

The challenges to create a legislative framework that regulates the expansion of mining in the Brazilian Amazon, observing the country's relevant national interest and the rights of the indigenous peoples

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**Abstract**

The Brazilian Federal Constitution, in its articles 176 and 231, addresses mining in indigenous lands by calling for specific supplementary legislation to regulate this activity. Since the Constitution was promulgated in 1988 there have been unsuccessful attempts at passing such legislation, however, for the past 37 years this persistent legislative gap remains. The aim of the research is to identify and address the challenges vis-à-vis the constitutional requirements to the approval of legislation to regulate mining in indigenous lands in Brazil. In this sense, the objectives of the research will be to

- 1) identify and explain the legislative gap created by the aforementioned constitutional articles and to critically analyse, by means of comparative research, past legislative attempts to fulfil it, in order to understand why they were unsuccessful and how to avoid the same mistakes in the future;
- 2) explore the concept of 'national interest' in Brazilian law, as it is a pivotal constitutional requirement for the creation of the supplementary legislation;
- 3) critically analyse impact of the current legislative gap over the rights of indigenous peoples
- 4) analyse Brazil's international commitments on environmental and indigenous protection to assess their effectiveness and how they affect the creation of the relevant supplementary legislation.

The research methodology combines both quantitative and qualitative data in Portuguese, English and Spanish which will be duly translated by the author. Through a critical evaluation of the systemic legal/cultural reasons why previous attempts at creating a legislation have been unsuccessful, the research outlined will make a significant impact in aiding in the elaboration of the requirements to establish a successful legislative framework to bridge the existing legislative gap concerning mining in indigenous lands in Brazil

**Keywords**

Mining, Brazilian Amazon, Indigenous people