BEYOND TRADITIONAL KNOWLEDGE ASSOCIATED WITH BIOLOGICAL RESOURCES: TOWARD COMPREHENSIVE PROTECTION OF INDIGENOUS KNOWLEDGE AND CULTURAL EXPRESSIONS BASED ON THE PERUVIAN EXPERIENCE

Geneva, September 16, 2026

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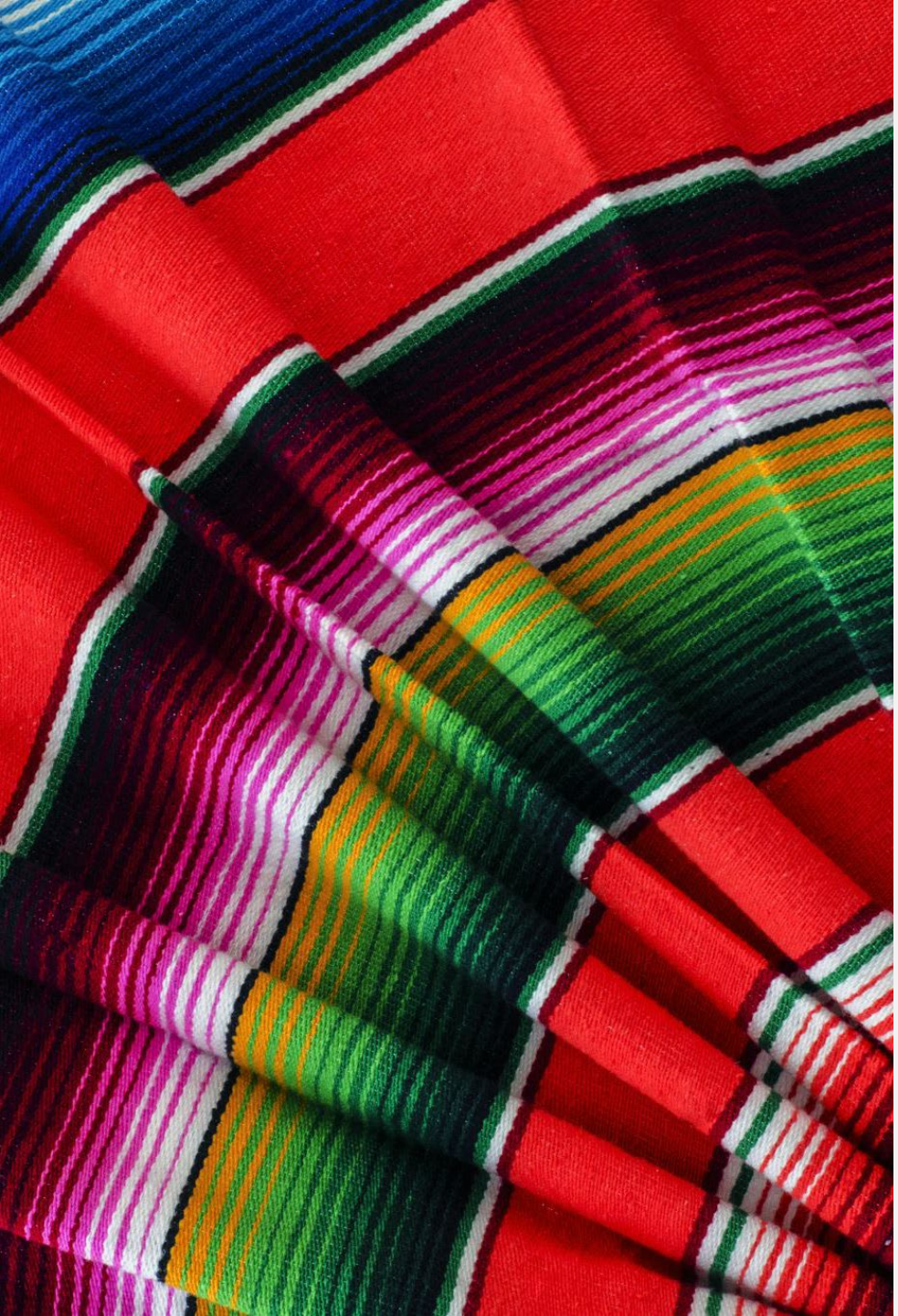


LAW 27811: LAW INTRODUCING A PROTECTION REGIME FOR THE COLLECTIVE KNOWLEDGE OF INDIGENOUS PEOPLES DERIVED FROM BIOLOGICAL RESOURCES

- protects knowledge associated with the properties, uses, and characteristics of biological resources,
- which is accumulated and transgenerational,
- has been developed by indigenous peoples (rural communities and native communities),
- belongs to one or more indigenous peoples and not to a single individual, even if that individual is indigenous: collective rights.

OBJECTIVES OF LAW 27811

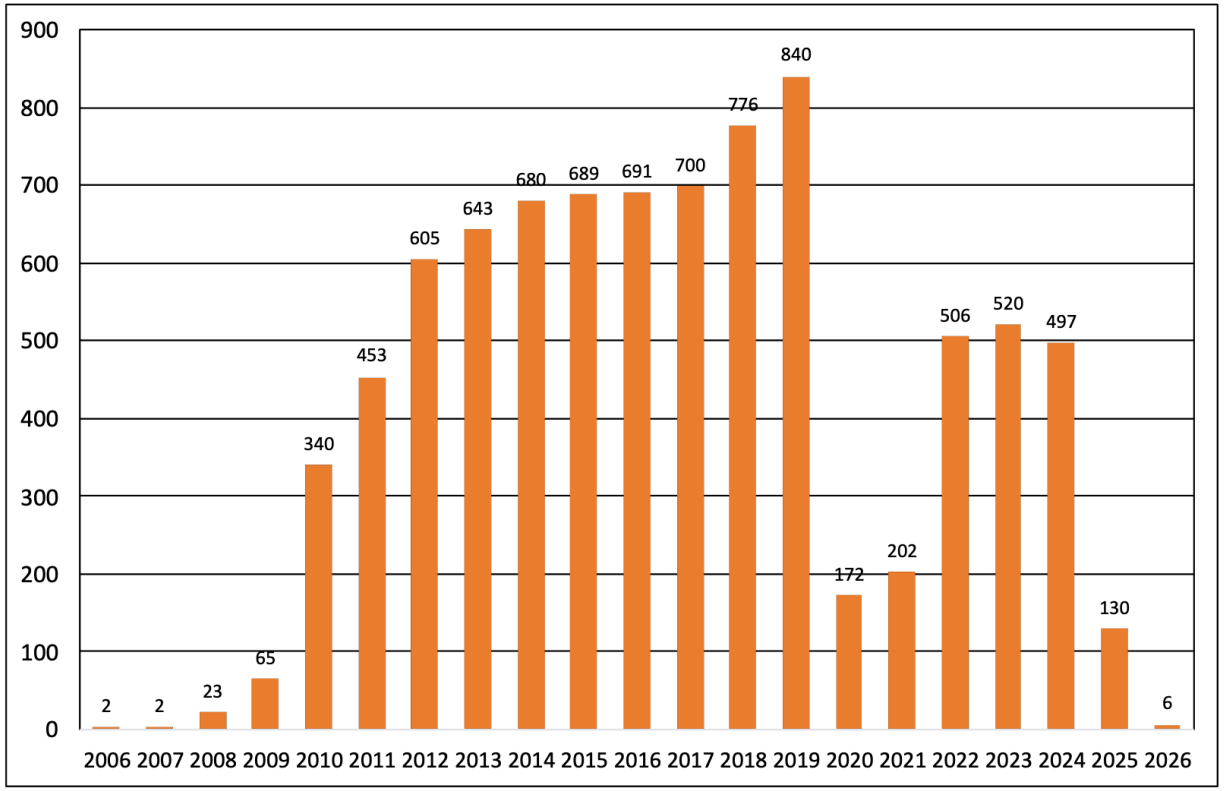
- Respect, protection, preservation, and application
- Promote the fair and equitable sharing of benefits
- Promote the use of this knowledge for the benefit of indigenous peoples and humanity.
- Prior informed consent of indigenous peoples.
- Promote capacity building and development
- Prevent the granting of patents for inventions derived from or developed based on the collective knowledge of the indigenous peoples.

NUMBER OF REGISTRATIONS GRANTED BY REGION AND TYPE OF REGISTRATION IN PERU
(JUNE 31, 2026)

	Region	Number of Registrations	Confidential National Registry	Public National Registry
1	Amazonas	758	523	235
2	Apurimac	10	10	0
3	Ayacucho	38	27	11
4	Cusco	374	315	59
5	Junin	436	344	92
6	Loreto	3637	2418	1219
7	Madre de Dios	498	431	67
8	Moquegua	96	86	10
9	Pasco	741	626	115
10	Puno	15	15	0
11	San Martin	1921	1517	404
12	Ucayali	18	12	6
	Total	**8542**	**6324**	**2218**

Fuente: Dirección de Invenciones y Nuevas Tecnologías - INDECOPI

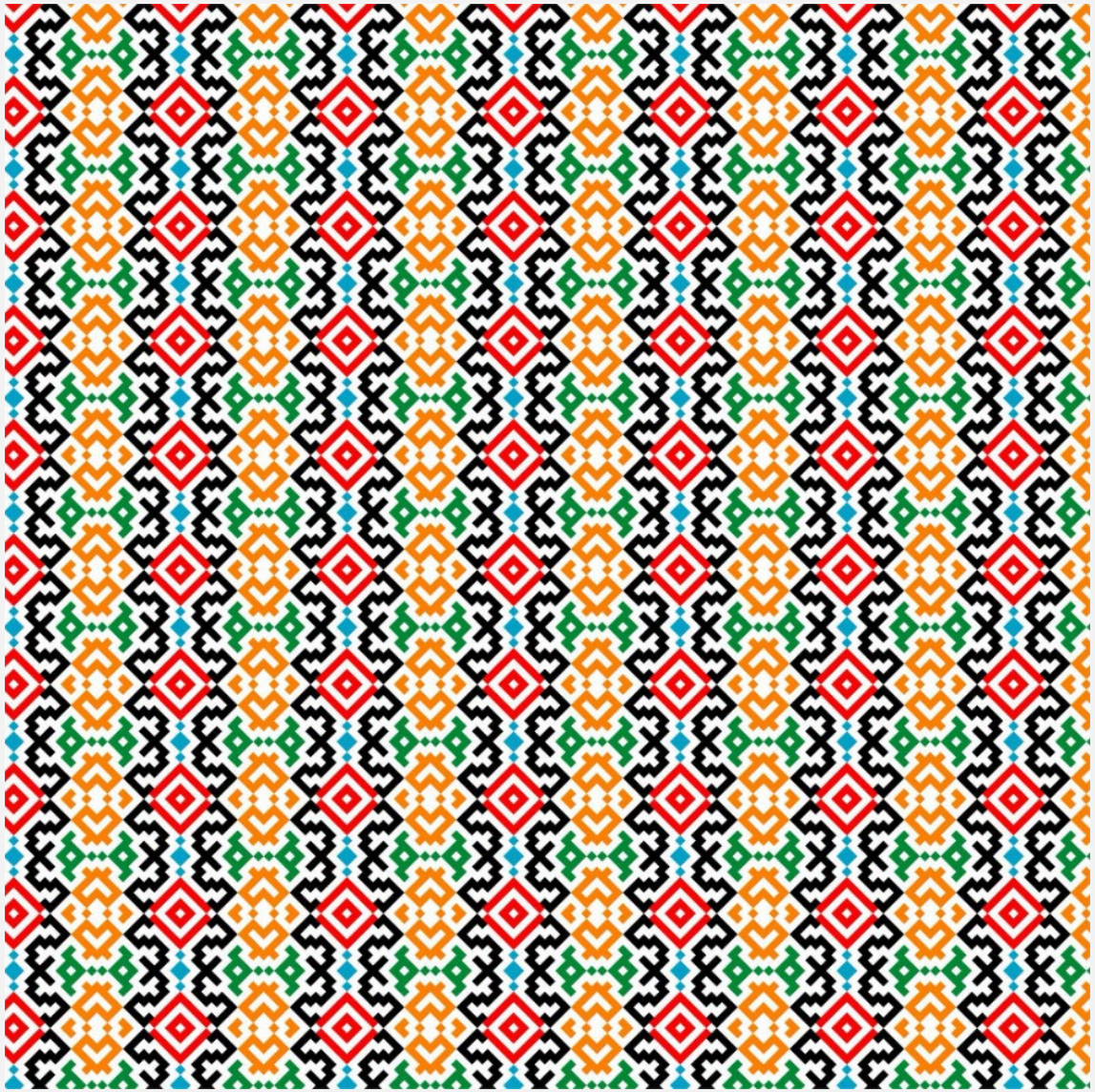
NUMBER OF REGISTRATIONS GRANTED PER YEAR IN PERU *(JUNE 2026)*



Fuente: Dirección de Invenciones y Nuevas Tecnologías- INDECOPI

LAW 27811: LIMITATIONS OF THE CURRENT PROTECTION APPROACH IN PERU

- Focuses primarily on knowledge associated with biodiversity
- Excludes many traditional cultural expressions (TCEs)
- Not fully address the comprehensive reality of Indigenous cultural systems



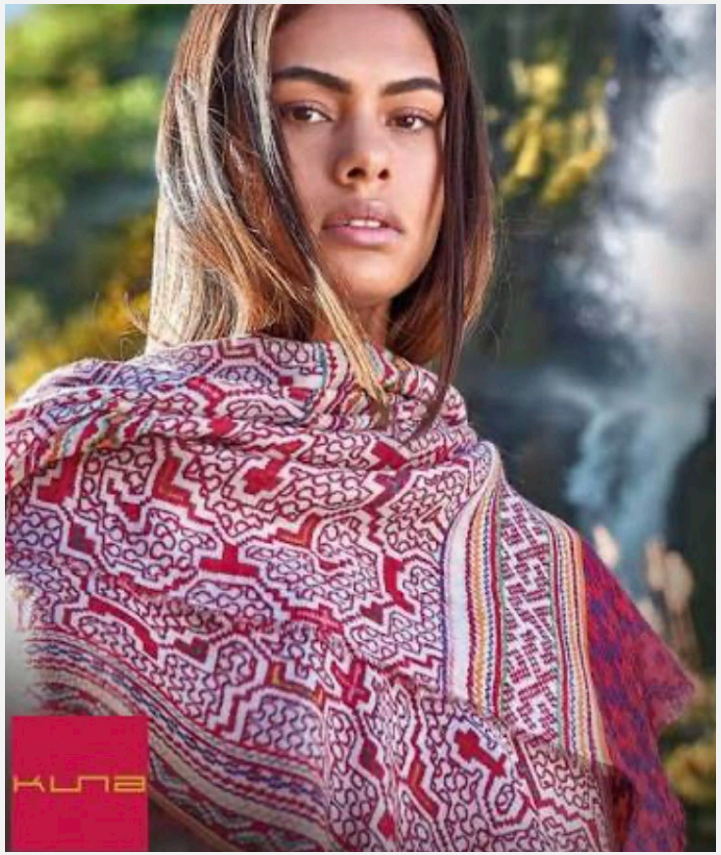
SHIPIBO KONIBO KENE

Kuna Case

Shipibo women and community leaders protested that KUNA commercialized sacred ancestral designs—which were declared a Cultural Patrimony of the Nation in 2008—without permission or credit.

Due to the swift public criticism, KUNA pulled the disputed items from the market and halted all associated promotions.

The company stated it would withdraw the collection completely until it could reach an agreement or establish a collaborative dialogue with the indigenous artisans.



SHIPIBO KONIBO KENE

Anís Zamanaes Case

The designer used graphics from the Shipibo-Konibo people in her clothing. The community accused her of exploiting their art without an ethical agreement.

The debate intensified due to comments that downplayed the value of the artisanal work.

She proposed a… "barter" system in which she would teach them Western fashion design in exchange for receiving the ancient technique for free. When her proposal was rejected, she argued using colonialist logic: *"I'm Peruvian, too. Just because I'm from the coast doesn't make me any less Peruvian,"* suggesting that the indigenous cultural heritage belonged to her by virtue of her nationality and did not require financial compensation.

SHIPIBO KONIBO KENE

Anís Zamanaes Case

Commercial Cancellation: Department stores such as Falabella cleared out their remaining clothing inventory. Samanez was forced to remove the entire seasonal collection from her website.

Legal Action: Peru's Attorney General's Office opened a formal investigation against Samanez for **discrimination offenses**.

Rejected Apologies: Although Samanez issued a statement admitting that she had spoken "carelessly," community leaders such as Olinda Silvano rejected the public apology. Silvano emphasized that the artisans are "ancestral professionals" and that cultural heritage is neither to be given away nor downplayed.

The case of Anís Samanez set a historic precedent in the debate over **collective intellectual property rights** in Peru, highlighting the lack of effective legal frameworks to protect the knowledge of indigenous peoples against the commercial industry

EXPANDING PROTECTION TO INCLUDE TCES

Lack of protection for urban artistic expressions, fashion designs inspired by traditional textiles, and popular iconography

The Ministry of Culture can designate a form of knowledge as "National Cultural Heritage," but this is merely an honorary title.

It does not provide the legal tools or funding needed to bring criminal charges against foreign brands.

Fashion companies are not legally required to obtain prior informed consent from communities before commercially exploiting their imagery.

POSITIVE PROTECTION FROM AN INDIGENOUS PERSPECTIVE

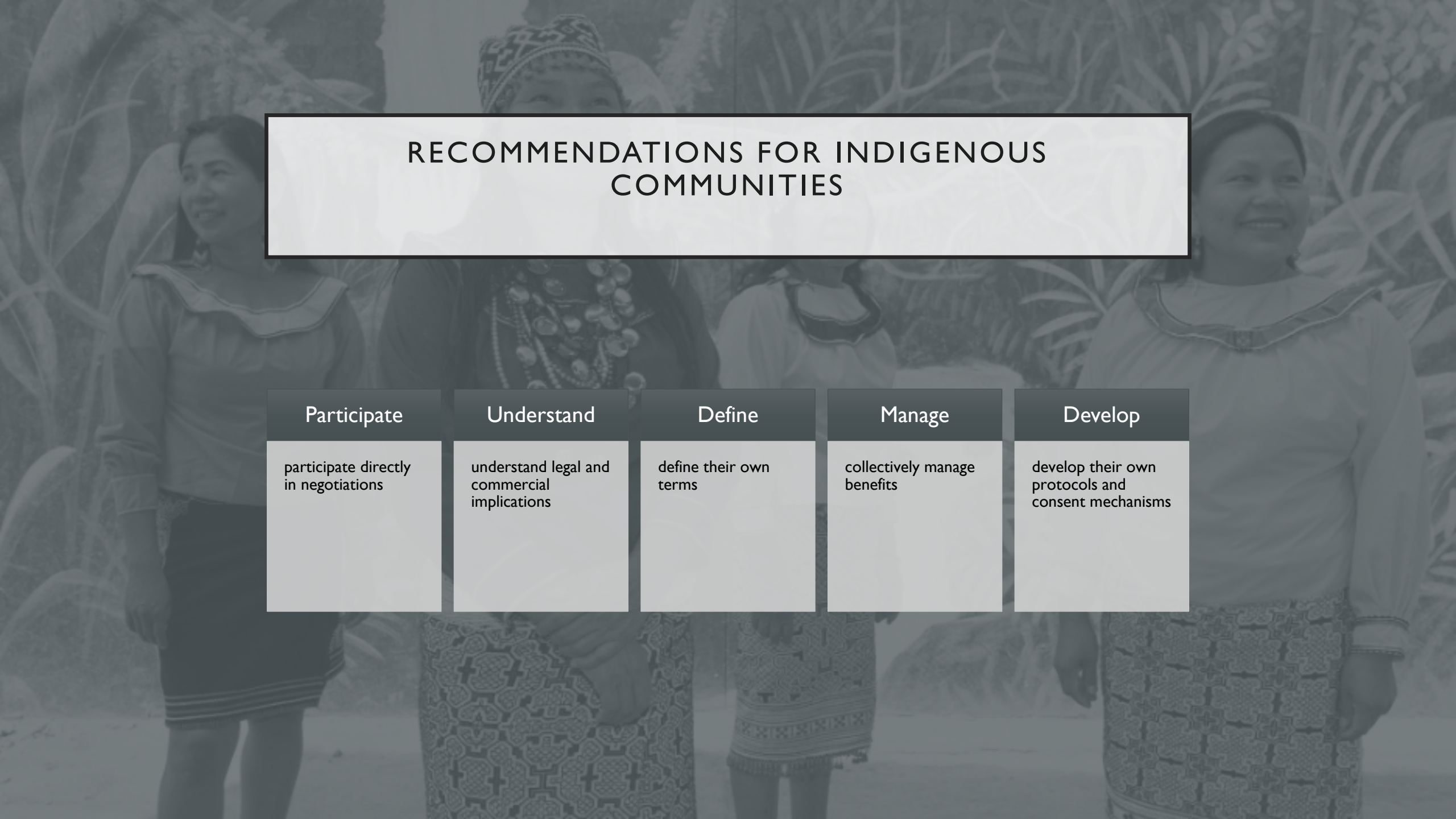
- LEGAL RECOGNITION OF COLLECTIVE RIGHTS
- COMMUNITY CONTROL OVER USE
- STRENGTHENING OF INDIGENOUS GOVERNANCE
- COMMUNITY PROTOCOLS
- CAPACITY FOR DIRECT NEGOTIATION

DEFENSIVE PROTECTION FROM AN INDIGENOUS PERSPECTIVE

- preventing improper registration
- disclosure of origin
- patent safeguards
- prevention of commercial appropriation

COMMUNITY EMPOWERMENT AND DIRECT PARTICIPATION

- many negotiations are mediated by NGOs, lawyers, companies, or the state
- communities often participate under unequal conditions
- There is technical and economic asymmetry



RECOMMENDATIONS FOR INDIGENOUS COMMUNITIES

Participate	Understand	Define	Manage	Develop
participate directly in negotiations	understand legal and commercial implications	define their own terms	collectively manage benefits	develop their own protocols and consent mechanisms

GENERAL RECOMMENDATIONS

- Expand frameworks such as Law 27811
- include TCEs
- recognize indigenous regulatory systems
- strengthen community-based mechanisms

RECOMMENDATIONS AT THE INTERNATIONAL LEVEL

robust international instrument

Binding protection

Mandatory FPIC

effective participation of indigenous peoples

mechanisms for fair and equitable benefits

THANK YOU