live in protected natural areas (ANP) (such as the Cucapáh people):

“They will have priority to obtain permits, authorizations and concessions to develop works or economic activities”... In addition to the above, the recent General Law on Sustainable Fisheries and Aquaculture indicates as one of its objectives, to seek the right to access, use and preferential enjoyment of fisheries and aquaculture resources of Indigenous communities and peoples. (ANGLÉS HERNÁNDEZ, 2011, p. 75)territorios, medio ambiente, recursos naturales, migrantes, derechos sociales y colectivos de los pueblos”, “event-place”: “México”, “event-title”: “Seminario: La cuestión agraria: tierras, territorios, medio ambiente.”, “note”: “publisher: UNAM, Instituto de Investigaciones Jurídicas México”, “page”: “67-87”, “publisher”: “UNAM”, “publisher-place”: “México”, “source”: “Google Scholar”, “title”: “La garantía del derecho de acceso, uso y disfrute preferente de los indígenas a los recursos naturales. Caso Cucapáh”, “volume”: “6”, “author”: [“family”: “Ánglés Hernández”, “given”: “Marisol”], “issued”: {“date-parts”: [“2011”]}, “locator”: “75”, “label”: “page”}, “schema”: “https://github.com/citation-style-language/schema/raw/master/csl-citation.json”}

Although rights are established for Indigenous groups in the aforementioned laws, these have been violated by the authorities in the case of the Cucapáh Indigenous group, since as will be analyzed in the following pages, a series of prohibitions have been imposed on the Cucapáh people to fish in the Colorado River Delta Reserve, which is an ANP.

It is worth highlighting that Indigenous Peoples have the right to prior consultation regarding legislation, treaties and projects that may affect them. This is specified in international treaties such as the ILO Convention 169, and in Mexican laws (CO-

MISIÓN ECONÓMICA PARA AMÉRICA LATINA Y EL CARIBE (CEPAL)/FONDO PARA EL DESARROLLO DE LOS; PUEBLOS INDÍGENAS DE AMÉRICA LATINA Y EL CARIBE (FILAC), 2020, p. 75). Unfortunately, in México Indigenous peoples have not been consulted regarding the signing of international treaties and of most Mexican laws, an example of this is the signing of the Treaty of Limits and Waters between the United States and Mexico of 1944. Another example is the imposition of the ANP in the Colorado river Delta.

Although the dispossession of the river has developed since the nineteenth century, the most harmful situation for the fishing rights of the Cucapáh Indigenous group arose in 1993, with a different type of dispossession, a dispossession that can be characterized as green colonialism. In 1993, the Mexican government unilaterally created the Upper Gulf and Colorado River Delta Biosphere Reserve (RBAGDRC), prohibiting the Cucapáh people from fishing in the river Delta, and in several routes of it, even though for hundreds of years they had fished in the Delta to survive. The justification put forward by the government at that time, when Salinas de Gortari was president, was the protection of marine species. However, the fishing practiced by the Cucapáh does not have the intensity to put marine species at risk: “The fishing carried out by the Cucapáh is of low environmental impact, both due to the fishing gear used and due to the quantity; they have only 32 boats, some of them are pangas that operate manually; and its capture comprises only 10% of the recommended quota” (ANGLÉS HERNÁNDEZ, 2011, p. 81). The number of fishers, the equipment and the techniques they use do not pose a risk to the species, so the justification of the Mexican state has no real basis. What happens in practice is that they perpetuate neocolonial oppression towards the Cucapáh group: “Since 1993 fishers have been watched and persecuted as part of daily life during the fishing season: they are treated as environmental criminals and the authorities justify their criminalizing actions with arguments of protection of the species that the cucapáh fish” (NAVARRO SMITH, 2013, p. 210). It is also important to consider that the Cucapáh Indigenous peoples have depended on fishing for centuries, long before the United States or Mexico existed as nation-states: “Those who exercise the law must understand that local laws must be subordinated to national and international laws, and those laws clearly say that the law cannot be retroactive and if fishing is an ancestral activity of these communities it should not be prohibited” (CARDONA, 2022).

Since the establishment of the Reserve, a fishing ban was imposed, where the Cucapáh were especially affected. This situation led them to create fishing cooperatives to be able to legally protect themselves against the prohibition of fishing as Inés Hurtado explains:

Our cooperative is called “Sociedad Cooperativa Pueblo Indígena Cucapáh” and was created in 93 or 94, before we were a communal unit, but by the cre-

ation of the reserve they did not let us fish. Every start of the season we had to file amparos...we were forced to make a cooperative society to have legal personality to be protected by law. (HURTADO, 2022b)

In addition to this, in 2006, the government imposed a Decree prohibiting fishing *curvina golfina* that applies from May 1 to August 31, this is linked to the “official Mexican standard NOM-063-PESC-2005, which prohibits the fishing of the *curvina* in the core zone of the Reserve” (ANGLÉS HERNÁNDEZ, 2011, p. 82). There is also a fishing cap, which only allows each fisher with permission to fish a certain number of fish. This has generated many problems for the Cucapáh fishers. Because only a few permits were assigned, several Cucapáh fishers do not have a fishing permit, and although they have made requests to the government and established legal processes, no more permits have been granted:

Currently, all permits to fish *curvina* have been granted. This means that if the children of fishing families wish to continue fishing, they will no longer be able to do so legally... since the number of fishing efforts must be calculated in relation to the sustainable exploitation of the biomass of the species. (Navarro Smith, 2013, p. 212)

Moreover, in recent years there have been several changes in the water flow agreements between Mexico and the US, that negatively affect Mexico, further reducing the flow of water from the Colorado River, which is the one that reaches the lands where the Cucapáh have lived for at least 1000 years. Thanks to this treaty, the Colorado River is the river with the most dams in the world, with more than 100 dams along all its tributaries. It is important to highlight that the diversion of the river’s water flow has been mainly due to two aspects: the enormous amount of water used by the capitalist monoculture agricultural industry in California, as well as the excessive consumption of water in large metropolises in the region such as Los Angeles, due to hyper-consumerism typical of the capitalist system.

Another issue that goes hand in hand with the dispossession of water against the Cucapáh communities is the dispossession of their communal lands. In the 1930s, several Cucapáh people received *ejido* property (communal rural land) after years of social mobilizations and legal struggles to own their lands. The Cucapáh were led by Enrique Osben, who is mentioned in written records from 1937, in “the Confederation of Agrarian Communities of the Northern Territory of Baja California” (BONADA CHAVARRÍA, 2016, p. 283). As a result of this, several Cucapáh families received *ejido* lands through the agrarian distribution of President Lázaro Cárdenas, but a large amount of the lands that were granted to Cucapáh people were lost, especially the lands of the *ejido* community of *Cucapáh Indígena*, due to several factors: not having knowledge to dedicate themselves to agriculture, nor equipment (BONADA CHAVARRÍA, 2015), as well as the abandonment of lands or their sale, caused by threats and aggressions by

non-Indigenous people, mainly from Zacatecas, as well as by the lack of knowledge of the requirements to keep the lands:

In the opinion of Adela Sandoval Portillo: "... Or it was because the people who came from Juchipila, from Zacatecas... They intimidated them. They got them drunk. They gave them money, they beat them... until all the Indians who had the titles to those lands better left". (GÓMEZ ESTRADA, 1995, p. 230)

This is also commented by Mrs. "Güera Maclis", the oldest member of the Elders Council of the Cucapáh group in Baja California:

Many from Zacatecas arrived at the Cucapáh Indigenous [ejido] and told them how to plant because the Cucapáh did not know and they made them weyes, they put them drunk and compared the very cheap right and others were threatened with death so that they would give them the right and all the Cucapáh left that ejido. (VALENZUELA DE MACLIS, 2022)

It is important to highlight that since 1973, the government of Mexico recognized 143,053 hectares as communal lands of the Cucapáh Indigenous people, covering a large part of the Cucapáh mountain range and a small part of the banks of the river, as a result of years of efforts and mobilization led by Onésimo González Sainz, who was the traditional authority of the community at that time (BONADA CHAVARRÍA, 2015, p. 24). It was not until 1975 that the community officially received the lands and the "Recognition and Titling of Communal Property. However, they only received arid land, with no possibility of agricultural production. Nonetheless, this was important because it allowed them to have legal documents of possession of those lands and they were able to recover their sacred places" (SÁNCHEZ OGÁS, 2001, p. 63).

Currently, the dispossession of communal lands continues, although with a different dynamic. Since the reform of Article 27 of the Mexican Constitution, imposed by former PRI President Salinas de Gortari in 1992, the separation and sale of *ejidos* as private property was allowed, allowing a few people and companies (mostly foreign) to acquire a large amount of land, beginning the destruction of small subsistence agricultural production in Mexico and allowing the monoculture agricultural export-oriented production, typical of neoliberal capitalism. This reform also allowed communal land rights to be sold, transferred, and donated, as private property. Since this change, people who are not Indigenous, have acquired communal land rights, thus continuing the dispossession of Cucapáh lands. Although acquiring communal land rights does not imply acquiring a specific plot of land, it does allow having a right to enjoy the benefits of any activity carried out on the 143,053 hectares recognized as Cucapáh communal lands, as well as having voice and voting rights in the committee of communal land rights. This is important, because if you sell minerals, or rent a portion of the land to a mine, or rent a portion of the land for an event like Pavarotti's concert at *Laguna Salada* in 2003, people who have a communal land right get an economic benefit. For example, if a company rents a portion of communal land for

100,000 pesos, these have to be distributed equally to all people with land rights. If there are 50 people with rights, each one should get 2,000 pesos. Likewise, any decision to rent land or any other land-related activity must be taken by the assembly of the *derechosos/comuneros* (people with communal land rights).

On this subject, Mrs. “Güera Maclis” comments: “There is a commissioner who is buying a lot of land, and that is wrong because how are we, being Cucapáh, giving our lands to a Mexican?”, she also adds “there are like 20 Mexicans who bought land rights” (VALENZUELA DE MACLIS, 2022). Mrs. Hilda Hurtado, sister of Inés Hurtado also commented in this regard that:

Now there are just Mexican representatives who takes away the right of the Indians and there are sacred Cucapáh sites, and people who are not Indigenous have no respect for sacred sites, at least let us keep that. The Mexican turns to see the mountain and sees the sign of pesos, how much are they going to give him for that piece of land? That is why we fight to preserve that cultural part of us. (HURTADO, 2022a).

#### **4 CUCAPÁH STRUGGLE FOR FISHING RIGHTS AND RESISTANCE AGAINST OPPRESSION.**

Of the resistance actions and movements that the Cucapáh Indigenous peoples have carried, the largest and most important mobilization of the Cucapáh Indigenous group in defense of their rights to fish has undoubtedly been the mobilization of 2007, where they received the support of the Zapatista movement.

The contact with the Zapatista movement was made possible by solidarity activists who directly contacted the women leaders of the Cucapáh fishing cooperatives, as Inés Hurtado relates: “Luis Alfonso was the representative in the state here of the EZLN, and he contacted us...We held several meetings with the people of the EZLN, Mr. Ricardo de la Torre supported us a lot too, he was with them” (HURTADO, 2022b). Inés also explained the strategy of *Subcomandante* Marcos and the preparation to receive the Zapatistas: “We planned where the camp was going to be made, the whole strategy of what to do, a whole program of who was going to talk, my uncle Onésimo made the *ramadas* of *cachanilla* for their camp...When all that was well done, then *Subcomandante* Marcos came”. Likewise, Inés explained that the first thing Marcos did when he arrived with the Cucapáh Indigenous group was an assembly: “An assembly was held where he listened to us and then he took the floor and said that he came to support us and that he was going to do everything possible so that they did not bother us.” She also commented that there was a great media coverage: “Journalists came from Argentina, from Spain, from everywhere, and they always had the cameras on.”

On the actions they took during this mobilization, Rita Hurtado, sister of Inés and Hilda, commented: “That was very notorious because we blocked the roads, we

threw the fish there in SAGARPA so that it would stink, that is, when they harassed us, we also did it to them and people began to realize and joined to help us, the community helped us a lot” (HURTADO, 2022c). Likewise, they declare that the *Subcomandante* did not come alone, but that a contingent of men and women of the Zapatista Army of National Liberation (EZLN) arrived with him: “He came guarded by the Federal Roads Police, and the Zapatista women were armed, with a big rifle, they brought their *rebozo* but with their rifle.” On the results of this mobilization and the support of the Zapatista movement Inés added: “We were like adrift in the sea, and he was like a log that helped us. and when he helped we fished well, even during the *curvina* ban, with papers and everything” (HURTADO, 2022b). Regarding this mobilization, Ricardo Rivera, one of the lawyers that supported the Cucapáh shared:

When the Zapatistas decided to start their “Other Campaign”, of dissemination and support at the national level, they decided to put BC on their itinerary, I learned about this from Monica, she invited me and of course I agreed to accompany them. When they arrived, a delegation of 30 or 40 vehicles came, including 15 federal patrols guarding. The Subcomandante said that “if they ask me to come and support them, we can return to support them”, that was like in October 2006. Then, when they had their camp here, in 2007, the Cucapáh fished like never before because neither PROFEPA or the Marina approached them because the Zapatistas were there. (RIVERA DE LA TORRE, 2023)

Another of the important mobilizations of the Cucapáh Indigenous group, part of the struggle for their right to fish, was in 2010, when the police arrested two Cucapáh fishermen. In this regard Hilda Hurtado commented:

...They came to imprison my brother and my nephew in 2010, and we made a sit-in in the state government, we had a lot of support from the human rights commission and the community. A recommendation was generated from the CNDH. It was a daily struggle, they took something from us and we grabbed it back, but we did not get tired until we achieved our goal. (HURTADO, 2022a)

Later, in 2014, Cucapáh fishing leaders such as Hilda and Inés, together with members of their cooperative, blocked the highway, due to the seizure of 40 tons of *curvina* by the government: “Given the refusal of the fishing authorities to give them the necessary documents to market 40 tons of *curvina*, the Cucapás, organized in the SCPICCSC, moved to *El Mayor Cucapah* and closed the road, crossing their pangas on the federal highway” (NAVARRO SMITH; BRAVO ESPINOSA; LÓPEZ SAGÁSTEGUI, 2014, p. 58).

In addition to local mobilizations, the Cucapáh have also conducted processes at the international level, to the Inter-American Commission of Human Rights, and have participated in forums of the United Nations, sharing about their struggle. In this regard, Hilda Hurtado commented: “I went to Washington... thank God it was useful for something, even to Juana and Susana [the leaders of the other two fishing coope-



ratives] although they remained on the sidelines. In 2015 they gave us the engines for the *pangas*' (HURTADO, 2022a). Likewise, Inés Hurtado added:

If a benefit has reached other cooperative societies in the community, it is because of our struggle, because when we went to New York to the United Nations and denounced our needs and problems, that was why support came to us, to Juana and Susana, not just to us. Susana had 4 permits, now she has 32. (HURTADO, 2022b)

Ricardo Rivera also was the lawyer that supported the Cucapáh to reach both the UN and the Interamerican Commission of Human Rights. Regarding those experiences he shared:

In 2005 there was the opportunity to present before the Permanent Forum on Indigenous Affairs at the UN. I put the situation of the Cucapáh on the table at the forum. Then, three years later it was more formal because we filed a complaint with the Inter-American Commission on Human Rights, in 2008, if it reaches the Court, I am sure they would win. (RIVERA DE LA TORRE, 2023)

Regarding the process to participate in the UN Permanent Forum for Indigenous issues, Ricardo shared:

The International Justice Center in México, with the support of Lorena Rosas, Raul Ramirez Bahena, etc., helped to prepare the complaint and reach the session in New York, in June 2005. In the open space of the session, where you could present complaints, I raised my hand to speak on behalf of the Cucapáh people (RIVERA DE LA TORRE, 2023)

To conclude this section, it is important to highlight that the Cucapáh have suffered intense process of green colonialism, together with internal colonialism and neocolonial capitalism dynamics, where political and economical elites of México and the US have exercised dispossession of their territories and rights. However, the Cucapáh are far from being extinct. They have resisted these colonial processes with the few resources they have, with strategies including political protests and mobilizations, lawsuits in national courts and international courts, participations in international forums, and most importantly: alliances with the Zapatistas to have a powerful political platform to defend themselves and their causes.

## 5 METHODOLOGY

This research is guided by qualitative methodology, with the specific approach of grounded theory. I conducted my fieldwork with in-depth interviews, and participant observation, in the Cucapáh communities of *El Mayor Cucapáh*, *Ejido el Indiviso*, and *Ejido Cucapáh Mestizo*, in Baja California, México, as well as archival research in Mexicali, Baja California, México. It is worth noting that this paper is the result of preliminary findings of a research project that is in progress for my Doctorate Thesis, I will continue to conduct field work with the Cucapáh Indigenous communities I have been conducting research with, and I will seek to conduct not only more in-depth in-

interviews, but also place-based methodologies (FOX *et al.*, 2017; SCHREYER *et al.*, 2014; WILDCAT *et al.*, 2014).

Grounded theory is a research method in which the scholar first learns from exploratory visits to the field. From those first interactions within the field, they define their research protocol: “grounded theory methods consist of systematic, yet flexible guidelines for collecting and analyzing qualitative data to construct theories ‘grounded’ in the data themselves” (CHARMAZ, 2006, p. 2). Moreover, I employ abductive logic, which refers to the production of new hypotheses and theories based on research data that arises from actors’ specific stances and postures, but using existing theories as a base (TIMMERMANS; TAVORY, 2012).

Additionally, my ethnographic fieldwork is composed of participant observation, as well in-depth and semi-structured interviews:

Participant observation is the process enabling researchers to learn about the activities of the people under study in the natural setting through observing and participating in those activities. Participant observation is characterized by such actions as having an open, nonjudgmental attitude, being interested in learning more about others...(KAWULICH, 2005, p. 2)

This element is central; it is an important change from the positivist dominant position in social science research in western academia, even in qualitative studies, where subjects are commonly seen as “observable” objects of analysis; research participants can be co-producers of knowledge too. The praxis element of participation entirely shifts what you assume and understand about others and makes you more empathetic to their situations and struggles, which in turn makes your research richer and more complete.

Moreover, I use in-depth interviews and semi-structured interviews. Interviewing is a very useful technique, allowing intensive data gathering: “Qualitative methods require a flexible response ‘in the moment’ to observational (including participation) and talk or interviewing circumstances...” (YANOW, 2014, p. XVIII). I have used semi-structured interviews, which allow the flexibility needed in grounded theory research (CRESWELL, 2007). The recruitment for the interviews began with the people I know in the community, and through a snowball technique with the contacts of the people I know, I have contacted more interviewees.

Finally, research ethics are a central tenet of my methodological framework. Discussions about ethics have been made about archival research (SUBOTIĆ, 2021), covert research (PACHIRAT, 2011), or interviewing (BLEE, 1993), to mention a few, but ethics should be central to all research. In qualitative research, ethics can be perceived or addressed in different ways. The most common is to have IRB approval (YANOW; SCHWARTZ-SHEA, 2016). However, IRB approval is not enough, nor adequate by itself, to deal with ethics in qualitative research, especially when undertaking re-

search with Indigenous communities. The relation of western academia with Indigenous communities is problematic at best; this is mostly due to the colonialism, scholarly extraction and harmful activities that academics have conducted in Indigenous communities (TUHIWAI SMITH, 2016). It is crucial for my research to recognize this history to prevent repeating these unethical activities with the Indigenous community and to apply the ethical principles that have been proposed by Indigenous scholars like Linda Tuhiwai Smith, a Māori Indigenous scholar part of the Ngāti Awa in New Zealand, such as the *Kaopapa Maori* principles (TUHIWAI SMITH, 2016, p. 168), especially *Aroha Ki Te Tangata* (respect for participants), *Manaaki Ki Tangata* (share with participants and be kind), and *Kia Mahaki* (don't brag about your knowledge). Other ethical research principles have been posited by Indigenous scholars, such as learning from the land and specific context of the community you conduct research in (WILDCAT *et al.*, 2014), engaging directly in the physical world of the community, and in the movement building of the group according to Nishnaabeg knowledge as Leanne Betasamasoke Simpson, a Michi Saagiig Nishnaabeg Indigenous scholar in Canada argues (SIMPSON, 2017, p. 162).

## CONCLUSIONS

The Cucapáh Indigenous peoples constantly fight for their rights to the land, to fish in their river, and in general for their self-determination. The colonial oppression that the Cucapáh have suffered for decades, especially since the imposition of the 1993 ANP is manifested as green colonialism, where the state and private corporations and western NGOs violate the rights of the Indigenous peoples, taking their territory and natural elements for profit, but putting a "green veil", so these colonial processes are legitimized and legalized. In the specific case of the Cucapáh's and their fishing rights, green colonialism is exerted by considering that the rights and survival of the Cucapáh Indigenous peoples is less important than a species of fish, perpetuating the *inferiorization* of Indigenous people imposed through coloniality of power and being. The Cucapáh struggles are also against internal colonialism and neocolonial capitalism, since as González Casanova and Fanon argue, in countries that have been colonized (such as México), a system of neocolonial oppression has been imposed, even after the processes of "formal" independence. Dominant elites benefit by exploiting marginalized groups, especially Indigenous groups. Likewise, as Quijano and Walsh argue, these elites have perpetuated a structure of coloniality of power, being, knowledge and mother nature, as well as neo-extractivism as Svampa argues. This is clearly manifested in the dispossession of the lands of the Cucapáh people and in the fishing bans imposed on them. The arguments of Coulthard, Betasamasoke Simpson and López Bárcenas are also manifested in the struggles of the Cucapáh people, resisting

dispossession and neocolonial oppression, fighting for land, for fishing in their river and fighting for a collective way of life, based on the relationship with the land, and in the case of the Cucapáh group, with its river.

Finally, it is worth highlighting the particularities of the Cucapáh Indigenous group. The mobilizations with the support of the Zapatista movement show a solidarity between Indigenous groups of different realities, and a joint struggle for self-determination, and it is a topic that deserves further exploration. Another relevant issue is the dispossession of communal land rights by non-Indigenous people, which also merits further exploration. A final issue that deserves further analysis is the issue of the exploitation and pollution of the river, how this has affected the Cucapáh group and how they have resisted.

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