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Carbon Cowboys, Ignored 'Indians' and the Wild, Wild West(ern Amazon)

The Impact of Climate Change on Indigenous Peoples in Peru

Author: Aisling Meaney
Supervisor: Dr. Felipe Gómez

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Abstract

Climate change has transcended its status as a theoretical concept and emerged as a human-induced crisis. Industrial nations, in their relentless pursuit of profit and reliance on fossil fuels to drive economic growth, impose the most severe consequences on the world's most disadvantaged populations, particularly Indigenous Peoples. Despite their minimal contribution to greenhouse gas emissions, these communities bear a disproportionate burden due to their vulnerable geographic locations, inadequate infrastructure, and lack of climate resilience. This glaring injustice underscores the necessity of addressing climate change as integral to the advocacy for fundamental rights such as food, safe water, shelter, education, and healthcare. This research investigates the impact of climate change on Indigenous Peoples in the Peruvian Amazon, pinpointing the actors responsible for this injustice. It critically examines existing strategies designed to mitigate these impacts and evaluates their effectiveness. The findings highlight the international community's, particularly developed states', culpability for insufficient action in addressing climate change. Since the signing of the Paris Agreement in December 2015, there has been a notable deficit in proactive measures to meet climate commitments. This study calls on states to empower and support Indigenous Communities in safeguarding their rainforests, aiding them in sustainable forest resource management, and implementing concrete measures before it is too late.

Acknowledgements

First and foremost, I extend my admiration to Indigenous Peoples, not only of the Amazon but from around the world, who tirelessly strive to protect our environment and its precious resources, often at great personal risk. Your unwavering commitment as guardians of the rainforests and of Mother Nature is incredibly inspiring to me. May we all learn from your selflessness, your strength and your relentless perseverance.

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I want to express my deepest gratitude to my amazing family, whose unwavering support has been the driving force behind everything I do. I owe my parents, my brother Conor and my sister Orla a debt of gratitude for their constant encouragement and love. I am so incredibly lucky to have you. Go raibh míle maith agaibh, mo ghrá sibh.

Lastly, I am immensely grateful to my thesis supervisor, Dr. Felipe Gómez, whose guidance and insight have been invaluable throughout this journey. From our very first conversation at the EMA Open Day at the beginning of the first semester, I was inspired by your advocation for Indigenous Rights. It sparked a passion in me, for which I am deeply appreciative. It has been a privilege to work with you, thank you for helping me bring this project to fruition.

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List of Abbreviations

AAR – Amazon Assessment Report

AGW – Anthropogenic Global Warming

AIDESEP – Interethnic Association for the Development of the Peruvian Rainforest

AR4 – Intergovernmental Panel on Climate Change's Fourth Assessment Report

BDPI – Database of Indigenous or Original Peoples

CANP – Cordillera Azul National Park

CBD – Convention on Biological Diversity

CC – Carbon Credit

CCCA – Center for Climate Crime Analysis

CDP – Center for Disaster Philanthropy

CIFOR-ICRAF – Center for International Forestry Research Research and World Agroforestry

CM – Carbon Markets

CMA – Compañía Minera Afrodita (Afrodita Mining Company)

CMP – Carbon Market Projects

COICA – Coordinator of Indigenous Organisations of the Amazon River Basin

COP – Conference of the Parties

CP – Carbon Projects

DEA – Drug Enforcement Administration

DEVIDA – Peruvian National Commission for Development and Life without Drugs

EIA – Environmental Investigation Agency

ENSO – El Niño Southern Oscillation

FAO – Food and Agriculture Organisation of the United Nations

FCPF – Forest Carbon Partnership Facility

FIP – Forest Investment Program

FPIC – Free, Prior, and Informed Consent

FPP – Forest Peoples Programme

GFC – Global Forest Coalition

GHG – Greenhouse Gases

IACtHR – Inter-American Court of Human Rights

IC – Indigenous Community

IFRC – International Federation of Red Cross and Red Crescent Societies

IJHRC – International Justice and Human Rights Clinic

IK – Indigenous Knowledge

ILO – International Labour Organisation

IP – Indigenous Peoples

IPCC – Intergovernmental Panel on Climate Change

IR – Indigenous Rights

IWGIA – International Work Group for Indigenous Affairs

MAAP – Monitoring of the Andean Amazon Project

MAOI – Monoamine Oxidase Inhibitors

MINAM – Ministry of the Environment of Peru

NCEI – National Centers for Environmental Information

NDC – Nationally Determined Contribution

NGO – Non-Governmental Organisation

OET – Observatory of Transnational Companies

REDD+ – Reducing Emissions from Deforestation and Forest Degradation

SCRL – Sustainable Carbon Resources Limited

SPA – Science Panel of the Amazon

SR – Special Rapporteur

UN – United Nations

UNDP – United Nations Development Programme

UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples

UNFCCC – United Nations Framework Convention on Climate Change

UNHCHR – United Nations High Commissioner for Human Rights

VCM – Voluntary Carbon Markets

VCS – Verified Carbon Standard

WGDD – Working Group on the Draft Declaration

WMO – World Meteorological Organisation

Annex 1 – Table of Interviewees

Name of Interviewee	Date of Interview	Title	Organisation
Cleyton Valentin Chumpate	12th June 2024	Nomatsigenga Indigenous man	Nomatsigenga Community, Peru
Interviewee X	30th May 2024	(Cannot include for privacy reasons)	Environmental & Forest Communities NGO
Javier Arellano-Yanguas	17th May 2024	Researcher	Faculty of Social and Human Sciences, University of Deusto
Leire Morquecho Errasti	26th May 2024	Coordinator of International Cooperation	Alboan (NGO)
Melaina Dyck	29th May 2024	Consultant	Climate Focus
Peter Cronkleton	22nd May 2024	Senior Scientist and Peru Country Representative	CIFOR-ICRAF (Center for International Forestry Research and World Agroforestry)

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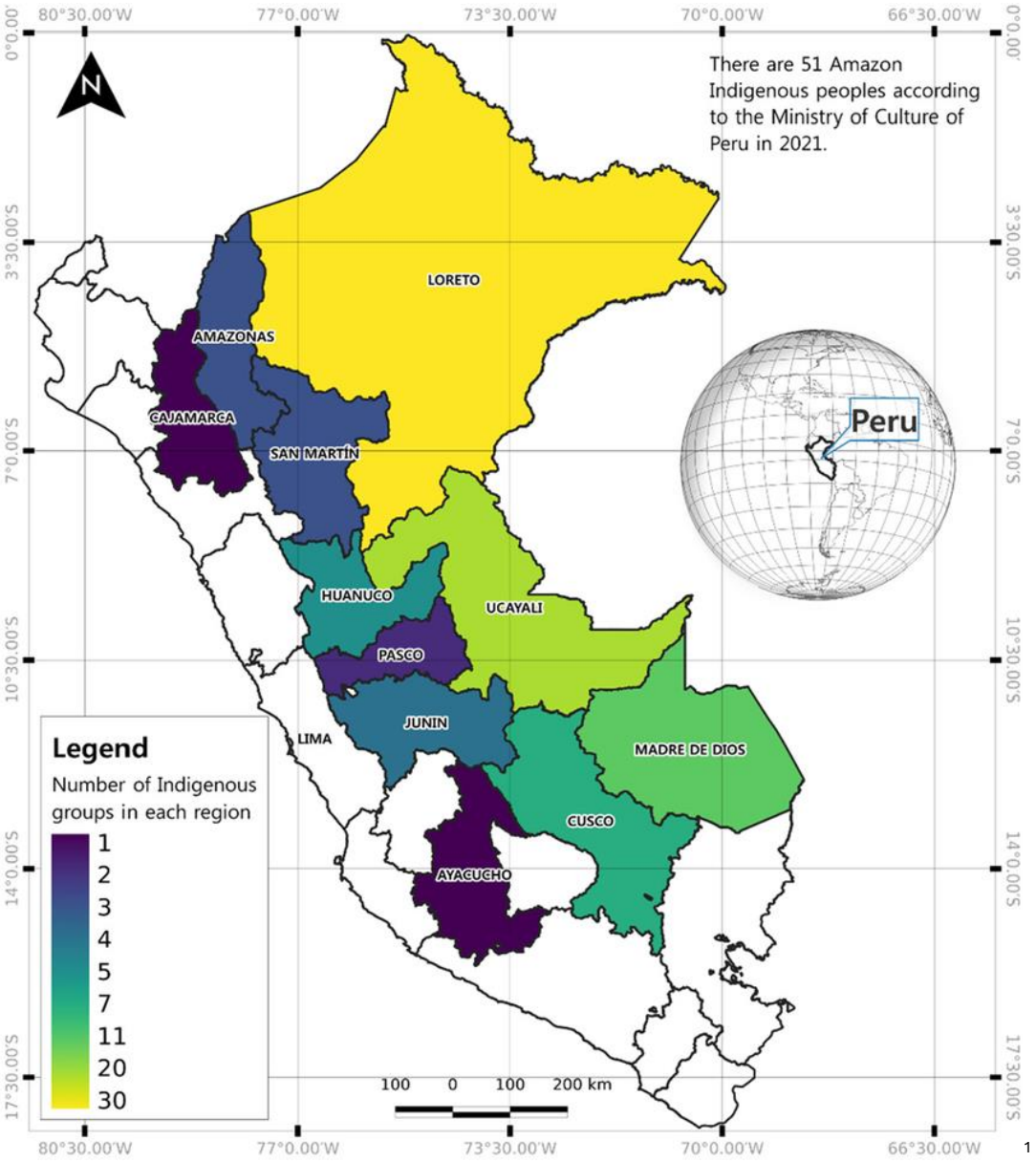
Map of Amazonian Indigenous Communities in Peru



[1] Tiana Bressan et al., 'Challenges of Design, Implementation, Acceptability, and Potential for, Biomedical Technologies in the Peruvian Amazon', *International Journal for Equity in Health* 21 (19 December 2022), https://doi.org/10.1186/s12939-022-01773-7.

Introduction

Mary Robinson, Ireland's first female president and later the United Nations High Commissioner for Human Rights, once declared,

"All human beings are born free and equal in dignity and rights. Yet, when it comes to the effects of climate change, there has been nothing but chronic injustice and the corrosion of human rights"[2].

As a trailblazer in climate justice and human rights, Robinson has consistently advocated for equality and human rights in both Irish and international public discourse. In 2024, her efforts are more critical than ever as we stand on the brink of a climate catastrophe, anxiously awaiting whether we will be pushed off the cliff face or find a way to avert disaster. At this crucial juncture, it is Indigenous Peoples (IP) who stand at the precipice, the most in danger. Historically, colonisation has entrenched patterns of marginalisation, oppression, and discrimination against them. Renowned scholar James S. Anaya defines IP as 'the living descendants of preinvasion inhabitants of lands now dominated by others'[3]. Though IP around the world now face more hazards to their survival than ever before, it is the changing climate which stands out as one of the most threatening factors. Human-caused climate change is already affecting weather patterns and creating climate extremities in every region across the globe. This has led to widespread adverse impacts and related losses and damages to nature and people[4]. Despite often being a minority in national statistics, IP collectively comprise a substantial population of 370 million individuals across 70 countries worldwide[5]. According to the International Work Group for Indigenous Affairs (IWGIA), Peru's population comprises over 4 million Indigenous people[6]. The Database of Indigenous or Original Peoples (BDPI) documents the presence of 55 Indigenous groups in the country, with 51 from the Amazon and 4 from the Andes, collectively speaking 47 different Indigenous languages[7].

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[2] Mary Robinson, *Climate Justice: Hope, Resilience, and the Fight for a Sustainable Future* (Oxford: Bloomsbury, 2018).
[3] James S. Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996). pp.3
[4] Katherine Calvin et al., 'IPCC, 2023: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (Eds.)]. IPCC, Geneva, Switzerland.', First (Intergovernmental Panel on Climate Change (IPCC), 25 July 2023), https://doi.org/10.59327/IPCC/AR6-9789291691647.
[5] United Nations Permanent Forum on Indigenous Issues, "Indigenous Peoples, Indigenous Voices" (United Nations, New York, 2006), https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf.
[6] 'Peru - IWGIA - International Work Group for Indigenous Affairs', accessed 18 March 2024, https://www.iwgia.org/en/peru.html.
[7] BDPI, 'List of Indigenous or Native Peoples', Base de Datos de Peublos Indígenas u Originarios, accessed 11 July 2024, https://bdpi.cultura.gob.pe/pueblos-indigenas.

Such vulnerable communities, who have historically contributed the least to climate change, are disproportionately affected[8]. Approximately 3.3 to 3.6 billion people reside in regions highly vulnerable to its repercussions, with South America exemplifying an area experiencing significant adverse impacts[9]. This vulnerability is particularly pronounced for IP, and regrettably, on a global scale. Climate change, caused by the emission of greenhouse gases (GHG) into the Earth's atmosphere, creates a chain reaction of subsequent dangers and threats to these Peoples as a result. The aim of this research undertaking is to analyse the current impacts of climate change and the state of climate justice for IP in the Amazon region of Peru. Insights on how these impacts are affecting IP can contribute to the development of policies, plans, and programs for adapting to climate change and reducing GHG emissions[10].

This study aligns with the views of Mary Robinson, asserting that human right and climate justice cannot be realised until it is secured for every individual, particularly the most vulnerable members of our global community. Indigenous Peoples possess the inherent right to life, a safe living environment, adequate shelter, and access to essential resources such as food and clean water. However, these rights are persistently violated by polluting corporations and countries, which often face minimal consequences. This research initiative will explore the intersection between human rights and climate justice, aiming to identify solutions to this escalating issue and ultimately advocate for the recognition and realisation of Indigenous Rights (IR). Throughout this discussion, the terms Indigenous Peoples (IP) and Indigenous Communities (IC) will be used interchangeably to refer to the same groups.

The hypothesis of this research paper is that the global community has failed to adequately address climate change, triggering dire consequences for IP and threatening their very existence as escalating environmental degradation, loss of traditional lands, and disruption of cultural practices undermine centuries-old connections to Indigenous territories and ways of life. This failure underscores the urgent need for transformative action that centres Indigenous rights, knowledge, and voices in climate governance frameworks, and prioritises equitable and sustainable solutions to safeguard the survival and well-being of IC worldwide.

[8] Calvin et al., 'IPCC, 2023'.
[9] Calvin et al.
[10] Kathryn Norton-Smith et al., 'Climate Change and Indigenous Peoples: A Synthesis of Current Impacts and Experiences' (Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station, 2016), https://doi.org/10.2737/PNW-GTR-944.

With this hypothesis in mind, the questions which I aim to answer throughout this research paper are:

In what ways have the impacts of climate change specifically affected Indigenous Communities in the Peruvian Amazon regarding environmental degradation, loss of Indigenous identity, economic repercussions, and disruption of cultural practices, thereby threatening their existence and well-being?

To what extent can the international community be held accountable for these impacts?

What strategies are currently being implemented to promote equitable and sustainable solutions for climate change mitigation?

How effective have these initiatives been in addressing the unique vulnerabilities and needs of Indigenous Peoples?

This thesis will explore these questions by examining their various aspects across the subsequent five Chapters.

The first Chapter will explore the historical relationship between IP and colonists, and the mark which colonisation has left upon them. It will also look at the historical context of IP in international law, and the history of the acknowledgment of IR.

The second Chapter will focus on the impact of climate change on IP and their traditional lands, which are known to hold significant cultural, spiritual, and economic value for the communities residing there. The causes of climate change in Peru, which primarily manifest through deforestation, will be examined. The resulting consequences, including temperature increases, extreme weather events such as droughts and floods, loss of biodiversity, and the displacement of IP, will also be explored. These effects impact upon various facets of Indigenous life such as their rights, culture, health, and livelihoods, and strategies to decrease these impacts will be illustrated. The example of the REDD+ programme will be implemented to demonstrate a mitigation strategy, and it will be analysed in detail to gain an objective understanding of its impact on IP.

Climate injustices experienced by IP in the Peruvian Amazon will be discussed in Chapter 3, distinguishing these from the broader discussion of climate change presented in Chapter 2. Climate injustices are perpetrated by affluent nations, corporations, and private entities that have amassed wealth through the emission of GHG. These actors have a duty to protect those most vulnerable to the consequences of their emissions. This section will analyse issues such as land exploitation, mining, resource extraction, and illegal coca cultivation. Additionally, the chapter will address the exclusion of

IP from decision-making processes, violence, intimidation, cultural erasure, and the marginalisation of Indigenous Knowledge (IK) as forms of injustices committed against them.

This investigation will subsequently examine Carbon Markets (CM) as a climate change mitigation strategy, evaluating their effectiveness and impact on land tenure, as well as their economic and cultural implications for IC. Furthermore, it will assess the challenges and opportunities this mitigation strategy presents for IP combating climate change in Peru.

Then, the international legal and policy frameworks related to the protection of IR, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the International Labour Organisation (ILO) Conventions will be analysed. Additionally, it will examine frameworks protecting the environment, such as the United Nations Framework Convention on Climate Change (UNFCCC). At the national level, the paper will assess Peru's policies related to land tenure, resource management, and consultation rights, including the Forest and Wildlife Law and the Law of Prior Consultation. It will identify current jurisprudence and implementation gaps to provide an updated and comprehensive account of the status of Indigenous rights in the context of climate change in Peru.

Methodology

This research is grounded in qualitative methods, aiming to deepen the understanding of Indigenous perspectives and lived experiences. It seeks to highlight the significance of IK systems as complementary alternatives to Western concepts, particularly in the pursuit of climate justice. Therefore, this research draws on the perspectives and knowledge shared by an Indigenous man from the Peruvian Amazon, NGO employees and non-profit organisations working on the ground with IC in Peru, representatives of environmental organisations and research facilities, and scholars from diverse academic, professional, personal, and Indigenous backgrounds. This approach aims to develop a deeper understanding of the significance of amplifying Indigenous voices and highlighting the central role IP play in striving for climate justice in Peru.

The inclusion of these perspectives will be achieved through several interviews to gain an insight from these various stakeholders. Research will also be carried out on the related legal frameworks and policies in place both internationally and in Peru. A comprehensive approach involving multiple disciplines is essential for untangling the complexities of climate justice, which are ultimately intertwined with global and national governance structures, as well as the cooperation and participation of stakeholders. The disciplines which I will utilise as part of my methodology are Indigenous studies, environmental studies, anthropology, political science, and intersectionality studies.

This research initiative aims to amplify the voices of marginalised Indigenous Peoples by centring their experiences and perspectives within this discourse, potentially catalysing positive transformations in processes and initiatives within the Amazon region of Peru. A deliberate effort has been made to engage IC and their representatives directly, conducting interviews to provide firsthand insights into their realities rather than relying solely on second-hand information. Providing them with the platform to articulate their own circumstances and illustrate the daily challenges they confront due to climate change is a critical objective of this research. We aim to shed light on the realities of climate justice for Indigenous Peoples and their communities. Understanding their current struggles resulting from the impacts of climate change is essential for implementing measures to protect and support them amid worsening conditions. Furthermore, by consulting with NGO workers who actively support these communities on the ground in Peru, I seek to comprehend the specific issues and challenges they face and gain deeper insights into the realities of Indigenous lives in the region.

This investigation acknowledges certain limitations, particularly in accessing multiple primary sources of information in the form of Indigenous Peoples in Peru, which are crucial for obtaining firsthand accounts of their lived experiences. Due to constraints in resources and time for this thesis project, a

planned research trip to Peru in collaboration with Alboan, an NGO based in Bilbao that actively collaborates with members of the Awajún Peoples in the Peruvian Amazon, was not realised. There was an initial aspiration to engage with the Ministry of Culture of Peru and various governmental institutions, but despite initial contacts, further communication did not materialise. During the planning phase of this research project, it was considered beneficial to seek interviews with mining and extraction companies to understand their perspectives on the environmental and societal impacts of their operations on Indigenous Peoples in the Amazon region. Unfortunately, these companies did not respond to our requests for dialogue. To address this limitation, I turned to published information on their activities, gathering evidence from these sources instead.

Chapter 1: Indigenous Peoples of the Amazon, Peru

The Indigenous Peoples of the Amazon emerge as a notably endangered collective group. While Indigenous Peoples globally confront numerous threats to their existence, those in this region of Peru are particularly susceptible. Inhabiting such a precarious environment such as a rainforest intensifies the difficulties faced by IC, who already grapple with the constant effects of climate change in their daily lives. In 2024, the profound connection they maintain with the surrounding natural world faces unprecedented jeopardy.

This chapter endeavours to provide a comprehensive backdrop and contextual understanding of the lived realities of IP in Peru throughout the ages, commencing with the arrival of colonisation in the 16th century. It will elucidate the impact of colonisation on the lives of Peruvian IC and examine its contemporary ramifications. Subsequently, it will delve into the historical trajectory of IR acknowledgment within the framework of international law, while also scrutinising the history of the Indigenous Peoples' Rights Movement on a global scale.

1.1. Societal Context: Setting the Scene

1.1.1. The Arrival of Colonisation

This paper argues that the global community historically has failed to effectively protect IP. In modern times, this manifests as a failure to protect them from the impending danger to their lives caused by climate change. In decades previous, this failure presented as an indignation to grant IP their rights and treat them with equivalent dignity and respect as non-Indigenous Peoples. Humans migrated to the Americas from northeast Asia approximately 15,000 years ago, significantly later than the settlement of other continents, which occurred between 30,000 and 70,000 years earlier[11]. Consequently, the communities which resided here after this point are referred to as the Indigenous, native, or original peoples of Latin America. The Spanish and Portuguese colonialists, known as conquistadors, embarked on expeditions in search of wealth, fame, and prestige by exploring previously uncharted territories. Their primary objective was to extract minerals and precious metals such as gold and silver from the Americas, with the aim of bolstering the economies of Europe and enhancing the power of Spain and Portugal as dominant nations. However, when the Europeans arrived in Latin America in 1492, they began asserting ownership over Indigenous territories. They subjugated their political institutions and

[11] José Moya, 'Migration and the Historical Formation of Latin America in a Global Perspective', *Sociologias* 20, no. 49 (December 2018): 24–68, https://doi.org/10.1590/15174522-02004902.

destabilised the integrity of their economies and cultures[12]. As they embarked on empire expansion, and colonial settlement advanced from this point onwards, the IP were encroached upon and faced oppressive actions, which often included slaughtering any men, women or children who made attempts to halt their progress[13]. These peoples were not only robbed of their ancestral lands, but they were also regarded as backward societies, which for their own good had to be assimilated into the mainstream society; hence cultural, linguistic, religious, and ethnic identities of Indigenous groups were systematically suppressed[14]. This process, initiated during the era of colonisation in the 16th century, persisted well into the 20th century[15].

1.1.2. Influence of Colonialism

As a result of colonisation in Latin America, the IC in the invaded countries suffered generations of abuse[16]. The lasting impact of colonialism in this part of the world manifests in various forms of suppression, such as forced labour and exploitation, land dispossession, extraction of resources, and cultural disruption. The dispossession of Indigenous lands stands as one of the enduring legacies of colonisation, inflicting catastrophic effects on their livelihoods. IC endured violence and oppression inflicted by colonial authorities and settlers, culminating in instances of abuse, enslavement, and massacres. More than two-thirds of Latin America's population descend from people who arrived after 1492[17], a phenomenon possibly influenced by the historical exploitation of Indigenous women, who were subjected to rape and often bore children of the invaders. Literature on the subject has documented that the commodities reported by the Spaniards to their authorities in Spain included both human-made products and human beings[18]. At the beginning, the chroniclers described these women not as sexual objects or social beings but as literal commodities available to them for their use, however they pleased[19]. Colonialism left an enduring devastation by instituting social hierarchies rooted in race and ethnicity, elevating the Europeans and their descendants to privileged positions while relegating IP to marginalisation and discrimination.

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[12] Anaya, *Indigenous Peoples in International Law*. pp.3.
[13] Ibid. pp.3.
[14] Katja Göcke, 'Indigenous Peoples in International Law', *Journal of Social Issues in Southeast Asia*, Göttingen Studies in Cultural Property, 29, no. 3 (2014): 769, https://doi.org/10.1355/sj29-3n.
[15] Ibid.
[16] Randall S. Abate and Elizabeth Ann Kronk, 'Commonality among Unique Indigenous Communities: An Introduction to Climate Change and Its Impacts on Indigenous Peoples.', in *Climate Change and Indigenous Peoples* (Edward Elgar Publishing, 2013), 3–18, file:///C:/Users/user/Downloads/Commonality%20among%20unique%20IC_%20Intro%20to%20CC%20and%20impacts%20on%20IP.pdf.
[17] Moya. pp.26.
[18] Karen B Graubart, 'Indecent Living: Indigenous Women and the Politics of Representation in Early Colonial Peru', *Colonial Latin American Review* 9, no. 2 (December 2000): 213–35, https://doi.org/10.1080/713657419.
[19] Graubart. pp.215.

1.1.3. Post-Colonial, Contemporary Realities

Colonisation has deeply embedded patterns of marginalisation, oppression, and discrimination against Indigenous Peoples throughout history to the present day. The hierarchical structures it established continue to shape social dynamics and resource allocation in contemporary Peru. Unfortunately, the rights of IP have not been prioritised by the Peruvian government, nor by the developed nations of the world. As a result of the dispossession of Indigenous lands from colonial times, IP have experienced economic marginalisation, a loss of cultural heritage, and a significant increase in environmental degradation. Historically, IP have cherished a deep spiritual and cultural bond with their ancestral lands and therefore land dispossession disrupts Indigenous cultural continuity, impacting their identity and wellbeing. Despite decades of unwavering advocacy for rightful ownership of these territories, which eventually led to partial legal recognition of Indigenous land rights, the implementation and enforcement measures remain insufficient. This underscores yet another instance in which Indigenous Peoples have been inadequately safeguarded by those in positions of authority. This neglect leaves Indigenous Communities vulnerable to further dispossession and exploitation, manifesting in various forms such as illegal deforestation, land degradation, and resource extraction. These practices perpetuate cycles of marginalisation and environmental degradation that have persisted for decades.

1.2. Historical Context of Indigenous Peoples in International Law

The earliest evidence of IP engaging with international law can be traced back to the colonial era, spanning from the 16th to the 20th centuries, when treaties were utilised by colonial powers. Such treaties typically encompassed various provisions, including the relinquishment of territorial sovereignty, the transfer of land ownership, extradition arrangements, commitments to maintain peace and friendship, as well as agreements concerning passage through Indigenous territories[20]. It is evident that the motivations behind these treaties varied between the parties involved; settlers often used treaties as a tool to acquire Indigenous lands, sometimes resorting to deceit, coercion, and exploiting power imbalances. Meanwhile, Indigenous leaders may have entered into these agreements in the hopes of safeguarding their rights, protecting their assets and territories, and fostering positive relations with the newcomers. Over the course of several decades, it has become evident that more dominant groups have time and time again subjected Indigenous Peoples to betrayal and deception in pursuit of their own political, economic, and cultural interests.

[20] Göcke, 'Indigenous Peoples in International Law'.

1.2.1. History of the Acknowledgment of Indigenous Rights

The emergence of human rights and the foundations of international law find their roots in the early formulations of natural law, as deliberated by 16th century Spanish intellectuals, such as Francisco de Vitoria and Bartolomé de Las Casas, collectively known as the 'Spanish School'[21]. De Las Casas had originally arrived in the Americas as a colonist, and in December 1511, he attended a church service where he heard Dominican friar Antonio de Montesinos deliver a famous and provocative Christmas sermon. Academic Felipe Gómez Isa describes how Montesinos protested the systematic mistreatment of native peoples, who were essentially forced labourers for the European settlers. Bartolomé was deeply moved by the sermon, as were others. In response, King Ferdinand established the Junta de Burgos to address the fair treatment of Indigenous individuals and draft new legal principles[22]. After a year of deliberation and development, the 35 ordinances of the Laws of Burgos emerged as the first systematic code to regulate the conduct of Spanish colonists in the Americas[23]. Bartolomé was ordained as a Catholic priest in 1512 and travelled to Spain with Montesinos to report the violations against Indigenous Peoples to the Spanish Crown and the Catholic Church. Despite their intentions, the laws were frequently disregarded and violated. According to Gómez Isa, although the Spanish Crown had good intentions and the Laws of Burgos were innovative for their time, the reality of the conquest was driven by Spain's imperial expansion and the economic interests of the conquistadores[24].

The discussions of the Spanish School centred on the legal and ethical aspects of interactions between European colonial powers and IC, especially regarding Indigenous rights amid Spanish conquests and broader European expansion into the New World[25]. These scholars were driven by a desire to elucidate the intricate legal and moral frameworks governing the relationships between European states and Indigenous societies, but in general little attention was paid to them and their views[26]. Treaties between colonists and Indigenous Peoples persisted until the early 18th century, when a shift in European attitudes emerged. By this time, the Indigenous population had drastically decreased due to diseases introduced by Europeans to the Latin American continent, while the number of settlers continued to rise steadily. Consequently, Indigenous Peoples ceased to be regarded as valuable allies or formidable adversaries. Instead, they were seen as hindrances to the country's progress, leading colonists to

[21] Odette Mazel, 'The Evolution of Rights: Indigenous Peoples and International Law', *Australian Indigenous Law Review* 13, no. 1 (2009): 140–58.
[22] Felipe Gómez Isa, 'The First Cry for Justice in the Americas - From Antonio de Montesinos to the Laws of Burgos (1512)', in *First Fundamental Rights Documents in Europe. Commemorating 800 Years of Magna Carta.* (Cambridge: Intersentia, 2015), 93–105.
[23] Ibid.
[24] Ibid.
[25] Mazel, 'The Evolution of Rights'.
[26] Ibid.

increasingly believe that Indigenous peoples were too primitive to exercise sovereignty[27]. Thus, existing treaties were disregarded, and no further agreements were made[28].

In the 19th century, the rise of positivism led to the adoption of the doctrine of *terra nullius* – a Latin term meaning 'no man's land', allowing colonists to seize Indigenous lands without legal encumbrance[29]. Subsequently, in the late 19th and early 20th centuries, concepts of trusteeship or guardianship emerged, revitalising Vitoria's and the Spanish School's principles. Yet, this doctrine stemmed from the same Western philosophy that formed the basis of the positivist interpretation of international law, which regarded non-European Indigenous Peoples and their cultures as inferior, and this doctrine served more as a justification for colonial behaviour than a force against it[30]. Among the colonial powers of the 19th century, Great Britian emerged as a leader in establishing administrative systems aimed at reshaping the cultural and social norms of Indigenous populations to align with European ideals of civilisation; an example of which is the 1919 Covenant of the League of Nations[31] adopted at the end of World War I[32].

1.2.2. History of the Indigenous Peoples' Rights Movement

The adversity faced by Indigenous Peoples stems from their enduring deprivation of land, rights, and representation over centuries, culminating in their sustained marginalisation and disadvantage. The prevailing view of the colonising states was that Indigenous Peoples were uncivilised and required their assistance to assimilate them into broader society. However, trusteeship arrangements merely perpetuated colonial domination and paternalistic attitudes towards Indigenous Peoples. These native communities received no meaningful assistance, and their rights were disregarded. Despite initial claims to their rights, the historical evolution of international legal discourse ultimately served to bolster the interests of colonisation[33]. However, the 20th century witnessed a discernible transformation in international law, embracing the recognition of human rights as distinct from those of the state[34]. The

[27] Göcke, 'Indigenous Peoples in International Law'.
[28] Ibid.
[29] Ibid.
[30] Anaya, *Indigenous Peoples in International Law*.
[31] Article 22 of the Covenant of the League of Nations established a system of Mandates to administer former colonies and territories. It stipulated that advanced nations should aid territories lacking rulers after the war, acting as caretakers (Mandatories) to ensure their well-being and development. This duty is a sacred trust of civilisation, with guidelines included in the Covenant.
[32] Anaya, *Indigenous Peoples in International Law*.
[33] Mazel, 'The Evolution of Rights'.
[34] Ibid.

ILO Convention 107 of 1957, known as the Indigenous and Tribal Populations Convention[35], marked the first international effort to protect Indigenous and tribal populations.

However, as stated in Article 1 of the convention, its objective was to assimilate and integrate these populations into mainstream society[36]. Its successor, the ILO Convention 169 of 1989, represented a significant departure by prioritising the safeguarding of Indigenous Peoples and their cultures over assimilation, marking the first international convention to do so and it remains the only binding international instrument regarding IP today[37]. For the first time in history, there was a seat at the table for Indigenous Peoples to discuss their rights and have a voice in the matter. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted in 2007, which delineates essential baseline standards directed at safeguarding the survival and rights of Indigenous Peoples. In Chapter 5, we will undertake a more thorough examination of these conventions and legal frameworks, with the goal of achieving a more comprehensive understanding. It is rather poignant how, despite decades of their obvious and somewhat unashamed exploitation and suppression of IP, the international community did not establish a fair legal structure aimed at preserving these peoples and their way of life until the late 20th century.

In the next chapter, an exploration of the physical manifestations of climate change in the Peruvian Amazon will take place, along with an assessment of their repercussions on Indigenous Peoples. Additionally, potential strategies for mitigating these impacts will be examined and their effectiveness evaluated.

[35] The Indigenous and Tribal Populations Convention (known as Convention 107) was adopted on June 26th, 1957, and it entered into force on June 2nd, 1959.
[36] Göcke, 'Indigenous Peoples in International Law'.
[37] Ibid.

Chapter 2: Climate Change and its Impact on Amazonian Indigenous Peoples

Indigenous Peoples across the globe face unprecedented challenges and existential threats, with environmental factors looming large among them. The Intergovernmental Panel on Climate Change (IPCC) reports that alarmingly, vulnerable communities, who have historically contributed the least to climate change, bear the brunt of its consequences disproportionately[38]. Indigenous Communities grapple with mounting structural risks that result in the loss and devastation of their lands, rights, and livelihoods, exacerbated by the lack of robust mechanisms to protect them and their territories sufficiently from these impacts.

In this chapter, we will delve into the intricate causes and ramifications of climate change, examining environmental degradation such as deforestation, and elucidating its role in driving climate change within the Peruvian Amazon. As part of this research project, I had the opportunity to interview Cleyton Valentin Chumpate, a member of the Nomatsigenga Indigenous Community from San Ramón de Pangoa in western Amazonia, Peru. His community is connected to the Asháninka Peoples, and our discussion illuminates the profound impact of the climate crisis on Indigenous Communities such as his, and how their rights and livelihoods are affected as a result. This chapter also includes excerpts from two separate interviews[39], one with Peter Cronkleton, a Senior Scientist and the Peru Country Representative for the Center for International Forestry Research and World Agroforestry (CIFOR-ICRAF) and another with Interviewee X, who works for an Environmental and Forest Communities NGO and would prefer to remain anonymous. These perspectives provide a closer examination of existing strategies aimed at mitigating and adapting to these challenges, and through this analysis, we aim to uncover the effectiveness of current initiatives.

[38] Calvin et al., 'IPCC, 2023'.
[39] The views expressed are those of the interviewees and do not represent the perspectives of their employers or associated organisations.

2.1. Causes of Climate Change in Indigenous Lands

Peru is the fourth largest rainforest country in the world, with more than 60% of its landmass covered by Amazon rainforest[40]. The Amazon River Basin is crucial to the Earth's climate system due to its tropical location and vast size, mimicking a giant air conditioner by lowering temperatures and generating rainfall[41]. It consumes roughly half of the solar energy received through the evaporation of water from its foliage[42] and it serves as a key driver of global atmospheric circulation. The Science Panel of the Amazon (SPA) released the Amazon Assessment Report (AAR) in 2021 which details that up to 50% of the basin's precipitation is regionally recycled, maintaining high inland moisture flow and supplying 16 – 22% of the world's total river discharge to the oceans[43]. Also, the Amazon rainforest is a large carbon reservoir that is releasing carbon into the atmosphere due to deforestation, drought, and fires. This process adds to the accumulation of heat-trapping gases in the atmosphere, which accelerates global warming[44]. The vast number of Indigenous Peoples residing in the rainforest have played a pivotal role in preserving Amazonia's biocultural diversity and safeguarding its natural resources from unlawful degradation. Yet, in doing so, they have encountered significant peril along their journey.

2.1.1. Resource Extraction

Since the early 2000s, Peru's economy has thrived due to extractive industries like mining and hydrocarbons, as well as export agribusiness. To facilitate transport for these products and to gain access to new regions, the government expanded rural infrastructure, sparking a surge in Amazon deforestation[45]. There is now increasing pressure on forests through exploitation of their resources, occupation of their space or construction of infrastructure for roads and hydropower[46]. This topic will be further discussed in Chapter 3 which explores Climate Injustice.

2.1.2. Deforestation

Deforestation, degradation of forests, and various changes in forest and land use collectively account for more than half of Peru's GHG emissions, posing significant threats to the nation's economic and

[40] Forest Peoples Programme, 'Peru', Forest Peoples Programme (FPP), 24 April 2024, https://www.forestpeoples.org/en/regions/south-central-america/peru.
[41] Science Panel for the Amazon, 'Amazon Assessment Report 2021' (UN Sustainable Development Solutions Network (SDSN), 12 November 2021), https://doi.org/10.55161/RWSX6527.
[42] Daniel C Nepstad, 'The Amazon's Vicious Cycles Drought and Fire in the Greenhouse Ecological and Climatic Tipping Points of the World's Largest Tropical Rainforest, and Practical Preventive Measures' (Switzerland: World Wide Fund for Nature (WWF), 2007), https://wwfeu.awsassets.panda.org/downloads/amazonas_eng_04_12b_web.pdf.
[43] Science Panel for the Amazon, 'Amazon Assessment Report 2021'.
[44] Nepstad, 2007.
[45] Hugo Che Piu and Mary Menton, 'The Context of REDD+ in Peru: Drivers, Agents and Institutions', *Center for International Forestry Research (CIFOR)*, 2014, 84.
[46] Piu and Menton, 2014.

cultural advancement[47]. Tree cover loss has accelerated over the last twenty years, with an average of 1,500 km2 of rainforest being destroyed annually in recent years, an area twice the size of Singapore[48]. It has been estimated that the original size of the Amazon rainforest prior to the arrival of European colonisers was over 647 million hectares, which equates to 1.6 billion acres[49]. Of this landmass, 12% is in Peru, with the rest dispersed between Brazil, Colombia, Venezuela, Bolivia, Ecuador, Guyana, Suriname, and French Guiana.

A report released by the Monitoring of the Andean Amazon Project (MAAP) in September 2022 estimated that the accumulated total Amazon Forest loss was over 85 million hectares, or 211 million acres, meaning that 13% of the original forest had been lost by their calculations[50]. The report highlighted that Peru alone accounted for a staggering 4.7 million hectares of the total land lost, primarily due to deforestation. It has been reported that the Amazon is rapidly reaching a tipping point, and upon reaching this point, parts of the rainforest will convert into drier ecosystems due to disrupted precipitation patterns and more intense dry seasons, both exacerbated by deforestation[51]. The scientific research suggests that this tipping point could be triggered at 25% Amazon rainforest loss, in conjunction with climate change impacts. The MAAP report highlights that solely in the eastern third of the rainforest, an estimated 31% of the original forest has already been lost, which is above the speculated tipping point threshold. The Amazon sustains approximately half of its rainfall by recycling moisture up to six times as air masses travel from the Atlantic Ocean in the east across the basin to the west. The trees facilitate this cycle, generating rainfall crucial for the forest's survival[52]. However, excessive deforestation poses a serious threat to this delicate balance. If these rates of deforestation continue, and this tipping point is reached, the current moist rainforest will convert to a drier savannah, due to decreased moisture recycling across the Amazon[53]. Therefore, efforts to reduce deforestation and forest degradation in the Amazon rainforest are critical not only for preserving its biodiversity, but also for regulating global carbon levels and global climate stability[54].

It's astonishing to witness the prolonged inaction that has allowed these exploitative practices to persist for years. The international community bears responsibility for failing to take effective action against these practices, turning a blind eye while one of the world's most crucial rainforests continues to

[47] USAID, 'Peru Climate Change Country Profile', n.d.
[48] Forest Peoples Programme, 'Peru'.
[49] M Finer and N Mamani, 'MAAP #164: Amazon Tipping Point – Where Are We?' (Monitoring of the Andean Amazon Project, 16 September 2022), 164.
[50] Ibid.
[51] Ibid.
[52] Ibid.
[53] M Finer et al., 'MAAP #200: State of the Amazon in 2023' (Monitoring of the Andean Amazon Project, 4 December 2023), 200.
[54] USAID, 'Peru Climate Change Country Profile'.

dwindle, year after year. Not only has the Global North[55] idly watched this devastation unfold, but the Peruvian Government has also failed to halt these illegal activities. These actions have inflicted and will continue to inflict severe repercussions on the livelihoods of IP until decisive measures are taken. Understanding the profound impact of these activities on IC is vital for shaping policies, plans, and programmes aimed at adapting to climate change and curbing GHG emissions[56].

2.2. Consequences of Climate Change

The Amazon is on the cusp of a period of dramatic transformation through climate change[57]. Human-induced climate change is already manifesting in extreme weather events and climate disruptions across the globe, leading to widespread adverse impacts and losses in both nature and people[58]. Therefore, there is further reason to advocate for environmental justice on behalf of and for these individuals. This section will describe these consequences and their impact on vulnerable Indigenous Peoples.

2.2.1. Temperature Increases

Naturally occurring gases like water vapor (H2O), carbon dioxide (CO2), and ozone (O3) in the Earth's atmosphere absorb thermal infrared (IR) radiation emitted by the Earth's surface and atmosphere. When these heat-trapping gases are released into the atmosphere, IR radiation is emitted, which contributes to the warming of the surface and lower atmosphere[59]. As a result, the average surface air temperature of the Earth is approximately 30°C higher than it would be without this atmospheric absorption and reradiation of IR energy, creating a phenomenon known as the 'greenhouse effect'[60]. The rapid increase in GHG concentrations since the onset of the industrial era has sparked concerns regarding the climate changes that are occurring consequently. Concentrations of the three main gases – CO2, methane (CH4) and nitrous oxide (N2O), reached record high levels in 2022, the latest year for which consolidated global values are available (1984–2022)[61]. Real-time data from specific locations show that levels of these three GHG continued to increase in 2023[62].

[55] The term 'Global North' refers to economically affluent, developed nations, mainly in the Northern Hemisphere, including the EU, US, Canada, and the UK. Despite their Southern Hemisphere location, Australia and New Zealand are also part of the Global North due to their significant economic development.
[56] Norton-Smith et al., 'Climate Change and Indigenous Peoples'.
[57] Nepstad, 2007.
[58] Calvin et al., 'IPCC, 2023'.
[59] Tamara S. Ledley et al., 'Climate Change and Greenhouse Gases', *Eos, Transactions American Geophysical Union* 80, no. 39 (1999): 453–58, https://doi.org/10.1029/99EO00325.
[60] Ibid. pp.1.
[61] World Meteorological Organization (WMO), 'State of the Global Climate 2023', https://wmo.int/, 19 March 2024, https://library.wmo.int/records/item/68835-state-of-the-global-climate-2023.
[62] Ibid.

According to the National Centers for Environmental Information (NCEI), in 2024 the February global surface temperature was 2.52°F (1.40°C) above the 20th-century average of 53.8°F (12.1°C), making it the hottest February on record and the ninth consecutive month of record-high global temperatures[63]. In a similar fashion, March 2024 was also the warmest March on record, as the global surface temperature was 2.43°F (1.35°C) above the 20th-century average[64]. The NCEI calculated the likelihood of 2024 ranking as the warmest year on record based on these results in their Global Annual Temperature Outlook. Based on these findings, the probability increased from 45% (according to February's global surface temperature) to 55% (according to March's global surface temperature), with a 99% likelihood that it will rank among the top five[65]. This escalation poses a renewed threat to the lives of hundreds of thousands of Indigenous Peoples, squarely placing the blame on the developed countries of the Global North for their failure to act promptly or with sufficient commitment to mitigate this situation.

Similarly, in an official report published by the World Meteorological Organisation (WMO) in March 2024, it was declared that 2023 was the warmest year on record at 1.45 ± 0.12 °C above the pre-industrial average[66]. In the foreword of the report, Secretary-General Celeste Saulo describes that never has the world been so close to the 1.5° C lower limit of the Paris Agreement on climate change[67]. Based on current trends, it is projected that we will exceed this limit soon, possibly within the next year, leading to catastrophic global consequences unless immediate and significant measures are taken. Scientists Joshua Pearce and Richard Parncutt assert that within the next century, over 1 billion people could perish due to climate-related catastrophes, and predominantly wealthier individuals will be responsible for causing the deaths of primarily poorer individuals through anthropogenic global warming (AGW) – an act comparable to involuntary manslaughter. They propose the notion of 'The 1000-ton rule', which says that for every 1000 tonnes of fossil carbon burned, one future life is lost[68]. This rule is based on a straightforward calculation: burning a trillion tonnes of fossil carbon will result in a 2°C increase in AGW, which is expected to cause approximately one billion premature deaths over

[63] National Centers for Environmental Information, 'Assessing the Global Climate in February 2024', National Centers for Environmental Information (NCEI), 14 March 2024, https://www.ncei.noaa.gov/news/global-climate-202402.
[64] National Centers for Environmental Information, 'Assessing the Global Climate in March 2024', National Centers for Environmental Information (NCEI), 11 April 2024, https://www.ncei.noaa.gov/news/global-climate-202403.
[65] Ibid.
[66] World Meteorological Organization (WMO), 'State of the Global Climate 2023'.
[67] Ibid.
[68] Joshua M Pearce and Richard Parncutt, 'Quantifying Global Greenhouse Gas Emissions in Human Deaths to Guide Energy Policy', *Energies* 16, no. 16 (January 2023): 6074, https://doi.org/10.3390/en16166074.

the course of about a century[69]. To put this in context, by 2022 humans had burned approximately 0.6 trillion tons of fossil carbon, leading to a global temperature rise of about 1.2°C[70]. The carbon budget for limiting AGW to 2°C is roughly one trillion tons of fossil carbon[71]. Pearce and Parncutt argue that burning this amount would raise the global mean surface temperature by 2°C. Thus, the failure to act with utmost urgency poses immediate life-threatening risks to millions, particularly Indigenous Peoples across the Amazon Basin. Additionally, it presents indirect threats like water scarcity and crop failure. This highlights a blatant disregard for their wellbeing, as urgent threats to their survival do not prompt timely action and support from the international community.

2.2.2. Extreme Weather Events

With approximately 3.3 to 3.6 billion people residing in highly climate-vulnerable contexts globally, Latin America stands as but one example of a region witnessing significant adverse effects, not to mention the pervasive impact it has on Indigenous Peoples in this region[72]. Peru especially faces significant vulnerability to climate-induced natural disasters such as floods, droughts, and landslides[73].

2.2.2.1. Droughts

If significant reductions in GHG aren't achieved to avert dangerous climate change, it's likely that global warming will decrease rainfall in eastern Amazonia by over 20% and raise temperatures in the broader Amazon region by more than 2°C, possibly even as much as 8°C, by the century's end[74]. The influence of the El Niño Southern Oscillation[75] (ENSO), or El Niño for short, on the frequency and intensity of these extreme events, along with their consequences, is being further heightened by climate change[76]. ENSO occurrences influence Latin America, and particularly Peru, as it has been linked to rainfall reductions and drought in Amazonia, while surplus rainfall is observed during La Niña events in the northern and northeastern parts of the Amazon region[77]. Due to this weather system, the Amazon

[69] Richard Parncutt, 'The Human Cost of Anthropogenic Global Warming: Semi-Quantitative Prediction and the 1,000-Tonne Rule', *Frontiers in Psychology* 10 (16 October 2019): 2323, https://doi.org/10.3389/fpsyg.2019.02323.
[70] Pearce and Parncutt, 'Quantifying Global Greenhouse Gas Emissions in Human Deaths to Guide Energy Policy'.
[71] Myles R Allen et al., 'Warming Caused by Cumulative Carbon Emissions Towards the Trillionth Tonne' 458, no. 7242 (30 April 2009): 1163–66.
[72] Calvin et al., 'IPCC, 2023'.
[73] USAID, 'Peru Climate Change Country Profile'.
[74] Nepstad, 2007.
[75] El Niño Southern Oscillation (ENSO) is characterised by warming of the ocean surface, particularly in the central and eastern tropical Pacific Ocean. This warming leads to increased rainfall and alterations in low-level surface winds, typically eastward along the equator, which may weaken winds or reverse direction.
[76] USAID, 'Peru Climate Change Country Profile'.
[77] Jose Antonio Marengo et al., 'Extreme Climatic Events in the Amazon Basin: Climatological and Hydrological Context of Recent Floods', *Theoretical and Applied Climatology* 107, no. 1–2 (January 2012): 73–85, https://doi.org/10.1007/s00704-011-0465-1.

rainforest is witnessing diminished rainfall, heightened temperatures, and severe droughts, particularly pronounced in the eastern regions. This drying effect will be exacerbated by the widespread death of rainforests in eastern Amazonia, as they are replaced by desert-like vegetation[78]. As previously stated, the eastern sector of the Amazon is perilously close to a tipping point, with nearly a third of its original forest already lost.

2.2.2.2. Floods

The Amazon stands as one of the world's most remarkable hydrological basins. At its broadest, the Amazon River spans 11 km wide during the dry season, expanding to an astonishing 40 km wide during the rainy season[79]. In March 2024, intense rainfall likely triggered by El Niño began flooding the Ene River in Peru, with water levels reaching two feet high and spreading across 5,000 hectares (12,355 acres) of land occupied by around 300 Indigenous Asháninka families[80]. The flood destroyed their crops and forced them to relocate to nearby communities. Additionally, families across five Asháninka settlements lost not only their homes but also the fruits of years of labour invested in successful and sustainable agroforestry ventures, including cacao, coffee, and timber among other valuable products[81]. Cleyton Valentin Chumpate confirmed that flooding in his community is very common, and some communities have been lost as a result. When questioned what happens in the wake of a flood occurring, he says: “Usually, they look for another place to live, but if they do not have another place to go, they go back to the same place”. The displacement of these communities and the profound devastation wrought by this extreme weather event vividly illustrates the peril faced by Indigenous Peoples residing in the Amazon.

The El Niño weather pattern triggered unprecedented rainfall and flooding in Rio Grande do Sul, a state in southern Brazil, starting on April 27th, 2024, and extending into May. Elevated temperatures in the Pacific Ocean, influenced by El Niño, coupled with very high temperatures in the South Atlantic Ocean, intensified humidity levels and precipitation[82]. According to the Center for Disaster Philanthropy (CDP), in Porto Alegre, the state capital housing over 1.3 million residents, over two months' worth of rainfall poured down in just three days. Typically, this region receives 4.5 inches of rain in April and 4.4 inches in May. However, during those three days, it experienced a staggering 10.18 inches of rainfall. Porto Alegre is located on the Guaiba River, which peaked at 17.4 feet, surpassing the previous

[78] Nepstad, 2007.
[79] Marengo et al., ‘Extreme Climatic Events in the Amazon Basin’.
[80] Maxwell Radwin, ‘“Another Catastrophe”: Flooding Destroys Indigenous Agroforestry Projects in Peru’s Amazon’, Mongabay Environmental News, 26 March 2024, https://news.mongabay.com/2024/03/another-catastrophe-flooding-destroys-indigenous-agroforestry-projects-in-perus-amazon/.
[81] Ibid.
[82] Center for Disaster Philanthropy, ‘2024 Rio Grande Do Sul Brazil Floods’, Center for Disaster Philanthropy, 8 May 2024, https://disasterphilanthropy.org/disasters/2024-rio-grande-do-sul-brazil-floods/.

record of 15.7 feet set in 1941[83]. The International Federation of Red Cross and Red Crescent Societies (IFRC) reported that since April, a total of 141 people were reported missing, 756 injured, over 600,000 displaced, and more than 81,000 living in shelters. By May 10th, 2024, the IFRC recorded that the death toll from the catastrophic climatic event had reached 126 individuals[84]. This illustrates the devastating havoc that El Niño can unleash, leaving millions vulnerable to its sudden destruction.

2.2.3. Loss of Biodiversity

As recorded in the AAR published in 2021, the Amazon hosts a significant portion of the world's biodiversity, including 18% of all vascular plant species, 14% of bird species, 9% of mammals, 8% of amphibians, and 18% of tropical fish species[85]. However, both droughts and floods negatively impact the biodiversity in this rainforest. Cleyton Valentin Chumpate remarked, "There are less and less animals. As a result, the habitat is shrinking". A report written by the Secretariat of the Convention on Biological Diversity (CBD) in December 2017 detailed the impact of droughts and floods on biodiversity in the Peruvian Amazon, and the results found a shocking decrease in wildlife in the area in an incredibly short amount of time. To illustrate an example, a severe drought in 2010 significantly affected dolphin populations, and during the driest months of September and October, there was a 47% decline in the population of pink river dolphins[86]. By 2011, the population of pink river dolphins reached a low of 1.02 individuals per kilometre following the drought of 2010[87]. This serves as compelling evidence that it is not just IC who fall victim to the carelessness of the developed world, but biodiversity suffers also. The notable decline in Amazonian mammals in recent years illustrates the negative implications of the greed and exploitation of the international community.

2.2.4. Displacement of Indigenous Peoples

On June 9th, 2024, a widely read Spanish-language newspaper, El País, published an article detailing the first instance of a Latin American state taking responsibility for relocating an entire community of climate refugees. It was reported that 300 Indigenous families from the Guna Yala archipelago were moved to a new mountain neighbourhood constructed by the Government of Panama, which ironically

[83] Ibid.
[84] International Federation of Red Cross and Red Crescent Societies, 'Rio Grande Do Sul Floods', International Federation of Red Cross and Red Crescent Societies (IFRC), 4 June 2024, https://www.ifrc.org/emergency/brazil-rio-grande-do-sul-floods.
[85] Science Panel for the Amazon, 'Amazon Assessment Report 2021'.
[86] Sara Purca, José Muelbert, and Alberto Piola, *Variability of Ocean Ecosystem around South America (VOCES)*, 2017, https://doi.org/10.13140/RG.2.2.23026.61123.
[87] Ibid.

was built on 14 hectares of deforested mountainous land to accommodate the displaced population[88]. The newspaper cited the Ministry of the Environment of Panama, which stated that none of the 365 Caribbean islands located between Panama and Colombia will be habitable by 2050 due to rising sea levels caused by global warming. Panama's President Laurentino Cortizo has allegedly invested $12.2 million in infrastructure to relocate the 1,300 people to dry land an hour from their island in this project. However, these IP feel neglected by the government's "Western" approach. Guna historian Atilio Martínez was quoted in the article criticising the new homes, saying: "The Government built matchboxes that do not take into account our Indigenous traditions. They did not take us into account."[89] This relocation threatens the Guna people's culture and way of life, potentially leading to a significant loss of Indigenous practices and heritage due to climate change.

2.3. Rights of Indigenous Peoples Impacted by Climate Change

A topical review which analysed over 200 peer-reviewed articles and pieces of research found that climate change in South America during the 21st century may increase the risk to severe levels of food insecurity, floods and landslides, water scarcity, epidemics of vector-borne diseases, Amazon Forest biome shift[90], and systemic failure due to cascading impacts of hazards and epidemics, and Indigenous peoples were identified as one of the groups being the most severely affected[91]. Considering the repercussions of climate change, it becomes evident how severely these impacts infringe upon the rights of Amazonian Indigenous Peoples. For instance, the loss of biodiversity directly translates into diminished wildlife and resources in the Amazon, thereby reducing available food sources for Indigenous Peoples residing there. The decline in fish populations during the 2010 drought in the Samiria River basin exemplifies this issue, with water levels shrinking to 105.43 meters above sea level, marking the lowest recorded level[92].

As part of this research endeavour, an interview was held with Peter Cronkleton, a Senior Scientist with CIFOR-ICRAF. He shared his experience of the effects of droughts which he says is one of the "primary

[88] Noor Mahtani, 'Expulsados por el mar: los primeros refugiados climáticos reubicados de América Latina', El País América, 9 June 2024, https://elpais.com/america-futura/2024-06-09/expulsados-por-el-mar-los-primeros-refugiados-climaticos-reubicados-de-america-latina.html.
[89] Ibid.
[90] 'Amazon forest biome shift' refers to changes occurring in the ecosystems of the Amazon rainforest due to it being increasingly exposed to unprecedented stress from warming temperatures, extreme droughts, deforestation, fires and other such forms of destruction and degradation.
[91] I Hagen et al., 'Climate Change-Related Risks and Adaptation Potential in Central and South America during the 21st Century', *Environmental Research Letters* 17, no. 3 (1 March 2022): 033002, https://doi.org/10.1088/1748-9326/ac5271.
[92] Purca, Muelbert, and Piola, *Variability of Ocean Ecosystem around South America (VOCES)*.

ways which climate change is affecting Indigenous Peoples in the Amazon", and that they "have become increasingly prevalent. It affects many IP who live in very remote areas which are only accessible by rivers. So, when you have extreme droughts that are basically pushing rivers to extremely low levels, it not only eliminates a major food source that's fundamental for food security – often fish provide the main source of protein that people have access to – but also there's an issue of transportation. When these rivers dry up or become too low for navigation even with canoes, you suddenly have people that were a day or two days away from an urban centre, and they become weeks away from an urban centre just because there are no roads, there are no easy ways to get back and forth to places". This illustrates the domino effect of these threats, not only compromising their right to food security but also directly impeding their access to resources, their livelihoods and, crucially, their survival.

Furthermore, extreme flooding adversely affects the water quality in surrounding areas, exacerbating similar challenges. During our interview, Cleyton Valentin Chumpate relayed his personal experience of the rivers in his community flooding, which he says has a dangerous consequence for their water quality: "There have been some studies that show the river is contaminated and there are microplastics in the water. There are also many problems in our communities of malnutrition." When asked if the Peruvian government aids the community in these cases, he replied "They do the minimum response. Usually, it is the responsibility of the local government, and the presence and assistance of international organisations is almost none". Ultimately, these threats pose significant risks to Indigenous health and wellbeing, and these peoples are almost completely left to fend for themselves in the wake of these disasters. Additionally, their right to land and territory is further eroded by deforestation and resource extraction, a topic that will be explored in greater detail in the subsequent chapter.

2.4. Strategies to Decrease the Impact of Climate Change

Efforts to address this crisis have included the implementation of strategies such as mitigation and adaptation initiatives. However, the dependency upon the authorities in Peru to engage in the strict enforcement of these measures may pose a challenge. Such measures intended to mitigate the impact of climate change may prove ineffective for IP if not properly implemented. Additionally, if climate change continues unabated and adaptive capacity remains low, the options for adaptation will be severely limited[93].

[93] Hagen et al., 'Climate Change-Related Risks and Adaptation Potential in Central and South America during the 21st Century'.

2.4.1. Mitigation Strategies

Mitigation strategies have a function of reducing the flow of heat trapping GHG into the atmosphere, which involves cutting GHG from main sources such as power plants, factories, cars, and farms[94]. An example of one mitigation strategy which has been implemented in Peru for the last several years is the REDD+ (Reducing Emissions from Deforestation and Forest Degradation) programme.

2.4.1.1. REDD+

The REDD+ programme marks the international community's first real attempt to establish a comprehensive global forest governance framework, holding the potential to influence nations at national, regional, and local levels[95]. REDD was officially adopted in the Warsaw Framework at the Conference of the Parties (COP19) in 2013, and later expanded to REDD+ to include compensation for the conservation and sustainable management of forests, as well as the enhancement of forest carbon stocks[96]. Under this framework, REDD+ enables developed nations to earn emission reduction credits by investing in forest conservation efforts in developing countries[97]. Simultaneously, developing countries can receive results-based payments by reducing their GHG emissions through lowering deforestation and forest degradation rates in their country, and thus allowing developed countries to effectively 'offset' their own increasing emissions. As previously stated, deforestation is the largest source of Peru's GHG emissions. This is due to the high carbon stocks in Peruvian forests, coupled with comparatively minimal emissions from the energy and industrial sectors[98]. For this reason, Peru has agreed to join several REDD+ initiatives, such as the Forest Carbon Partnership Facility (FCPF) and the Forest Investment Program (FIP)[99].

However, a new 2024 report from the Food and Agriculture Organisation of the United Nations (FAO) and REDD+ emphasises the need for legal clarity regarding the ownership of emission reductions and the entitlement to benefit from related payments. The report illustrates that in Peru, the Law for Forestry and Wildlife stipulates that the right to use forest resources is granted through enabling titles such as concessions, permits, and authorisations, depending on the location. To participate in REDD+ schemes, actors must also comply with specific climate change and REDD+ regulations. It explains that Peru's legal framework for climate change and REDD+ sets forth two primary requirements for eligibility in

[94] European Environment Agency, 'Climate Change Mitigation: Reducing Emissions', 25 March 2024, https://www.eea.europa.eu/en/topics/in-depth/climate-change-mitigation-reducing-emissions.
[95] Mucahid Bayrak and Lawal Marafa, 'Ten Years of REDD+: A Critical Review of the Impact of REDD+ on Forest-Dependent Communities', *Sustainability* 8, no. 7 (2 July 2016): 620, https://doi.org/10.3390/su8070620.
[96] Global Forest Coalition, 'Who Really Benefits? How REDD+ Fails Forests and Those Who Protect Them', 5 June 2024, https://globalforestcoalition.org/wp-content/uploads/2024/06/EN-REDD-paper-2024.pdf.
[97] Norton-Smith et al., 'Climate Change and Indigenous Peoples'.
[98] Piu and Menton, 'The Context of REDD+ in Peru: Drivers, Agents and Institutions'.
[99] Ibid.

establishing REDD+ schemes: (1) holding rights over forest resources, and (2) meeting all legal requirements established by the national framework for REDD+[100].

This is where problems arise for Indigenous Peoples, as securing these rights in Peru is a complex and challenging process for them. During a meeting with Interviewee X, they explained this issue of land and tenure rights: "According to international law, Indigenous Peoples have the rights to the lands that they customarily own, occupy and use. In many cases in national contexts, that is interpreted into the titling of the villages where they live, as opposed to the much wider area of land that IP have used, and still use and occupy, but not necessarily that they go on each square meter of that land every day. It's that typical idea of terra nullius – that nobody is on that land, and it is undeveloped. That kicks in in many national contexts when legislation is created". Therefore, the Peruvian government under-titles Indigenous lands, leaving the remaining territories exposed and vulnerable to land grabbing and resource extraction by other entities. This issue will be analysed in depth in the third chapter of this investigation.

Peter Cronkleton further explained the prevailing complexity of the issue of land tenure and rights in Peru: "One of the issues in Peru is Indigenous Peoples don't get rights to the forest, they get their territory, and then they get what's called a usufruct[101] right over the forest, which is a tentative, conditional right that is not well-defined, and IP don't understand it at all. Because they have usufruct rights over forest, it means that the state maintains control over the forest and gives some limited rights to the communities. It's a loophole that is not very well understood; few IP really understand that they only have usufruct rights over the forest. When you then get into issues of who has rights to the carbon in the forest, these issues aren't fully debated or resolved. It's not easy to document who lives in these communities, who is representative of these communities and therefore, who is eligible for payments". When questioned about the efficacy of the REDD+ programme in Peru, he said: "In terms of REDD+ being able to provide direct benefits for people, the types of benefits people receive directly – even though it's been quite some time since its inception – is still relatively limited. Initially there was an expectation that REDD+ would generate a lot of conditional payments for IP or other peoples who were forest property owners, which hasn't really materialised".

Peru's legal framework on this issue is complicated and generally not explained to the Indigenous Communities on the ground, necessitating an update to their legislation or the establishment of

[100] *Comparative Study of Carbon Rights in the Context of Jurisdictional REDD+* (FAO, 2024), https://doi.org/10.4060/cc9274en.

[101] Under Peruvian law, Indigenous Communities hold land titles granting them rights over the land, while resources like forests are still formally owned by the state. Forest rights are typically confined to usufruct contracts, allowing for use but not ownership of the resources.

contractual agreements to clarify the rights associated with emission reductions for landowners and resource rights holders in accordance with the law. Peter Cronkleton reaffirms that IP need to be at the centre of this conversation: "REDD+ negotiations need to make sure there's clear recognition of the property rights of the IP involved. And then the broader discussions on REDD+ need to be grounded on this process of continuing to title Indigenous lands. And that's something that's fundamental for carbon markets. People that are investing in carbon want to make sure they're paying the people that are actually managing the forest or have the rights over the forest". Directing benefits to Indigenous Peoples, local communities, and small-scale farmers is crucial for building trust among the involved parties. Carbon market and carbon credit schemes linked to the REDD+ programme have resulted in documented instances of land dispossession and other human rights violations in Peru, which will be explored throughout Chapter 4.

In June 2024, the Global Forest Coalition (GFC) released a highly critical report which highlighted that IP worldwide are safeguarding a future for everyone, yet REDD+ is falling short in adequately benefiting these communities. The GFC reiterate in their findings that failure to enforce tenure and governance rights for Indigenous Peoples with traditional forest access rights impedes their capacity to safeguard these crucial ecosystems. Furthermore, these initiatives frequently neglect to properly uphold the land and governance rights of IP and forest-based communities, preventing them from fully managing and benefiting from their lands[102]. IC are purposely left in the dark and misled on the subject of their rights in these cases, as they frequently lack legal and political acknowledgment to safeguard their lands from governmental and non-governmental entities aiming to profit from the REDD+ program[103]. Scholars Crippa and Gordon echo the critique of the GFC, stating:

'Protecting Indigenous Peoples' rights to their lands, territories, environment and natural resources, and strengthening Indigenous Peoples' capacity to effectively manage their territories, is a critical strategy for preventing deforestation and should be a central goal of climate mechanisms, including REDD+. Unfortunately, many REDD+ initiatives instead seek to "conserve the forest from Indigenous Peoples" – restricting their access to their own land, territories and resources, expropriating their land, commodifying their environments, and criminalizing their traditional livelihoods. More often than not, REDD+ has become synonymous with violations of Indigenous Peoples' basic human rights and disruption of their livelihoods[104]'.

[102] Global Forest Coalition, 'Who Really Benefits? How REDD+ Fails Forests and Those Who Protect Them'.
[103] Leonardo A Crippa and Gretchen Gordon, 'International Law Principles for REDD+: The Rights of Indigenous Peoples and the Obligations of REDD+ Actors', *Indian Law Resource Center*, September 2013.
[104] Crippa and Gordon. pp 2.

When this issue arose in the meeting with Cleyton Valentin Chumpate, he confirmed that "There was one case where an international company tried to introduce a programme like this. But it did not work in the end because the money that we were proposed as payment was too low, it was not enough from our perspective. Also, the regional government did not support it at all. Not only are the governments receiving money instead of the local Indigenous Communities, also there are some organisations created for this purpose. They are the ones receiving all this funding, not the local communities. Right now, as a result, there is no programmes like this in my area or in my community".

REDD+ simplifies forests to carbon sinks rather than recognising them as complex ecosystems. It assumes that assessing forests' contribution to climate change mitigation is merely a matter of quantifying the carbon stored in their trees[105]. Thus, this programme represents an example of how a mitigation or adaptation strategy can harm IP through the process of maladaptation. In Peru, REDD+ preparations have generated confusion, distrust, and dissent[106]. Numerous studies underscore the insufficient engagement of forest-dependent communities in ongoing REDD+ initiatives and what's more concerning is that it redefines people's connection with the environment by commercialising nature, which could potentially lead to even greater harm[107]. Moreover, the present and prospective effects of REDD+ on communities frequently disturb the livelihoods and traditional practices of local peoples, affecting their strategies, institutions, and socio-cultural systems in diverse manners. These impacts may include uneven distribution of benefits, food insecurity, the emergence of influential new stakeholders, illegal land grabs, unfair processes of free, prior, and informed consent (FPIC) and the establishment of monoculture plantations[108]. A new, alarming deforestation-induced tipping point is emerging, where the Amazon could shift from being a vital carbon sink, mitigating global climate change, to becoming a carbon source, exacerbating it instead[109]. Consequently, the urgency for action, cooperation with IC, and tangible outcomes from REDD+ has never been greater, as it is imperative to prevent this tipping point from becoming a reality.

2.4.1.2. Carbon Markets

Another example of a mitigation strategy is the Carbon Market, which we will discuss in further detail in Chapter 4.

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[105] Global Forest Coalition, 'Divest Public Climate Finance From False Solutions: A Roadmap Towards Gender-Just & Real Climate Justice', June 2023, https://globalforestcoalition.org/wp-content/uploads/2023/06/Layout_ClimateCampaignBrief2023.pdf.
[106] Douglas White, 'A Perfect Storm? Indigenous Rights within a National REDD+ Readiness Process in Peru', *Mitigation and Adaptation Strategies for Global Change* 19, no. 6 (1 August 2014): 657–76, https://doi.org/10.1007/s11027-013-9523-6.
[107] Bayrak and Marafa, 'Ten Years of REDD+'.
[108] Ibid.
[109] Finer et al., 'MAAP #200: State of the Amazon in 2023'.

2.4.2. Adaptation

Meanwhile, an adaptation strategy is a program, approach or project that has been created in response to anticipated climate change impacts in a specific area of potential concern[110]. While the Peruvian Ministry of Environment (MINAM) has emphasised the importance of executing national adaptation plans, significant gaps persist in the country's readiness for extreme weather events, forest fires, deforestation, and future climate-related risks[111]. These gaps are particularly evident in the planning and support provided for rural and remote populations, as well as IC, who are often ignored and left to fend for themselves in the face of calamities caused by climate change. A study investigated the climatic changes on water systems experienced by Indigenous Shawi in the Peruvian Amazon. It conducted qualitative research which found that during the catastrophic flooding event in their community in 2014, members of the Shawi community expressed their lack of readiness and highlighted the minimal support received from both the government and NGOs[112]. As projections indicate a rise in the frequency of extreme flooding events, enhancing preparedness is a crucial aspect of climate change response and adaptation.

Once again, the developed world has fallen short in supporting IP by failing to provide them with fair access to the best resources and strategies to mitigate environmental degradation. While a significant portion of blame can be attributed to the international community for their insufficient support of IP in the Global South, a responsibility also lies with the national and regional governments involved. In this case, it is incumbent upon the Peruvian government to advocate for the cause of their vulnerable populations and endeavour to protect them to the best of their ability by enacting stringent policies and establishing robust legal frameworks. These concepts must then be embraced by regional governments within Peru, who hold significant power and influence over local-level IC.

The upcoming chapter will scrutinise climate injustices prevalent in Peru, including land exploitation, mining and resource extraction, Indigenous exclusion from decision-making processes, lack of prior consultation, violence, intimidation, and cultural erasure. The impact of each on Amazonian Indigenous Peoples will be meticulously analysed to illuminate the profound challenges and enduring struggles these communities suffer consistently.

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[110] "Strategies for Climate Change Adaptation," Environmental Resilience Institute, accessed April 20, 2024, https://eri.iu.edu/erit/strategies/index.html.
[111] Paola A. Torres-Slimming et al., 'Climatic Changes, Water Systems, and Adaptation Challenges in Shawi Communities in the Peruvian Amazon', *Sustainability* 12, no. 8 (22 April 2020): 3422, https://doi.org/10.3390/su12083422.
[112] Ibid.

Chapter 3: Climate Injustice of Amazonian Indigenous Peoples in Peru

The United Nations Development Programme (UNDP) describes climate justice as the prioritisation of equity and human rights in both decision-making and action concerning climate change[113]. As established in this research paper, it is the most vulnerable countries and communities – those that have frequently contributed the least to the crisis – who bear the brunt of its consequences. Climate justice indicates that the nations, industries, businesses, and individuals who have accumulated wealth by emitting substantial amounts of GHG have a duty to assist those adversely affected by climate change. Native American scholar Kyle Whyte argues that it's time to recognise that we may have reached a critical juncture where preventing environmental injustices against Indigenous Peoples is no longer within our grasp. These injustices stem from both the direct consequences of climate change and the approaches certain societies adopt to tackle it. He advocates that achieving Indigenous climate justice entails mitigating the disproportionate climate risks faced by IP and empowering them to spearhead energy transitions[114]. The fundamental premise of this research paper strongly supports this argument; IP should be at the forefront of climate action, with their rights, knowledge, and voices being prioritised in these discussions. Exploitative practices such as land grabbing, agricultural expansion, illegal logging, unauthorised mining, and pollution of air and water, coupled with the endangerment of environmental activists and Indigenous Communities, hinder both the development and preservation of Peru's heritage[115].

In this chapter, we explore the myriad forms of climate injustices prevalent in Peru, identifying the perpetrators and their actions. We will examine land exploitation, mining and resource extraction, the exclusion of Indigenous Peoples from decision-making processes, the lack of prior consultation, violence against IP, cultural erasure, the exclusion of Indigenous Knowledge from international platforms, and the commercialisation of Indigenous spirituality. Additionally, this chapter features two interviews: one with Javier Arellano-Yanguas, a scholar and expert in mining and extraction, and another with Leire Morquecho Errasti, Coordinator of the International Cooperation Area of Alboan, an NGO in Bilbao which collaborates with the Awajún Indigenous Peoples in Peru. While the term 'climate injustices' will primarily be used to address environmental injustices related to climate change and its impacts, I will use these terms interchangeably throughout the discussion.

[113] UNDP Climate Promise, 'Climate Change Is a Matter of Justice – Here's Why', UNDP Climate Promise, accessed 21 May 2024, https://climatepromise.undp.org/news-and-stories/climate-change-matter-justice-heres-why.
[114] Kyle Whyte, 'Too Late for Indigenous Climate Justice: Ecological and Relational Tipping Points', *WIREs Climate Change* 11, no. 1 (2020): e603, https://doi.org/10.1002/wcc.603.
[115] USAID, 'Peru Climate Change Country Profile'.

3.1. Land Exploitation

3.1.1. Land Grabbing, Logging and Deforestation

Around the world, there's currently a significant reassessment of the value of land, driven partly by the convergence of global dynamics or crises related to food, energy/fuel, climate, and finance[116]. An essential underlying assumption is that the key to addressing today's numerous global crises hinges on finding vast amounts of land that have been overlooked, deemed marginal, underutilised, or perceived as empty[117]. In these contexts, land is increasingly depicted as available for conversion into new economic structures, conveniently fitting the narrative propagated by mainstream economic and political leaders. As discussed in Chapter 2, these leaders frequently deliberately under-title Indigenous lands to expand available land for their economic gain by granting concessions to multinational companies for mining and extraction purposes. They argue that such transformations are not only essential for development but are crucial for accommodating a burgeoning global population. Consequently, amidst numerous global crises, various forms of land grabbing are being reframed in mainstream discussions as imperative and responsible investments[118]. Scholars Borras and Franco define land grabbing as:

> 'the capturing of control of relatively vast tracts of land and other natural resources through a variety of mechanisms and forms, carried out through extra-economic coercion that involves large-scale capital, which often shifts resource use orientation into extraction, whether for international or domestic purposes, as capital's response to the convergence of food, energy and financial crises, climate change mitigation imperatives, and demands for resources from newer hubs of global capital'[119].

The definition highlights that land grabbing primarily aims to exploit land, usually through resource extraction - which will be illustrated in further detail in point 3.2 – and thus, negatively impacting the Indigenous Peoples residing there by destroying the natural environment, but also causing a plethora of socio-economic issues. Cleyton Valentin Chumpate offered an Indigenous perspective on the topic of land ownership and its associated struggles, stating: "The impact of climate change is very strong; it is economic, social and cultural. It destroys the habitat, and it happens due to the activities of the transnational companies, who focus on oil, gas, illegal mining and illegal logging. Most of the territory that is given to these companies is Indigenous land, 35% of it. We, in my community, have a legal

[116] Philip McMichael, 'The Land Grab and Corporate Food Regime Restructuring', *The Journal of Peasant Studies* 39, no. 3–4 (July 2012): 681–701, https://doi.org/10.1080/03066150.2012.661369.
[117] Saturnino M Borras and Jennifer C Franco, 'Global Land Grabbing and Political Reactions "From Below"', *Third World Quarterly* 34, no. 9 (October 2013): 1723–47, https://doi.org/10.1080/01436597.2013.843845.
[118] Ibid.
[119] Ibid. pp.1725.

document according to Peruvian law; however, this does not include the natural resources on the land. That is what we are trying to demand through the argument of Indigenous autonomy. For us, the land is essential. Life is a cycle; we are part of the land. The environment is very important to us, and we are a part of nature, and not the other way around." As he highlights here, conflicts persist as active and proposed areas for mining, oil, gas, and timber extraction overlap with titled or claimed Indigenous lands. Legal frameworks allow these overlaps, as the Peruvian state retains the authority to assign extraction and usufruct rights to different parties for subsoil and above-ground resources within the same area, even if Indigenous Communities hold titles[120]. For centuries, land disputes have afflicted the Indigenous Peoples of the Peruvian Amazon, tracing back to the country's colonial era. This enduring struggle persists into the present, as efforts to justify land grabbing encounter steadfast resistance from both Indigenous and non-Indigenous communities, questioning not only the legitimacy of this phenomenon but also the efficacy of public relations campaigns seeking to normalise it.

3.1.2. The Bagua Massacre: The Turning Point?

In 2006, Alan García began his second term as President of Peru, placing significant emphasis on harnessing the resources of the Amazon. On 28th October 2007, President García and several government officials penned the first instalment of a series of articles for Peru's leading newspaper, El Comercio. The inaugural article employed Aesop's Fable of 'The Dog in the Manger' as an allegorical representation of Indigenous Peoples, suggesting they behave like the dog by neither using the resources themselves nor allowing others to do so[121]. The President argued that Peru's extensive natural resource wealth lacked legal titles, thus preventing them from being traded, attracting investment, or generating employment opportunities[122]. The proposed solution involved formalising individual property rights and enticing substantial investment[123]. García epitomises a leader who prioritises neither the safeguarding of his country's most vulnerable citizens nor the preservation of its most cherished resource - the Amazon rainforest and the land on which it stands. Instead, he advocates for the exploitation of both these resources and peoples. This greed and lust for capital gain is despicable, especially when it is masked as an opportunity for the economic improvement of the state, or for the greater good of the country. The ensuing legal reforms which García's government brought forward will be discussed in the fifth chapter of this paper.

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[120] Iliana Monterroso et al., *Reclaiming Collective Rights: Land and Forest Tenure Reforms in Peru (1960-2016)* (Center for International Forestry Research (CIFOR), 2017), https://doi.org/10.17528/cifor/006426.
[121] Felipe Gómez Isa, 'El derecho al desarrollo de los Pueblos Indígenas', in *Los derechos indígenas tras la Declaración: El desafío de la implementación*, vol. 20, Serie Derechos Humanos (Bilbao: Universidad de Deusto, 2013), 175–90.
[122] Anthony Bebbington, 'The New Extraction: Rewriting the Political Ecology of the Andes?', *NACLA Report on the Americas* 42, no. 5 (September 2009): 12–20, https://doi.org/10.1080/10714839.2009.11722221.
[123] Monterroso et al., *Reclaiming Collective Rights*.

As a result of these reforms, a total of 99 legislative decrees were passed, the majority of these legal changes targeting the opening of areas in the Amazon for mining, logging, and oil drilling purposes[124] This facilitated the processes that would effectively dismantle community land and territories. Consequently, on June 5, 2009, thousands of IP began protesting in the Amazonas province of Bagua. They barricaded the highway and called for the repeal of executive decrees on which they had not been consulted. García insinuated that the protesters were holding the nation hostage, drawing a divisive line between 'natives' and 'Peruvians' in a statement to the press:

"Enough is enough. These peoples are not monarchy, they are not first-class citizens. Who are 400,000 natives to tell 28 million Peruvians that you have no right to come here? This is a grave error, and whoever thinks this way wants to lead us to irrationality and a retrograde primitivism."[125]

The government mandated the forced eviction of protesters, leading to violent clashes between Indigenous demonstrators and law enforcement, resulting in 33 fatalities and 200 injuries[126]. This tragic event became known the Bagua Massacre. On June 19, two weeks following the tragic events in Bagua, the government repealed two legislative decrees, leading to the conclusion of the Indigenous strike after three months of protests[127].

3.1.3. The Peruvian Government aiding and abetting Deforestation and Land Exploitation in 2024

One would hope that such a tragedy as the Bagua Massacre would mark a sure turning point in a country's care for their vulnerable citizens. However, it seems that the Peruvian government continues to ignore the needs of Indigenous Peoples in the Amazon, as those in power persist in devising strategies to facilitate exploitation. Such an instance, or rather scandal, unfolded in Peru this very year. A report released by the Environmental Investigation Agency (EIA) in February 2024, revealed how palm oil and cocoa companies are driving deforestation in the Peruvian Amazon, accompanied by illegal activities with the implicit support of the government[128]. Just before the report was released, however, the Peruvian government passed a new law which legalised previous illegal deforestation by certain companies mentioned in the report, and legal analysts argue this law was rushed through Congress without proper procedure[129]. The amnesty law forgives historic illegal deforestation committed on rural properties or areas cleared for agriculture, thus preventing Peruvian commodity firms from being held

[124] Ibid.
[125] Bebbington, 'The New Extraction'. pp.13.
[126] Monterroso et al., *Reclaiming Collective Rights*.
[127] Ibid.
[128] 'New Report Exposes Illegal Amazon Deforestation as Peru Approves Scandalous "Amnesty" Law Forgiving Past Forest Crimes - EIA US', 7 February 2024, https://us.eia.org/press-releases/illegal-amazon-deforestation-as-peru-forgives-past-forest-crimes/.
[129] Ibid.

accountable for past unlawful forest clearance and allowing impunity to perpetually continue. The recent alteration to the forest law also breached the terms of the U.S. – Peru Trade Agreement, which mandates both nations to refrain from diluting environmental safeguards to promote trade[130]. Consequently, palm oil and cocoa from companies operating without oversight for years may continue to enter European and Peruvian markets, setting a dangerous precedent that could encourage further illegal clearance of the Amazon in the future.

According to the EIA investigation, the highlighted ten companies have been implicated in various wrongdoings. These include clearing more than 13,000 hectares of the Amazon rainforest, obtaining land titles illegally, deforesting without proper permits, neglecting to provide necessary environmental documentation, evading fines, and infringing upon the rights of Indigenous Peoples and local communities[131]. Furthermore, the report exposes significant governance lapses by the Peruvian government regarding the operations of these companies, highlighting instances of government involvement in illegal activities. The approval of this scandalous amnesty law perfectly illustrates the injustice that Indigenous Peoples are being subjected to by not only private companies seeking obscene profit, but so too their own government, whose duty it is to protect their inherent rights and best interests. It is abundantly clear from this case alone, that the Peruvian government is complicit in illegal activities, and in pardoning past illegal deforestation and illegal land exploitation.

3.2. Mining and Resource Extraction

As mentioned above, a consequence of land exploitation is the facilitation of mining and resource extraction activities and far too often, oil, gas and mining concessions overlap with titled Indigenous Community lands. In Madre de Dios, Peru's Amazonian region most heavily affected by mining, the number of mining concessions skyrocketed from 50 registered in 1978 to 2,700 by the end of 2015[132]. Transitioning to a decarbonised energy infrastructure relies heavily on mineral-intensive technologies, and this drives the demand for mineral extraction. According to a 2020 report from the World Bank Group, the production of minerals like graphite, lithium, and cobalt is projected to surge by nearly 500% by 2050[133]. This substantial increase is driven by the escalating demand for clean energy technologies. Therefore, while global endeavours to combat climate change are underway, paradoxically, they may inadvertently contribute to adverse effects on the Amazon. For instance, to cap global warming at below

[130] Ibid.
[131] Ibid.
[132] Monterroso et al., *Reclaiming Collective Rights*.
[133] Kirsten Hund et al., 'Minerals for Climate Action: The Mineral Intensity of the Clean Energy Transition', *The World Bank*, 2020, 112.

2°C, an additional 3 billion tonnes of minerals will be required by 2050 to bolster the capacity for wind, solar, and geothermal power generation and storage[134]. While these practices harm the natural environment, equally damaging are the effects they impose on IP. Research indicates that increased mineral exploitation in countries with fragile institutions frequently gives rise to economic, political, and social challenges, and these negative effects are magnified in environmentally, socially, and institutionally vulnerable regions like the Amazon[135]. Without effective governance, the energy transition has the potential to worsen these issues. Details of two mining and extraction case studies will be discussed to highlight the repercussions of such projects on Indigenous Peoples in each area.

3.2.1. Case Study of the Tía Maria Mine

Academic scholar Alexander Dunlap investigated The Tía Maria project, an open pit mine proposed by Southern Copper Corporation, controlled by Grupo Mexico, which posed a threat of land contamination to the agricultural areas cultivated by rural communities in the interior of Peru. Dunlap scrutinised copper mining in Peru, aiming to shed light on the covert methods of scientific violence and social manipulation used by governments, corporations, and elites for resource extraction. By highlighting these deceptive practices, the study sought to enhance academic understanding and identification of such actions, while also raising awareness among land defenders and activist groups opposing extractive industries. Dunlap's research, conducted between December 2014 and April 2018, studied the Tía Maria mine located in the southwest corner of Peru above the Tambo Valley in the Islay province. The Tambo Valley sustains a robust agrarian economy and culture, supporting over 40,000 jobs[136]. According to Dunlap, since 85% of the Islay province is leased to extractive corporations, with 96.2% of the Tambo Valley similarly under concession, the mine is widely perceived as a threat to this economy and culture, potentially leading to displacement. The Tía Maria project aimed to extract 120 thousand tonnes of copper cathodes annually for 18 years, alongside undisclosed minerals such as gold, with a $1.4 billion investment across three mining and processing sites[137]. However, conflict began with the local Indigenous Peoples in 2009, which escalated into a long-standing conflict that, since 2011, has led to eight fatalities - seven protesters and one police officer - along with hundreds of injuries. As a result of this conflict, President Ollanta Humala declared a sixty-day State of Emergency on May 9, 2015[138].

[134] Ibid.
[135] Javier Arellano-Yanguas, 'Energy Transition, Mining Expansion and Eco-Social Conflicts in the Amazon', *University of Deusto,* 2023, 88.
[136] Alexander Dunlap, 'Wind, Coal, and Copper: The Politics of Land Grabbing, Counterinsurgency, and the Social Engineering of Extraction', *Globalizations* 17, no. 4 (18 May 2020): 661–82, https://doi.org/10.1080/14747731.2019.1682789.
[137] Ibid.
[138] Ibid.

Dunlap elaborates on how the agricultural community, representing the vast majority of the valley, vehemently opposed the mine due to its potential to completely reshape their agrarian economy and culture, possibly even leading to its eradication. Residents of Islay opposed Southern's presence on their land due to the company's poor environmental track record in neighbouring regions[139]. Civil society organisations arranged a popular consultation, in which 93.4 percent of voters rejected the Tía Maria project. Since 1960, Southern has operated several mines, all of which have resulted in significant water depletion and land contamination, according to a report by the Observatory of Transnational Companies (OET)[140]. Southern's actions have left the Cinto Valley without water and greatly diminished water supplies in the Moquegua and Locumba basins, which has led to decreased fertility, animal migration, and reduced opportunities for farming, fishing, and employment in the affected areas[141]. The OET report estimates that Southern discharged 119 thousand tons of mining tailings per day into Ite Bay over a period of 35 years and dumped between 8 and 9 million tonnes of metallic waste in the coastal waters of the area which had caused various marine species to disappear, as well as the livelihoods of local fishermen[142]. These catastrophic environmental impacts not only devastate the natural surroundings but also jeopardise the livelihoods of the IP in the region, depriving them of employment opportunities and essential resources that have sustained them for centuries.

3.2.2. Case Study of the Compañía Minera Afrodita (CMA) Mine

A second example of a mining and extraction project which hugely negatively impacted the Indigenous Peoples of the area was the case of the Compañía Minera Afrodita (CMA). The Cordillera del Cóndor (Cóndor Mountain Range) is part of the territory of the Awajún Peoples in the Peruvian Amazon. The Cenepa River flows down from the mountain range, containing alluvial gold that has traditionally been mined by the Awajún in the off-peak season. It is reported that around 8,500 Indigenous Awajún people lived in the Cenepa river basin, spread over 42 communities[143]. In a 2023 report authored by scholar Javier Arellano-Yanguas and his team of researchers, a comprehensive examination illuminated the profound social and political repercussions stemming from Afrodita's two-decade endeavour to establish a copper and gold mining operation in the Cordillera del Cóndor.

An interview took place with Javier Arellano-Yanguas to ask him first-hand the impact that this mining project had on the Indigenous Awajún Peoples of the affected area. He described how the most

[139] Lynda Sullivan, 'Peru's Tia Maria Mining Conflict: Another Mega Imposition – Upside Down World', accessed 21 May 2024, https://upsidedownworld.org/archives/peru-archives/perus-tia-maria-mining-conflict-another-mega-imposition/.
[140] Ibid.
[141] Ibid.
[142] Ibid.
[143] Arellano-Yanguas, 'Energy Transition, Mining Expansion and Eco-Social Conflicts in the Amazon'.

devastating impact on the communities has not been the physical and environmental impact of the mine in this case, but on "the communities; the expectation of the young people; the destruction of the communities". When asked if the international community has failed to protect Indigenous Peoples sufficiently from harmful activities like this, Javier Arellano-Yanguas agrees, saying: "In theory, they have the regulations, but they are very far away from what is happening on the ground, in the field. There is distrust from the Indigenous population towards the state in their minds."

On the topic of mining companies making agreements with the Indigenous Peoples to mine and extract on their lands, Javier Arellano-Yanguas said that the mining companies "try to divide the communities. They try to identify who are the leaders, and they give them money, promise jobs for their children, tell them they can help them to set up a company that is going to work for the mines, or perhaps they can try to involve them in some scandal. To buy the leaders or the leadership of the Indigenous Communities, it is a very tiny amount of money in comparison with the investment that they need to make." He describes how these companies destabilise Indigenous Communities by fostering internal conflicts: "One problem that is very widespread, if you buy a leader that has been opposing the mines, and the rest of the population want to be bought, they know that they need to oppose the mine too." This dynamic creates a precarious situation where the leader supports a project while the community remains against it, leading to internal strife and division.

3.2.3. Illegal Coca Cultivation and its Impact on Indigenous Peoples

Cleyton Valentin Chumpate shared the impact of coca[144] plant growing and extraction on his community: "I have seen the degradation of the forest by the narcos. The drug trafficking business is something that is created by the demand for drugs from Europe. The Indigenous Peoples have always been considered the poorest part of society, socially, economically and culturally, and that is why so many young people from our communities end up joining the narcos. The government tries to do something about it, but still, it is not enough". He explained that the Drug Enforcement Administration (DEA) from the United States coordinates a programme in his community called the Peruvian National Commission for Development and Life without Drugs (DEVIDA). He said that "the aim of this programme is to fight against cocaine", however, "due to the corruption in the Peruvian government, most of the funds do not reach the local communities. 75% of the funding goes to administrative fees".

Javier Arellano-Yanguas illustrated how the CMA mine created more issues because of its establishment in the rainforest: "When you have illegal mining, they get involved with other illegal activities with the forest; drugs, people smuggling things, armed protection. These types of activities

[144] The coca plant, which is mainly grown in Peru, Colombia and Bolivia, is a highly addictive drug that is processed in jungle laboratories where the coca is extracted from the leaves to produce cocaine.

destroy the culture, the traditions, the institutions." He goes on to explain that the lack of economic support and opportunities for local IP of the Amazon means that they are resorting to working with the illegal miners themselves: "It is very clear that more young people are getting involved with this. It is important to understand that sometimes there's a romanticisation of Indigenous groups. They had the whole rainforest to hunt and fish before, today it is more difficult. Young people, for example, could expect that mining or oil are new opportunities for them, because the traditional livelihoods have changed. There are not many other economic opportunities."

3.2.4. Illegal Gold Mining in Santa María de Nieva, Indigenous Awajún Territory

Within the mining industry, illegal gold mining exists as a highly profitable endeavour that attracts the attention of illicit miners. In Peru's case, gold mining has undergone a significant expansion over the past three decades, resulting in an estimated 40 metric tons of artisanal gold production in 2012[145]. When large mining companies establish legal operations in an area, they inadvertently create opportunities for smaller, independent, illegal miners to infiltrate the region. This influx brings a host of detrimental consequences, including deforestation, mercury contamination, and human trafficking, all of which have become closely linked with certain gold mining activities[146].

As part of this research undertaking, a meeting convened with Leire Morquecho Errasti, who actively engages in humanitarian work with Alboan, an NGO based in Bilbao, specialising in the International Cooperation Department. She has conducted six observation and cooperation missions to the Peruvian Amazon in the last fifteen years, dedicated to assisting the Awajún Peoples. During our discussion, she provided comprehensive insights and presented photographic evidence of illicit gold mining activities she encountered during her latest research expedition in March 2024. These unlawful operations were observed within one of the tributaries of the Amazon River, specifically in the Santa María de Nieva region. Leire Morquecho Errasti underscored the emergence of this concerning issue as a recent development, as she had not witnessed this issue in the area in her prior visits in preceding years. This question was raised with Javier Arellano-Yanguas during his interview, and he agreed that this problem has arisen in the last 10 years: "The attempt of the CMA mining company to enter into this territory paved the way for these illegal activities." Leire Morquecho Errasti elucidated that these illicit miners secure the endorsement of the Apu – the local Indigenous leader – to exploit and extract resources within their territory by offering him 15 percent of the gold yield in exchange for permission to enter. Employing makeshift rafts, they utilise mercury, a toxic substance harmful to human health upon

[145] Ramzy Kahhat et al., 'Environmental Impacts of the Life Cycle of Alluvial Gold Mining in the Peruvian Amazon Rainforest', *Science of The Total Environment* 662 (April 2019): 940–51, https://doi.org/10.1016/j.scitotenv.2019.01.246.
[146] Ibid.

ingestion, to extract gold particles from the river water. Alluvial gold mining activities in the Peruvian Amazon rainforest are responsible for mercury emissions and deforestation, and over 80% of human toxicity is linked to mercury emissions in gold recovery activities[147]. Cleyton Valentin Chumpate confirmed that "there are multinational companies carrying out illegal mining activities in the area. They use mercury which contaminates the river. Many people in my community drink water directly from the river and these natural sources without any treatment to the water. This is a big problem".

Furthermore, Leire Morquecho Errasti outlined how this emerging crisis has spawned a cascade of additional dangers in the region, including escalating rates of alcoholism, the proliferation of coca consumption, rampant deforestation, anti-social behaviour, and the exploitation of vulnerable individuals, through prostitution and sex trafficking. A colleague of hers, who volunteers in Awajún schools, has reported alarming developments. Illegal miners are coercing Indigenous girls into servitude, exacerbating the already grave issue.

3.3. Exclusion from Decision-Making Process and lack of Prior Consultation

A repeated offence committed against Indigenous Peoples has been how they are omitted from decision-making processes by the Peruvian government, especially surrounding laws and decisions which will directly impact their lives and livelihoods. Sociologist Deborah Delgado-Pugley describes how national prior consultation laws are designed to uphold the right, acknowledged by international law, of Indigenous Peoples to be consulted by the State before the enactment of legal and administrative changes that impact them, as well as before the initiation of investment projects that encompass their lands within their area of influence[148]. According to Delgado-Pugly, in numerous nations in Latin America, laws and regulations regarding consultation have emerged as a crucial concern, despite being intended to align with treaties and declarations signed by states years or even decades earlier. Many governments in the region consider that consultation mechanisms help avoid social conflict in the long-term, by enhancing intercultural dialogue with Indigenous Peoples[149]. While having this right enshrined in law is one matter, but is it granted to IP in reality? Repeatedly, cases arise where Indigenous Peoples are not consulted before projects commence, raising doubts whether private companies and the Peruvian government prioritise their consultation in any capacity, despite it being their inherent right.

[147] Ibid.
[148] Deborah Delgado-Pugley, 'Contesting the Limits of Consultation in the Amazon Region: On Indigenous Peoples' Demands for Free, Prior and Informed Consent in Bolivia and Peru', *Revue Générale de Droit* 43 (2013): 151–81, https://doi.org/10.7202/1021213ar.
[149] Ibid.

During the interview with Cleyton Valentin Chumpate, the subject of prior consultation came into conversation, and from his perspective: “The Peruvian law regarding prior consultation has some legal loopholes. That’s why multinational companies can operate; the consultations do not happen. Sometimes the companies come to the communities, but these documents are misleading. They go from one community to another showing these documents so they can say that the consultation was done, but nobody in these communities knows that these consultations have happened. Many articles of this law are not even applied, and the law is ineffective. Often, they are oil and gas companies that are entitled to administrative concessions granted by Peruvian government on the land that is the property of the Indigenous Communities. When there is an agreement between the government and a multinational company, the government does not comply with what was promised to us. They are favouring the companies over us because this system does not work in our best interests. It is a broken system.” His insight on this issue was invaluable. While numerous sources in reviewed literature highlight the legal requirement of prior consultation with IC, and critique the adequacy of this process, hearing directly from an Indigenous individual about the complete lack of fair and equitable prior consultation underscores a disregard of this practice entirely.

A prime example is the amnesty law which the government of Peru passed on January 11th, 2024, pardoning past illegal deforestation in the Amazon committed by major, multi-national companies. Francisco Calí Tzay, the UN Special Rapporteur (SR) on the Rights of Indigenous Peoples, highlighted that the amendments to Peru’s Forestry and Wildlife Law will have adverse effects on the ancestral territories of IP because the text was not subjected to a consultation process to obtain free, prior, and informed consent[150]. In a statement, he emphasised that this legislation would impact the ancestral territories of the Amazonian Peoples of Peru and noted that this occurs while the State still has unmet obligations to legally recognise and secure Indigenous Peoples' territories. About one-third of the Indigenous Peoples in the Peruvian Amazon lack land titles, making them vulnerable to external threats[151]. This is but one example of many where IP are not consulted on changes to the surrounding environment which could have incredibly negative impacts on their cultural and physical survival.

The given case study of the CMA mining company attempting to extract copper in the Cordillera del Cóndor is yet another example of when Indigenous Peoples were not consulted. In 2009, the CMA sent six workers to the mine to continue the exploration works, which led to the Awajún Peoples creating

[150] Peruvian Society of Environmental Law (SPDA), ‘Forestry and Wildlife Law Archives’, *Forestry and Wilddlife Law* (blog), accessed 25 April 2024, https://www.actualidadambiental.pe/tag/ley-forestal-y-de-fauna-silvestre/.

[151] United Nations, ‘Changes to Forestry Law Will Threaten Survival of Indigenous Peoples, UN Expert Warns’, United Nations Human Rights Office of the High Commissioner (OHCHR), 31 January 2024, https://www.ohchr.org/en/press-releases/2024/02/peru-changes-forestry-law-will-threaten-survival-indigenous-peoples-un.

major blockades, due to the fact they were not consulted prior to the decision being made[152]. During the interview with Javier Arellano-Yanguas, the question of FPIC in the case of the CMA mine arose, and he explained that "there was no prior consultation. If there was, it would have just been like ticking a box on a checklist that it had been done. But they will try to manipulate, they are not open, good-willed consultations." Also, Indigenous Communities live dispersed in the Amazon and existing challenges in communicating with them further hinder the circulation of information, impede deliberation, limit citizen participation in the changes their land will undergo, and consequently, restrict opportunities for collective action[153]. This situation leaves Amazonian populations with limited means for engaging in consultation, dialogue, and negotiation with mining companies and governments. Therefore, it is the duty of the authorities to ensure that IC are contacted, and due processes of consultation are carried out.

3.4. Violence and Intimidation

Indigenous activists persistently confront threats and violence for defending their land, environment, and the Amazon rainforest. Standing up for their territories, IP risk becoming targets of illegal loggers, miners, and other exploitative companies. Should they resist compliance with these entities, the use of violence and intimidation looms ominously. In the interview with Javier Arellano-Yanguas, he distinguished the contrasting approaches of large, multinational mining corporations and smaller, domestic firms. According to him, multinational companies "have a reputation that they must preserve. They are not going to kill people. They buy the people." Conversely, "some small-sized, national companies can do that". It is not beyond these smaller mining companies to eradicate any potential threats to the success of their mining projects. Indigenous Peoples also face danger from illegal loggers and individuals seeking personal gain through deforestation and other criminal activities.

3.4.1. Murder of Indigenous Activists

In a press release from January 31st, 2024, SR Cali Tzay cautioned how 33 Indigenous leaders, including Quinto Inuma of the Kichwa people, have been tragically murdered in recent years. According to him, a retreat of the state from rural regions causes a vacuum, which is exploited by criminal factions engaged in illicit activities such as illegal logging, informal mining, coca cultivation, and drug and land trafficking, fostering illegal economies that erode social cohesion and weaken public institutions[154]. A recent example of a court case involving murdered Indigenous activists was held in April 2024, when justice was finally served for the families of four Asháninka leaders from the Saweto Indigenous

[152] Arellano-Yanguas, 'Energy Transition, Mining Expansion and Eco-Social Conflicts in the Amazon'.
[153] Ibid.
[154] United Nations, 'Peru'.

Community in Ucayali[155], who were brutally murdered near the Peruvian-Brazilian border. Five men, reportedly illegal loggers, were found guilty of the crime nearly 10 years after it happened, exemplifying the profound failure of the justice system in addressing the plight of the families of the slain Indigenous leaders, who endured a decade-long wait for justice. Moreover, their sentences were overturned in 2023, underscoring the unreliability of Peru's judicial system. This not only illustrates systemic flaws but also highlights the ongoing struggle to have Indigenous voices heard by their own government. During our conversation, Cleyton Valentin Chumpate disclosed that he serves as an international representative for his Indigenous Community. However, other local representatives, including his cousin and a distant relative, were tragically murdered. He said, "Being a defender in Peru means putting yourself in serious trouble."

3.5. Cultural Erasure

The global reality includes the marginalisation and erasure of individuals and communities, with colonial experiences often serving as their fundamental origins as we explored in Chapter 1. Researcher and archaeologist Maria Fernanda Boza Cuadros contests that systematic erasure of maritime communities in southern Peru commenced during the colonial era and persists today. She argues that this outcome stems from various factors, including infectious diseases, violence, coerced relocations promoting inland settlements, inadequate documentation, and degradation of material evidence due to environmental and cultural influences[156]. This section aims to explore the ongoing cultural erasure of Indigenous Peoples in the Peruvian Amazon, examining the ways in which they have been marginalised and continue to be excluded from the region's cultural narrative.

3.5.1. Assimilation

Firstly, one practice which has a demonstrated history is the assimilation of Indigenous Peoples into mainstream society at the will of colonists. Scholar Christopher L. Carter ascertains that since gaining independence, Latin American governments have frequently sought to dismantle Indigenous groups' political, economic, and cultural institutions, aiming to assimilate native communities into the dominant society[157]. He maintains that in contexts where central governments have embraced legal frameworks

[155] Monterroso et al., *Reclaiming Collective Rights*.
[156] Maria Fernanda Boza Cuadros, 'The Making of Invisibility: Colonialism and Multiple Erasures along the Southern Peruvian Shores', *Colonial Latin American Review* 31, no. 4 (2022): 607–16, https://doi.org/10.1080/10609164.2022.2147314.
[157] Christopher L. Carter, 'Extraction, Assimilation, and Accommodation: The Historical Foundations of Indigenous–State Relations in Latin America', *American Political Science Review* 118, no. 1 (February 2024): 38–53, https://doi.org/10.1017/S0003055423000333.

acknowledging and safeguarding Indigenous institutions as legitimate entities within the nation-state, they often impose financial and bureaucratic hurdles that render the implementation of such accommodations excessively burdensome for many IC. Carter illustrates the example of when governments have enforced or proposed Spanish-language schools within IC and individual land titles for collectively owned land, as methods for assimilating the communities into the wider Peruvian society[158]. Cleyton Valentin Chumpate elaborated on the ongoing assimilation process in Peru: "Usually, our Indigenous identity is lost when we are forced to move to urban areas, where our language is mixed with Spanish. We lost some of our identity already in the 1980s, during the period of terrorism and internal conflict in Peru. The loss of our cultural identity is a very long process lasting many years. It is ethnocide and acculturation".

3.5.2. Exclusion of Indigenous Knowledge (IK) from Mainstream Fora

Another example of the cultural erasure of Indigenous Communities in Peru is the loss of traditional practices and traditional knowledge of the Peoples. There is infinite value to be gotten from the inclusion of traditional Indigenous Knowledge (IK) in international platforms. Scholars Heather A. Smith and Karyn Sharp state that the inclusion of traditional ecological knowledge in climate science and politics has been uneven. They find that Indigenous Peoples and their knowledges are marginalised in the texts of the Intergovernmental Panel on Climate Change's Fourth Assessment Report (AR4) and completely absent from the UNFCCC and the Kyoto Protocol[159]. Framing climate change solely as a global issue overlooks local nuances and marginalises Indigenous Peoples and their knowledge within frameworks like the UNFCCC and Kyoto Protocol. This exclusion from multilateral agreements affects Indigenous Peoples' standing and limits their participation in international negotiations[160].

During this research journey, it was an imperative goal to incorporate insights from an Indigenous perspective, rather than relying exclusively on academic literature on the subject. Cleyton Valentin Chumpate shared invaluable IK passed down through generations in his community and emphasised the significance of this knowledge: "Our traditional knowledge is passed down orally. Women play an important role as they are typically the ones who pass knowledge from generation to generation. In my community, four things are very important to us: our language, our land, the collective, and the cosmovision. We believe these forms of knowledge provide us with part of our identity. The cosmovision is how we see the world; it is a part of us. We believe that we are composed of energy, and we are a part of nature. Now with climate change, I see the imbalance in nature. 90% of the fauna

[158] Ibid.
[159] Heather A. Smith and Karyn Sharp, 'Indigenous Climate Knowledges', *WIREs Climate Change* 3, no. 5 (2012): 467–76, https://doi.org/10.1002/wcc.185.
[160] Ibid.

and flora are at risk of extinction due to global warming and climate change. This is a very strong threat to us living in the Amazon. We see it already with our own eyes that there is too much heat and too much rain. There is no equilibrium." This discourse underscores the imperative for integrating Indigenous voices and knowledge at every level of decision-making in crucial climate change science and governance discussions. The exclusion of Indigenous Peoples from key frameworks such as the UNFCCC and the Kyoto Protocol is unacceptable. Recognising their legitimate and invaluable contributions, Indigenous Peoples should play a vital role in international, national, and local forums concerning climate change science and policy. These legal frameworks and their implications will be further analysed in Chapter 5.

3.5.3. Commercialisation of Indigenous Spirituality through Selling Ayahuasca Experiences

Another illustration of the erasure of Indigenous culture occurs with the widespread proliferation and commercialisation of Indigenous spirituality through ayahuasca ceremonies and practices. Academic Evgenia Fotiou writes how ayahuasca has gained popularity among Westerners who are increasingly traveling to the Peruvian Amazon to undergo its purportedly healing and transformative effects[161]. From a pharmacological standpoint, ayahuasca is considered a form of psychedelic medicine, as it contains monoamine oxidase inhibitors (MAOIs) within the vine[162]. Cleyton Valentin Chumpate explained the role that the plant plays in his community: “There are ways to purify yourself externally, internally or mentally. Ayahuasca is used to purify your body internally. Before, it was something that just healers or the medicine man of the community could do. It is a sacred plant for us because it is the only plant that allows you to cross the portal in our cosmovision. But nowadays it is Westernised due to the modern times we are in – it is overused, everybody wants to do it.”

The perception that ayahuasca primarily serves as a psychedelic drug reinforces its portrayal as a form of Western pharmacological therapy, overlooking its Indigenous origins and traditional usage practices. Consequently, this perspective encourages the disregard of IK and customs associated with the plant[163]. Fotiou explains the globalisation of this once sacred ceremony:

“Ayahuasca retreats around Iquitos have websites and bring groups directly from the United States or Europe through established contacts there. Some have offices in the city for the tourists that

[161] Evgenia Fotiou, ‘The Globalization of Ayahuasca Shamanism and the Erasure of Indigenous Shamanism’, *Anthropology of Consciousness* 27, no. 2 (2016): 151–79, https://doi.org/10.1111/anoc.12056.
[162] Ilana Berlowitz et al., ‘Teacher Plants — Indigenous Peruvian-Amazonian Dietary Practices as a Method for Using Psychoactives’, *Journal of Ethnopharmacology* 286 (March 2022): 114910, https://doi.org/10.1016/j.jep.2021.114910.
[163] Ibid.

come to Iquitos looking for a tour. Most hotels and some restaurants will refer clients to these offices and get commissions as well."[164]

The globalisation of ayahuasca shamanism has profound implications for Indigenous Peoples, as Fotiou cautions against idealising IK due to inherent risks. Once integral to Amazonian IC, ayahuasca is now commodified by commercial interests, feeding broader consumerist culture. This trend contributes to cultural erasure of Peruvian Amazon IP, highlighting ongoing injustices against their environment, cultural heritage, and way of life. Preventive measures are crucial to safeguard Indigenous Peoples from capitalism and commercialisation, a shared responsibility of the Peruvian government and international community.

3.6. The Need for Climate Justice

Mary Robinson has tirelessly advocated for climate justice. In her writing, she insists that ensuring climate justice necessitates striving for a trajectory toward achieving zero carbon emissions by 2050[165]. It is of the utmost importance that we reach this goal as the climate crisis is causing loss of lives, languages, livelihoods, and culture, putting many at risk of food and water shortages, and triggering conflict, displacement, and illegal exploitation. Marginalised societal groups such as Indigenous Peoples face obstacles which prevent them from participating in environmental governance, such as limited access to adequate financial resources, technologies, and training, as well as public participation forums tailored to suit the intellectual, cultural, and political norms of the dominant social group[166]. In doing so, these forums inadvertently reinforce the state's exclusion of Indigenous knowledge, values, and practices. However, these are the very elements and voices we need at the forefront of climate action if we are to reach our collective goal of capping the global temperature increase at 1.5°C above pre-industrial levels, thereby mitigating the detrimental effects of climate change on individuals and safeguarding their human rights. Therefore, we must insist as one united front that leaders, governments, private companies, and individuals are held accountable for their actions due to the significant roles played by capitalism, colonialism, and patriarchy[167] in legitimising, propelling, and exacerbating

[164] Fotiou, 'The Globalization of Ayahuasca Shamanism and the Erasure of Indigenous Shamanism'. pp.160.
[165] Mary Robinson and Tara Shine, 'Achieving a Climate Justice Pathway to 1.5 °C', *Nature Climate Change* 8, no. 7 (July 2018): 564–69, https://doi.org/10.1038/s41558-018-0189-7.
[166] Meg Parsons, Karen Fisher, and Roa Petra Crease, 'Environmental Justice and Indigenous Environmental Justice', in *Decolonising Blue Spaces in the Anthropocene: Freshwater Management in Aotearoa New Zealand*, ed. Meg Parsons, Karen Fisher, and Roa Petra Crease (Cham: Springer International Publishing, 2021), 39–73, https://doi.org/10.1007/978-3-030-61071-5_2.
[167] The role of patriarchy presents a significant and critical issue, particularly affecting Indigenous women who face heightened vulnerability to climate change impacts compared to Indigenous men. While this thesis does not

environmental disparities[168]. The looming spectre of climate change, coupled with its tangible effects, threatens Indigenous existence. Without substantial efforts from the global community to address this crisis, the burden of responsibility for Indigenous extinction will fall squarely on their shoulders.

In the upcoming chapter, we will examine Carbon Markets as a proposed strategy for mitigating climate change and evaluate their effectiveness in reducing greenhouse gas emissions. We will closely scrutinise their impact on IP and assess potential abuses of this strategy. Additionally, we will explore the challenges and opportunities that Carbon Markets present for IP in the Peruvian Amazon.

delve into gender issues due to their extensive scope, it is undeniable that the intersection of gender and Indigenous identity profoundly influences the daily challenges faced by Indigenous women.

[168] Parsons, Fisher, and Crease, 'Environmental Justice and Indigenous Environmental Justice'.

Chapter 4: Carbon Markets as a Mitigation Strategy for Climate Change and Their Impact on Indigenous Peoples

4.1. Understanding Carbon Markets

To comprehensively grasp the upcoming chapter, it's essential to fully understand the underlying concepts and issues. This section will explore topics including carbon credits (CC), carbon trading in carbon markets, the complexities of these markets, and their impacts on Indigenous Peoples in the Amazon. Following this, an examination will evaluate the potential benefits and challenges for Indigenous Peoples engaging in these systems, as well as their anticipated outcomes. This chapter will also include insights from Melaina Dyck, a Consultant with Climate Focus, based in Washington DC. The terms 'carbon markets' (CM), 'carbon projects' (CP), and 'carbon market projects' (CMP) will be used interchangeably throughout this discussion.

4.1.1. Carbon and Carbon Credits

Carbon, a crucial element for all life forms, circulates between the land, atmosphere, and oceans in various forms. When humans and animals exhale, carbon is released as carbon dioxide (CO2), a primary GHG contributing to global warming as discussed in Chapter 2. The CM revolves around trading CCs, each credit representing the prevention or removal of 1 tCO2e (one tonne of CO2) or its equivalent in GHG[169].

4.1.2 Carbon Rights vs. Carbon Credits

These credits, traded for monetary value, differ from carbon rights, which allow holders to profit from GHG reductions or removals tied to specific assets or activities, such as land or CMPs, which will be explained throughout this chapter. Allocation of carbon rights hinges on legal control over the underlying asset or emission reduction and removal activity[170]. Understanding the distinction between CCs and carbon rights is crucial as it significantly impacts Indigenous Peoples, determining who has rights to carbon, which is rooted in land ownership. Further elaboration on land and tenure rights will be provided in section 4.2.1.

[169] Forest Peoples Programme, 'Carbon Markets, Forests and Rights: An Introductory Series' (Global Justice Clinic, Forest Peoples Programme, 29 September 2023), https://www.forestpeoples.org/sites/default/files/documents/Carbon%20Markets%20Explainers%20ENG%20SINGLE%20PAGES%20DIGITAL.pdf.

[170] Melaina Dyck, Danick Trouwloon, and Charlotte Streck, 'The Voluntary Carbon Market Explained: Chapter 10' (Climate Focus, October 2023), https://vcmprimer.org/wp-content/uploads/2023/11/vcm-explained-chapter10-1.pdf.

4.1.3. The Role of the Amazon in Carbon Sequestration

There's a consensus among scientists and governments that alongside GHG emission cuts, CO2 must be extracted from the atmosphere and stored elsewhere, a process known as carbon sequestration[171]. Forests aid this pursuit by serving as natural carbon sinks, absorbing CO2 through plant and tree processes such as photosynthesis. Globally, plant and tree respiration releases six times more CO2 into the atmosphere than fossil fuel emissions[172]. Consequently, in combating climate change, there's a concerted push to safeguard forests, ensuring the stored carbon remains intact by preventing deforestation or burning, while also promoting reforestation to enhance CO2 absorption and storage. The preservation of rainforests is critical in the fight to lower emissions, as carbon stocks in natural forests are estimated to be up to 5 times higher than those in planted forests[173]. Mature Amazonian ecosystems store large amounts of carbon both above and below ground[174]. There is a net carbon sink in undisturbed areas of the Amazon lowland forest, essentially capturing more atmospheric carbon than it emits, although this capacity may be diminishing over time[175]. According to the Amazon Assessment Report published by the SPA in 2021 mentioned in Chapter 2, the Amazon basin plays a significant role in the global carbon cycle, contributing approximately 16% of terrestrial productivity and storing 150-200 billion tons of carbon in soils and vegetation[176]. The Peruvian Amazon alone removes over 57 million tons of CO2 from the atmosphere every year[177].

4.1.4. Types of Carbon Markets

There are two main types of CMs: regulatory markets and voluntary carbon markets (VCM). Regulatory markets, or cap-and-trade systems, are established by some countries to limit CO2 emissions from companies[178]. Each company receives an emission allowance, and any excess can be sold as CCs. These systems enforce emission reduction obligations, allowing companies to buy credits from entities not subject to the cap to offset their extra emissions. These credits typically do not impact IP. In contrast, VCMs operate without mandatory emission reduction requirements and lack a central regulator. Buyers voluntarily purchase CCs, which are issued by various CC standard bodies and available through carbon

[171] Forest Peoples Programme, 'Carbon Markets, Forests and Rights: An Introductory Series'.
[172] Mary Robinson, *Climate Justice: A Man-Made Problem with a Feminist Solution* (London: Bloomsbury, 2018).
[173] Pham TT et al., 'The Context of REDD+ in Vietnam: Drivers, Agents and Institutions', Occasional Paper (Bogor, Indonesia: Center for International Forestry Research (CIFOR), 2019), https://doi.org/10.17528/cifor/007402.
[174] Science Panel for the Amazon, 'Amazon Assessment Report 2021'.
[175] Ibid.
[176] Ibid.
[177] Rainforest Foundation US, 'Peru', Rainforest Foundation US, accessed 15 May 2024, https://rainforestfoundation.org/our-work/where-we-work/peru/.
[178] Forest Peoples Programme, 'Carbon Markets, Forests and Rights: An Introductory Series'.

registries. An article from Inside Climate News in November 2023 likened the poorly regulated VCM projects to a modern-day Wild West gold rush[179]. In VCMs, individuals or entities perform specific actions to capture or reduce CO2, potentially affecting Indigenous Peoples and their rights[180]. CMs, emerging as novel environmental governance mechanisms, were integrated into the Kyoto Protocol in 1997, influenced by the US, with Europe following in 2000 to establish the world's largest CM[181]. A 2022 report by CIFOR-ICRAF documented 32 REDD+ projects in Peru, several of which have already sold CC in the VCM[182].

4.1.5. The Emergence of Carbon Cowboys

Scholar Aguilar-Støen describes how the term 'carbon cowboys' was popularised by journalists to draw attention to the disruptive entities attempting to seize control of forestlands and carbon resources belonging to IC globally. Journalist Fiona Harvey penned an article for the Financial Times using the term on April 26th, 2007, and in December 2009, the independent news organisation Al Jazeera broadcasted a programme spotlighting an alleged carbon cowboy accused of involvement in fraudulent carbon agreements with Indigenous Communities[183].

4.1.5.1. Case Study of Daniel Nilsson: The Australian Carbon Cowboy

Aguilar-Støen offers compelling insights into Daniel Nilsson, an Australian 'carbon cowboy' who schemed to swindle Indigenous Peoples out of their rights to trade CCs. Academic de Jong meticulously documents Nilsson's actions, detailing how he sought joint venture agreements with numerous Indigenous organisations, falsely claiming he had UNFCCC endorsement. His first attempt was with the Matsés Indigenous Peoples in Iquitos, Peru, in 2010, who oversee 873,000 hectares of tropical forest[184]. Nilsson conducted meetings to brief 14 Matsés tribal chiefs on topics including global warming, carbon trading, and his company Sustainable Carbon Resources Limited (SCRL). Despite his efforts to conceal his true intentions, the Indigenous leaders discovered Nilsson's exploitative proposed contract. Daniel Jimenez, President of the Matsés NGO, alerted ombudswoman Lisbeth Castro

[179] Michael Kodas, '"Carbon Cowboys" Chasing Emissions Offsets in the Amazon Keep Forest-Dwelling Communities in the Dark', *Inside Climate News* (blog), 28 November 2023, https://insideclimatenews.org/news/28112023/carbon-cowboys-keep-amazon-communities-dark/.
[180] Forest Peoples Programme, 'Carbon Markets, Forests and Rights: An Introductory Series'.
[181] Mariel Aguilar-Støen, 'Better Safe than Sorry? Indigenous Peoples, Carbon Cowboys and the Governance of REDD in the Amazon', *Forum for Development Studies* 44, no. 1 (2 January 2017): 91–108, https://doi.org/10.1080/08039410.2016.1276098.
[182] P Peña and Juan Pablo Sarmiento Barletti, 'Peru's Regulatory Framework for Carbon Markets: Current Legal and Policy Developments in the Context of REDD+' (Center for International Forestry Research (CIFOR), December 2022), https://doi.org/10.17528/cifor/008750.
[183] Aguilar-Støen, 'Better Safe than Sorry?'
[184] Wil de Jong, 'Carbon Cowboys in Peru and the Prospects of Local REDD Governance', *Portes, University of Colima* 8, no. 16 (December 2014): 26.

Rodrigues in Iquitos about Nilsson's fraudulent promises of 50% of carbon trade profits to the Matsés, suggesting they would gain "millions of dollars of profits"[185]. Friends of the Amazon published a report revealing Nilsson's dubious past as a real estate broker in Australia, where he was accused of selling fictitious land parcels and falsely claiming government guidance[186]. His history of fraud cases was also highlighted to the ombudswoman, leading to Nilsson's denunciation in the Iquitos Declaration[187]. This declaration, signed by Indigenous rights organisations AIDESEP and COICA, condemned Nilsson's actions and highlighted the dangers of CMs.

Aguilar-Støen describes how the Iquitos Declaration underscores that compensating Indigenous Communities for forest conservation through CMs serves as a guise for perpetuating deforestation, pollution, and exploitation by countries in the global north[188]. It calls for the full titling of 20 million hectares of Indigenous lands and the enactment of legislation ensuring FPIC, including consultations on forest regulations and environmental services. This is proposed as a measure to counteract land concentration and uphold Indigenous autonomy.

4.2. Impact of Carbon Markets on Indigenous Peoples

The practices that have henceforth been explained have been developed with the purpose in mind that they will mitigate the effects of climate change on society, but particularly on vulnerable communities such as Indigenous Peoples. Though the noble intention of improving their livelihoods is optimistic, these systems could be used as the very mode which will see their ruination. This section will describe the impacts, both positive and negative, that CMs are having on Amazonian IP.

4.2.1. Impact on Land Tenure and Rights

As previously mentioned in Chapter 3, land tenure and rights are a contentious subject for Indigenous Communities in Peru. The emergence of CMs highlights this issue, as at least one-tenth of the carbon in tropical forests is in areas without legal recognition, increasing the risk of illegal logging and cultivation[189]. Therefore, the failure to recognise and respect the land rights of IP further endangers forests. Protecting the world's forests and reducing carbon emissions requires the active engagement of

[185] Ibid. pp.71.
[186] 'Friends of the Amazon - The Carbon Cowboy', accessed 26 May 2024, http://www.friendsoftheamazon.org/carbon-cowboy.html.
[187] de Jong, 'Carbon Cowboys in Peru and the Prospects of Local REDD Governance'.
[188] Aguilar-Støen, 'Better Safe than Sorry?'
[189] Alain Frechette et al., 'Toward a Global Baseline of Carbon Storage in Collective Lands: An Updated Analysis of Indigenous Peoples' and Local Communities' Contributions to Climate Change Mitigation' (Washington, DC: Rights and Resources Initiative, Woods Hole Research Center, Landmark, 2 November 2016), https://doi.org/10.53892/ABQR3130.

the Indigenous Communities living under the rainforest canopies, who serve as their natural guardians[190]. Peru's national laws theoretically safeguard Indigenous Peoples' rights to their lands and resources. The country has ratified treaties respecting Indigenous human rights, and Law No. 29785, aligned with ILO Convention No.169, includes the right to prior consultation. These frameworks will be examined in Chapter 5. IC can request the delineation and titling of their ancestral territories upon registration as native communities. However, the land titling process is weak and delayed, often for years. A 2022 Forest Peoples Programme (FPP) report highlights these failures, noting the lack of provisional protection for contested lands during adjudication[191], allowing local authorities to allocate land and resources to third parties irregularly.

4.2.1.1. Case Study of the Shipibo Indigenous Community of Santa Clara de Uchunya, Peru

The traditional territory of this IC spans 86,713 hectares within the Amazonian region of Ucayali[192]. The 2022 FPP report reveals that despite the community's persistent requests for full titling of its territory, the State has consistently refused to grant the complete extent. Instead, in 1986, it allocated a title for only 218.52 hectares, covering solely the area of the community's dwellings, representing a mere 0.03% of its traditional land. Subsequent, repeated requests by this IC for titling have made little to no progress. This highlights how Peru's land titling system disproportionately benefits third parties, leaving Indigenous Peoples struggling to secure the titles necessary for their lands and territories.

Without formal title, IP cannot claim rights over the carbon which is utilised to generate CCs in the CM, and they are vulnerable to land dispossession, a process already underway due to this flawed system. Over the past decade, the Shipibo territory has been encroached upon by a significant palm oil plantation and mill, directly and indirectly linked to nearly 18,000 hectares of deforestation between 2012 and 2020[193]. This sheds light on the complexities of land rights, ultimately depriving Indigenous Peoples of the rights to potential CCs that could be derived from land conservation efforts if they do not obtain title over their ancestral lands.

4.2.2. Economic Impacts

CMs could potentially yield both positive and negative economic outcomes for Indigenous Communities in the Peruvian Amazon. This narrative will delve into the various facets of each, providing insight into the realities faced by Indigenous Peoples within this intricate market landscape.

[190] Robinson, *Climate Justice: A Man-Made Problem with a Feminist Solution*.
[191] Forest Peoples Programme, 'Preventing Human Rights Violations Associated with Deforestation: Why Reliance on Local Laws Is Not Enough', April 2022, https://www.forestpeoples.org/sites/default/files/documents/FPP_Preventing%20v4.pdf.
[192] Ibid.
[193] Ibid.

4.2.2.1. Economic Prosperity through Alternative Job Opportunities

If CMs are carefully implemented with robust oversight, the benefits for Indigenous Peoples could be significant. In the case of a functioning CM system, they could provide economic opportunities for IC, therefore potentially improving their livelihoods by offering them financial stability. Creating employment is of the utmost importance in these poverty-stricken areas, especially in the face of rising illegal exploits which poach young IP by enticing them with financial incentives and promises of future economic security.

An investigation published by environmental news organisation Mongabay and the Peruvian outlet La Mula on 24th May 2024 details how the cocaine industry's expansion demands a new labour force, with gangs targeting the recruitment of Indigenous and mestizo[194] youths. The gangs coerce the often teenagers to abandon education for work in farming and drug trafficking, against parental and community wishes. The surge in enlistment has coincided with a spike in coca production and deforestation, as examined in Chapter 3. Isolated from their families for weeks or months in remote rainforest areas, many are threatened with death if they attempt to leave. The report references Peruvian antinarcotics police sources, who reveal this recruitment strategy is implemented to exploit the widespread poverty in border communities between Brazil, Colombia, and Peru – the most dangerous part of the Amazon[195]. Hence, offering CMs as an alternative could reduce youth involvement in illicit activities and lessen Indigenous reliance on traditional resource extraction.

4.2.2.2. Ambiguous Distribution of Benefits

The key challenge lies in ensuring that CMs and sequestration projects are closely monitored to prevent financial exploitation. This topic arose in the interview conducted with Peter Cronkleton, who shared his thoughts on the matter: “If there is a revenue flow through carbon trading, it is a huge loophole for the state to step in and say they will receive all the funding and administer it to Indigenous Peoples. The chances of it actually trickling down to Indigenous Communities is questionable.” It is the responsibility of the international community to enact fair distribution of payments and in the absence of adequate supervision, ensuring that IP receive their rightful share of CM revenues becomes challenging. Even if benefit distribution is managed by each state, doubts persist regarding whether these payments will effectively reach the IC in dire need of financial support.

[194] The term mestizo means ‘mixed’ in Spanish and is generally used throughout Latin America to describe people of mixed ancestry with a white European and an Indigenous background.
[195] Ivan Brehaut, Rodrigo Pedroso, and Victoria Carlos, ‘In Amazon’s Tri-Border Javari Region, Teens Fall Prey to Drug Gangs’ Lure’, *Mongabay Environmental News*, 24 May 2024, sec. Environmental news, https://news.mongabay.com/2024/05/in-amazons-tri-border-javari-region-teens-fall-prey-to-drug-gangs-lure/.

4.2.2.3. Risk of Financial Manipulation

As examined in the first chapter, forest regions have historically been depicted as vacant territories by colonial powers. Chapter 3 further illustrated how governments, such as that of Alan García, persist in this narrative in postcolonial Latin America. This portrayal serves to advance economic pursuits and often rationalises the seizure of local lands, frequently inhabited by Indigenous populations, in pursuit of state-centred economic interests. Regrettably, this invariably harms the IP of these areas, whose rights and livelihoods are the initial casualties of such actions. Research by van Kooten, Nijnik, and Bradford suggests that it's improbable that forestry will serve as a catalyst for economic advancement in isolated Indigenous Communities, regardless of the strategy employed[196]. Aguilar-Støen illustrates how Indigenous organisations in Latin America have voiced criticism against CMs and carbon sequestration projects, citing their oversimplified depiction of ecosystems and forests, and their disregard for the socio-economic, political, and institutional impacts of carbon sequestration on IC[197]. Deceptive government officials, private entities, and carbon entrepreneurs scout for their next economic opportunity, making empty promises of unimaginable wealth to vulnerable peoples, while their true intentions unfold through their egregious actions. They not only scheme to exploit the rainforest's resources but also ensnare these communities in contracts that offer little opportunity for profit – if any – rendering them subject to capitalism and sadistic, modern-day colonialism once again.

4.2.3. Cultural Impacts

Balancing the positive and negative impacts of CMs on Indigenous cultures requires careful consideration of community needs, rights, and aspirations, as well as the incorporation of Indigenous perspectives and decision-making processes in project development and implementation.

4.2.3.1. Cultural Revitalisation and Environmental Stewardship

Participating in carbon projects empowers IC to reclaim stewardship of their ancestral lands, fostering cultural pride and revitalisation. Peter Cronkleton had a positive outlook on the situation in this regard, stating: “Raising the profile of Indigenous Peoples in general is positive. I think the climate change debates have shifted that framing so rather than being seen as stakeholders that will hold resources out of the economy, seeing them as stakeholders that are conserving key resources to fight climate change. I think that is a dramatic shift”. This involvement promotes environmental stewardship and conservation, reinforcing traditional values and practices related to land stewardship. By recognising

[196] G. Cornelis Van Kooten, Maria Nijnik, and Kimpton Bradford, ‘Can Carbon Accounting Promote Economic Development in Forest-Dependent, Indigenous Communities?’, *Forest Policy and Economics* 100 (March 2019): 68–74, https://doi.org/10.1016/j.forpol.2018.10.012.
[197] Aguilar-Støen, ‘Better Safe than Sorry?’

the ecological knowledge and cultural significance of Indigenous territories, CMs support the preservation of cultural identity and intergenerational transmission of traditional knowledge.

4.2.3.2. Fragmentation within Communities and Loss of Cultural Identity

A subtle rift exists within members of IC regarding carbon markets. While some push for the suspension or cessation of CC projects operating on their lands, citing perpetuation of land rights violations, minimal benefits, and breaches of Indigenous Peoples' FPIC, others argue that these projects generate vital employment opportunities in economically disadvantaged communities and provide compensation for generations of conservation efforts. Peter Cronkleton voiced his view: "You have some cases of internal disputes because you have multiple Indigenous Communities in the same project and within each community there might be different interests. There are conflicts with neighbours infringing on their territories and such. There are also periodic problems within the management of projects between the REDD+ proponents and the people that are the local beneficiaries of these projects." This tension between Indigenous Communities and their members can be highly destructive and damaging.

From a cultural perspective, CMs have the potential to induce shifts in traditional customs and beliefs. Depending on the effectiveness of the CP, rather than revitalising Indigenous culture, it might hinder its advancement within the community. For certain Indigenous groups, the introduction of CMs can disturb established cultural practices linked to land utilisation and stewardship. The commodification of nature, acknowledged by many involved in CMPs, sharply contradicts Indigenous beliefs concerning nature and the environment. This discordance may result in a diminishment of cultural identity and connection to the land, as well as present obstacles to traditional governance structures and decision-making processes.

4.2.4. Case Study: The Cordillera Azul National Park (CANP) REDD+ Project and the Kichwa People of the San Martin Region, Peru

In 2001, the Peruvian government designated the CANP within the Amazon rainforest, encroaching upon the customary lands of the Kichwa and other Indigenous groups[198]. Interviewee X explains the violations that took place: "A national park was created on top of their full customary lands, without any consultation. That development is making it even harder for the Kichwa people to get respect for their international rights because there is a national park and it creates an incentive structure, especially now when there is so much money attached to it through the REDD+ project that is subsequently selling carbon credits". As per a 2023 report by the Rainforest Foundation UK, the REDD+ project commenced in 2008, with the first issuance of CCs occurring in July 2015, and ongoing generation expected until

[198] Forest Peoples Programme, 'Carbon Markets, Forests and Rights: An Introductory Series'.

2028[199]. The impacted Kichwa communities were not consulted about this project, their FPIC was not sought after, and they have not had meaningful involvement in the project's implementation. It impacted at least 28 Kichwa communities, and the government failed to provide compensation for the unlawful dispossession of their ancestral territories.

The project asserted its additionality[200] based on the notion that without its intervention, deforestation of the CANP would occur due to insufficient funds for protection. However, several reports, including the project document itself, indicate that the primary threats to the area's forests had already been effectively addressed following the park's establishment in 2001, seven years before the commencement of the REDD+ project[201]. The Kichwa Peoples brought the Peruvian state and the CANP to court in 2021, contesting the State's denial of titling for their ancestral lands and the imposition of exclusionary conservation practices that generate profits from CCs sold without their consent in the San Martín region of the Peruvian Amazon[202]. The chief of the community, Alpino Fasabi Tuanama said:

"The State has confused the people because there was no prior consultation. They did not consult the creation of the national park with us as Indigenous Peoples, as Kichwa, nor their forestry concessions, and they have disregarded our territorial rights. We defend our territory, and this lawsuit is in support of our claim over our territory, so that no one can discriminate against our environmental practices."[203]

This case study is also an illustrative example of elusive benefit distribution. The plaintiffs argue that proceeds from CC sales generated by the REDD+ Project in the CANP since 2008 have not been fairly distributed. Verra oversees the Verified Carbon Standard (VCS), certifying CCs for emissions offset. Between 2008 and 2018, VCS verified at least 25 million tonnes of carbon[204]. Additionally, the CC market perpetuates an exclusionary conservation model, impeding community involvement in land governance and communal titling. By 2023, sales of CCs from this national park had reportedly amassed over $80 million (US Dollars), yet none of the Kichwa communities had received funds by that time[205].

[199] Simon Counsell, 'Credits Where They Are Not Due: A Critical Analysis Of The Major REDD+ Schemes', Under the Canopy (London: Rainforest Founation UK, 26 July 2023), https://www.rainforestfoundationuk.org/wp-content/uploads/2023/07/Carbon-Credits_final_ENG.pdf.
[200] Additionality determines whether carbon credits truly represent emissions reductions that wouldn't have happened without the financial support from credit sales. If credits lack additionality, they can't effectively offset emissions for the buyer.
[201] Counsell, 'Credits Where They Are Not Due: A Critical Analysis Of The Major REDD+ Schemes'.
[202] Forest Peoples Programme, 'Indigenous Kichwa Community Take Peruvian State and National Park to Court', Forest Peoples Programme (FPP), 1 July 2021, https://www.forestpeoples.org/en/press-release/kichwa-take-Peru-state-PNAZ-court.
[203] Ibid.
[204] Ibid.
[205] Forest Peoples Programme, 'Carbon Markets, Forests and Rights: An Introductory Series'.

4.3. Challenges and Opportunities of Carbon Markets for IP in Peru

4.3.1. Opportunities in Engaging with the Carbon Market for Indigenous Peoples

Participation in CMPs conditionally presents promising opportunities for IP in the Amazon. These initiatives not only offer new avenues for income generation and economic development but also hold the potential to alleviate poverty and enhance financial independence within IC. Moreover, they empower Indigenous groups to reclaim stewardship over their ancestral territories, reinforcing their crucial role as custodians of the Amazon rainforest. If approached with a focus on traditional IK and practices, CPs become instrumental in preserving the rich cultural heritage of IC. An interview with Melaina Dyck, a Consultant with Climate Focus, took place where she voiced her opinion on this topic: "Agricultural-based carbon projects might preserve traditional agricultural methods that are sustainable, or introduce new methods that enable a community to be more resilient to climate change, therefore allowing this community to remain on its traditional territory. There are many ways in which these projects can claim positive benefits on Indigenous Communities, livelihoods, and traditional practices."

Peter Cronkleton cautioned that for these markets to operate effectively, IC must have access to the requisite governance infrastructure such as courts and other public mechanisms that would "provide mediation and support extension so that Indigenous Peoples understand better what the opportunities are" and "what the rules of the game are". Additionally, by incentivising forest conservation and sustainable land management practices, CMs contribute significantly to the preservation of biodiversity and ecosystems, thereby aligning with the core values of environmental stewardship and conservation cherished by Indigenous Peoples.

4.3.2. Challenges associated with Carbon Markets for IP

4.3.2.1. Emissions Offsetting instead of Genuine GHG Reductions

The crux of the problem with CC trading lies in the potential for it to enable and perpetuate GHG emissions rather than incentivise legitimate emissions reductions. While CCs are intended to provide a mechanism for companies to offset their emissions by investing in projects that reduce or remove carbon from the atmosphere, there are several issues that can undermine their effectiveness, such as insufficient and inadequate verification and monitoring. Melaina Dyck shared her thoughts on this issue during the discussion: "If the credits are not accurately representing the emission reduction that they claim to represent, and they're being used for offsetting or for other purposes, they're perpetuating false claims about what is being done to address climate change. This is a broad problem with carbon markets, and it harms Indigenous Peoples who are already on the frontlines of climate change impacts. Any action that continues to fail to mitigate climate change or potentially make climate change worse, is

exacerbating those acute impacts on Indigenous Communities who are the least responsible for the problem".

CCs aim to prompt companies to invest in carbon-reducing projects, contributing to emissions cuts. However, if these projects are not genuinely additional - meaning they would have occurred even without the revenue from CCs - then they do not lead to real emissions reductions. Effective trading requires rigorous verification to confirm emissions reductions. Without robust verification mechanisms, there is a risk that companies may purchase CCs without reducing their emissions, essentially 'offsetting' their pollution rather than making authentic efforts to reduce it at the source. This underscores the need for careful oversight to ensure CMs fulfil their purpose of emissions reductions, and not perpetuating emissions through offsetting.

4.3.2.2. Power Dynamics

Aguilar-Støen articulates that the redistribution of wealth has scarcely occurred to a significant extent in any Latin American country, remaining more of a promise within various initiatives, including those led by individuals known as carbon cowboys. Daniel Nilsson's deceptive manoeuvres epitomise this scenario. He presented a joint-venture contract to develop CCs with IC in Peru, under false pretences of the contract lasting 20-25 years[206]. However, as de Jong reveals, the agreement specifically mentioned a period of 100 years and allowed for the establishment of oil palm plantations within the territories of the Indigenous Communities involved. This illuminates the unabashed shame with which this man and elites like him try to manipulate vulnerable communities. The inclusion and involvement of Indigenous Communities is considered essential for the redistribution of power[207] and it is the duty of the international community to safeguard against these power imbalances.

4.3.2.3. Abuse of Carbon Markets as a Mitigation Strategy

On 21st May 2024, an article by journalist Fernanda Wenzel was published by Mongabay titled 'Top brands buy carbon credits from suspected scam operation in the Amazon'. The article explained how two significant carbon offset initiatives in the Brazilian Amazon, whose credits have been purchased by companies such as GOL Airlines, Nestlé, Toshiba, and PwC, may have been implicated in laundering timber sourced from illegally deforested regions[208]. The report describes how the Center for Climate Crime Analysis (CCCA) conducted an analysis of two REDD+ projects, named Unitor and Fortaleza

[206] de Jong, 'Carbon Cowboys in Peru and the Prospects of Local REDD Governance'.
[207] Aguilar-Støen, 'Better Safe than Sorry?'
[208] Fernanda Wenzel, 'Top Brands Buy Amazon Carbon Credits from Suspected Timber Laundering Scam', *Mongabay Environmental News*, 21 May 2024, sec. Environmental news, https://news.mongabay.com/2024/05/top-brands-buy-amazon-carbon-credits-from-suspected-timber-laundering-scam/.

Ituxi, located in the municipality of Lábrea, in the Amazonas state. These projects collectively encompass an area of 140,862 hectares (348,078 acres) – equivalent to twice the size of London – and seek to mitigate 660,598 metric tons of CO2 emissions annually by averting deforestation in one of the Amazon's most vulnerable regions[209]. According to the report, these two cases showed discrepancies between the timber volume reported to authorities and the logged volume estimated from satellite images. This inconsistency suggests that these areas might have been utilised to launder timber equivalent to more than 4,200 truckloads.

4.3.2.4. Weak Safeguards

There is an imperative need for stronger safeguards against manipulation of these markets, as illustrated above. Melaina Dyck stated that safeguards are "weak", as "the degree of enforcement or the following of safeguards is highly variable", partially because "buyers of carbon credits are not sufficiently demanding or valuing credit that can demonstrate that they have robust safeguards". This lack of stringent checking and effective monitoring allows the system to be abused by actors to extreme extents, as depicted by these two REDD+ projects. Interviewee X described the flaws present: "The safeguards might say they need to respect the customary land rights of Indigenous Peoples according to 'national and/or international law'. Every single safeguard has that 'and/or', which essentially means you can just take away the 'and' and use the 'or'. So, you could read it as 'according to national law', and this is the problem with all the standards. Even if UNFCCC adopts a new standard, you can be 100% sure it will be the same problem – it will be interpreted according to the national laws which very, very often are deficient when it comes to protecting customary land rights". This underscores a significant shortcoming in the effectiveness of these safeguards to protect Indigenous Peoples involved in such projects, and this gap remains unaddressed and unchanged.

4.3.3. The Beginning of the End?

Considering the challenges and opportunities of this climate change mitigation strategy, the overall impact of these markets on Indigenous Peoples in the Peruvian Amazon is predominantly harmful. Alarm bells are beginning to ring, as on 30th May 2024, a new report by Ecosystem Marketplace, an initiative of the non-profit organisation Forest Trends, revealed that the volume and value of the VCM contracted for the second consecutive year in 2023, following its 2021 peak, with a 56 percent year-on-year decline in reported transactions[210]. The Guardian published an article the following day citing the report, which highlighted a significant decline in the carbon offsets market, dropping from $1.9 billion

[209] Ibid.
[210] Alex Procton, 'State of the Voluntary Carbon Market 2024: On the Path to Maturity' (Forest Trends Association and Ecosystem Marketplace, 2024), https://3298623.fs1.hubspotusercontent-na1.net/hubfs/3298623/SOVCM%202024/State_of_the_Voluntary_Carbon_Markets_20240529%201.pdf.

in 2022 to $723 million in 2023[211]. It attributed the contraction to a surge of scientific studies and media reports that deemed millions of offsets as 'worthless', with certain projects being associated with human rights violations[212]. REDD+ credits, the most widely adopted project type, saw a 62 percent decline in value year over year, with the average price of credits dropping by 23 percent[213]. With these statistics in mind, it seems the system may be coming to a crashing halt – sooner rather than later.

4.3.4. Evaluating the Effectiveness of Carbon Trading in Addressing the Unique Needs of IP

On 24th May 2024, Kichwa leader Marisol García from Peru led a protest outside the annual meeting of Total Energies in Paris, France. She sent a powerful message to the CEO of the French oil giant, saying:

"We would like to ask you on behalf of Indigenous Peoples to stop further violations of human and environmental rights, stop dispossessing our brothers and sisters in Uganda, and the Kichwa people demand that you stop trying to greenwash your image in our territory at the expense of our labour. We demand that you stop buying carbon credits because you are contributing to the territorial dispossession of my people. We also demand that you respect human and environmental rights so that Indigenous peoples can recover our good life"[214].

This message from García clearly outlines the opinion of her community on carbon markets; they are destructive, they blatantly disregard the needs of IP, and they diminish their inherent rights to land and a safe living enviroment. Melaina Dyck reiterates the damage which carbon trading causes for IP, stating that "the whole concept of a carbon market is antithetical to the world view of many Indigenous Peoples and organisations, who might rightly argue that they just shouldn't exist at all." She concluded by condemning the system as it currently stands: "Ultimately, carbon markets are currently structured as a top-down, global Northern-driven structure that essentially is giving globally Northern large organisations permission to continue polluting. If it provides benefits to Indigenous Communities that's sort of in spite of the structure, not because of it. Carbon markets in their current form are failing to deliver the benefits that they promise to Indigenous Communities, as well as failing to deliver the benefits that they promise full stop. There's academic literature published within the last year that finds

[211] Patrick Greenfield, 'Market Value of Carbon Offsets Drops 61%, Report Finds', *The Guardian*, 31 May 2024, https://amp-theguardian-com.cdn.ampproject.org/c/s/amp.theguardian.com/environment/article/2024/may/31/market-value-of-carbon-offsets-drops-61-aoe.
[212] Ibid.
[213] Ecosystem Marketplace, 'The Voluntary Carbon Market Contracted in 2023, Driven by Drop-off in Transactions for REDD+ and Renewable Energy', 30 May 2024, https://www.ecosystemmarketplace.com/articles/report-the-voluntary-carbon-market-contracted-in-2023-driven-by-drop-off-in-transactions-for-redd-and-renewable-energy/.
[214] Forest Peoples Programme [@ForestPeoplesP], '"Kichwa Leader Marisol García from Peru Sends a Message to Total Energies CEO during Their Annual Meeting."', Tweet, *Twitter*, 25 May 2024, https://x.com/ForestPeoplesP/status/1794205654909174142.

that the climate benefits of many carbon projects or carbon credits are massively overestimated. Based on those findings, I'm increasingly concerned that carbon projects may be doing harm from a climate change mitigation perspective."

During the interview with Peter Cronkleton, his opinion detailed: "There is some initial progress with carbon markets. I am very suspicious of these programs. I don't have the confidence that they're going to work as planned just because they haven't ironed out the governance issues that underlie who's eligible for these types of payments, or how the payments are channelled to people. The opportunities for outright corruption are rampant. And without the other types of infrastructure that are necessary to allow something like that to take place, it's hard for me to imagine how it will produce very beneficial ends for peoples in the Amazon."

While Indigenous Peoples and climate activists, such as Marisol García, protest in the streets and barricade office entrances to capture the attention of multinational conglomerates like Total Energies, critical decisions that significantly impact their fate are being made within these exclusionary corporate structures. As highlighted by García and the interviewees, the current state and practices of CMs are disconnected from the realities experienced by vulnerable communities, and these decisions are made far removed from the lands and communities that will ultimately bear the consequences. The unique needs and best interests of Amazonian IP are neglected, with the adverse effects of these CC systems significantly outweighing their purported benefits. Concerns regarding inadequate due diligence and regulatory oversight raise serious alarms about potential corruption and manipulation. Meanwhile, IP find themselves at the bottom of the hierarchy, aspiring for a seat at the table and a share of the profits, which, given current trends, is unlikely to materialise. This examination clearly demonstrates that CMs fails as a climate change mitigation strategy and ultimately does not safeguard the Peruvian Indigenous Peoples who rely on such structures for the protection of their existence.

In the upcoming chapter, we will analyse the existing legal frameworks both internationally and within the Peruvian context. This analysis aims to provide insight into the protections these frameworks offer to the environment and to IP, especially in light of the shortcomings of the carbon market mitigation strategy.

Chapter 5: Peru's Responsibilities in Accordance with National and International Law

This chapter explores the progression of Indigenous Peoples' rights in international law and Peru's involvement with relevant treaties and soft-law instruments. It commences with an examination of pertinent provisions within ILO Conventions concerning Indigenous rights and Peru's corresponding responsibilities. Subsequently, it scrutinises Peru's duties under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which serves as a soft-law instrument. Additionally, it discusses Peru's commitments under international legal frameworks it has ratified or endorsed, including the United Nations Framework Convention on Climate Change (UNFCCC), with a particular focus on the Paris Agreement. The objective is to identify instances where the rights of Indigenous Peoples are acknowledged in international legal instruments that Peru is mandated to adhere to. Furthermore, the chapter explores discussions surrounding Indigenous Peoples' rights within Peru's national policies, such as The Forest and Wildlife Law (Law No. 29763) and Peru's Framework Law for Climate Change (Law No. 30754).

5.1. The International Labour Organisation and Indigenous Peoples

The International Labour Organisation (ILO), a UN agency, includes representatives from governments, employers, and workers across 187 Member States, fostering collaborative decision-making in labour affairs[215]. The ILO pioneers in addressing Indigenous Peoples' marginalisation[216], with its Conventions crucial for their resilience. Access to decent employment empowers Indigenous women and men to act as catalysts for poverty alleviation, sustainable development, and climate change initiatives[217].

5.1.1. ILO C.107 on Indigenous and Tribal Populations Convention, 1957

In September 1946, at the 29th International Labour Conference held at Université de Montréal, the worker's delegate from South Africa proposed an international agreement concerning the rights of Indigenous Peoples in independent countries[218]. This landmark proposal led to the adoption of ILO

[215] International Labour Organization, 'About the ILO', 28 January 2024, https://www.ilo.org/about-ilo.
[216] Felipe Gómez Isa, 'The UNDRIP: An Increasingly Robust Legal Parameter', *The International Journal of Human Rights* 23, no. 1–2 (7 February 2019): 7–21, https://doi.org/10.1080/13642987.2019.1568994.
[217] International Labour Organization, 'Indigenous and Tribal Peoples', 28 January 2024, https://www.ilo.org/topics/indigenous-and-tribal-peoples.
[218] David Meren, 'Safeguarding Settler Colonialism in Geneva: Canada, Indigenous Rights, and ILO Convention No. 107 on the Protection and Integration of Indigenous Peoples (1957)', *Canadian Historical Review* 102, no. 2 (June 2021): 205–31, https://doi.org/10.3138/chr-2020-0007.

Convention 107[219] (C.107) in 1957, one of the earliest international documents addressing Indigenous Peoples' rights. It addressed working conditions and expanded to include land rights, education, economic development and participation. Article 1 of the Convention defines Indigenous Peoples as 'tribal or semi-tribal' individuals who, although they ‘are in the process of losing their tribal characteristics’, ‘are not yet integrated into the national community’[220]. As alluded to in Chapter 1, this Convention was the first global effort to safeguard Indigenous Peoples, though its aim was assimilation into mainstream society, as reflected in its language. The term 'populations'[221] throughout the text underscores the assimilationist stance of that time, aiming to integrate Indigenous Peoples while disregarding their right to sovereignty, allowing Western powers to maintain control.

5.1.2. ILO C.169 on Indigenous and Tribal Peoples Convention, 1989

In 1989, ILO Convention No.169 (C.169) was established to supersede C.107, which remains applicable only to previously ratified states[222]. As the only binding international instrument addressing Indigenous Peoples[223], C.169 signifies a move away from assimilationist policies to recognising Indigenous Peoples as rights holders. It protects crucial rights such as ancestral land and resources (Arts.13-19) and prior consultation (Art.6). Notably, it designates Indigenous Communities as ‘peoples’, acknowledging their right to self-determination[224], though Article 1.3 clarifies that this does not confer specific international rights[225]. This Convention signifies progress from C.107; however, it has been ratified by just 23 states, including Peru, which ratified the convention on 2nd February, 1994[226]. Member states primarily consist of Latin American countries[227] with substantial Indigenous populations[228].

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[219] International Labour Organization, ‘Convention C107 - Indigenous and Tribal Populations Convention, 1957 (No. 107)’, 107, accessed 5 June 2024, https://webapps.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107.
[220] Article 1, para 2, Convention 107.
[221] Article 1, para 1 (a) and (b), Convention 107.
[222] If a state has ratified both ILO Convention 107 and ILO Convention 169, ILO Convention 169 entirely supersedes ILO Convention 107.
[223] Göcke, ‘Indigenous Peoples in International Law’.
[224] For the sake of brevity, the topic of self-determination will not be examined in further detail in this discourse. It is undeniable that Indigenous Peoples possess an inherent right to self-determination, particularly considering their long-standing collective struggles against colonisation.
[225] Article 1, para 3, ILO Convention 169.
[226] Inter-American Commission on Human Rights, ‘Second Report on the Situation of Human Rights in Peru. Chapter X: The Rights of Indigenous Communities’, 2 June 2000, https://www.cidh.org/countryrep/Peru2000en/chapter10.htm.
[227] Latin American member states include Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru, and Venezuela.
[228] S. Wiessner, ‘The Cultural Rights of Indigenous Peoples: Achievements and Continuing Challenges’, *European Journal of International Law* 22, no. 1 (1 February 2011): 121–40, https://doi.org/10.1093/ejil/chr007.

5.1.3. ILO on Indigenous Peoples and Climate Change

In 2017, the ILO released a pivotal report focusing on the intersection of Indigenous Peoples and climate change. This report marks a profound shift from viewing Indigenous Peoples solely as victims to recognising them as agents of positive change[229]. Despite facing significant threats to their livelihoods and cultures, their ancestral wisdom uniquely equips them to contribute to mitigation and adaptation strategies, and just transition policies. The report emphasises their indispensable role in climate action by acknowledging their distinct vulnerability to climate change while also highlighting their invaluable contributions to sustainable solutions rooted in their traditional knowledge.

5.2. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The UNDRIP outlines fundamental minimum standards aimed at protecting the survival, dignity, and welfare of Indigenous Peoples. Following the limited success of the two ILO Conventions, the global Indigenous movement prioritised the adoption of a universally applicable declaration to acknowledge their rights[230]. Peru played a significant role in drafting the UNDRIP, with Luis Enrique Chávez, the Peruvian Chairperson of the Human Rights Working Group on the Draft Declaration (WGDD), concluding negotiations between IP and states. Peru also presented the draft resolution on the UN Declaration on the Rights of Indigenous Peoples to the Commission on Human Rights and later to the Human Rights Council[231]. A revised draft, primarily supported by Peru and endorsed by several European and Latin American countries, aimed for swift General Assembly adoption[232]. Peru also helped persuade uncertain states to support the declaration, which was finally adopted on September 13th, 2007, marking a major advancement in Indigenous rights, and the most extensive endeavour to protect Indigenous cultures[233]. Initially passed by 143 states with only four opposed and 11 abstentions, all opposing states have since reversed their stance[234], making the Declaration nearly universally supported. The UNDRIP's broad endorsement reflects a robust international commitment to uphold

[229] International Labour Office, 'Indigenous Peoples and Climate Change: From Victims to Change Agents through Decent Work' (Geneva: International Labour Office, 2017), https://primarysources.brillonline.com/browse/climate-change-and-law-collection/indigenous-peoples-and-climate-change-from-victims-to-change-agents-through-decent-work;cccc016120170161001.
[230] Gómez Isa, 'The UNDRIP'.
[231] Rodolfo Stavenhagen, 'Making the Declaration Work (2009)', in *Pioneer on Indigenous Rights*, by Rodolfo Stavenhagen, vol. 2, SpringerBriefs on Pioneers in Science and Practice (Berlin, Heidelberg: Springer Berlin Heidelberg, 2013), 141–59, https://doi.org/10.1007/978-3-642-34150-2_9. pp.108.
[232] United Nations, 'Division for Inclusive Social Development (DISD)', accessed 7 June 2024, https://social.desa.un.org/issues/indigenous-peoples/historical-overview.
[233] Wiessner, 'The Cultural Rights of Indigenous Peoples'.
[234] The four opposing states were the US, Canada, Australia and New Zealand, each of which were nations with extensive histories of colonisation and injustice against Indigenous populations.

Indigenous rights[235] and its context, content, adoption circumstances and institutional framework for implementation illuminate its legal impact and potential to influence state behaviour and international organisations, especially the UN[236]. The preamble acknowledges the global recognition that 'respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment'[237].

Led primarily by Indigenous Peoples in its development, the UNDRIP encompasses both established and novel rights that address the global needs of IC. It goes beyond individual rights, incorporating specific provisions for land, territory, and natural resources, while also acknowledging historical injustices as crucial contextual factors within the Declaration. Although not legally binding, the widespread acceptance of the UNDRIP among UN member states has solidified its role as a crucial reference for UN bodies, regional human rights mechanisms, and national legislation. At the time of adoption, Indigenous organisations and representatives believed that the Declaration could effectively navigate the complex relationship between hard and soft law, thereby bolstering the acknowledgment and enforcement of Indigenous rights globally[238]. Various legal mechanisms, including customary law and recognition within domestic legal frameworks, grant legal enforceability to specific provisions of the UNDRIP. For example, the widespread international support for this Declaration serves as compelling evidence of *opinio juris*[239], which, when paired with consistent state practice, could establish new customary international law principles[240].

5.3. United Nations Framework Convention on Climate Change (UNFCCC)

The UNFCCC, effective since March 21st, 1994, has almost universal membership with 198 countries ratified[241]. Scholars Smith and Sharp highlight that Indigenous Peoples are left out of UNFCCC and the Kyoto Protocol[242]. They acknowledge a probable implicit inclusion of IP and IK but express concern regarding this oversight. The global framing of climate change often neglects local perspectives, further

[235] Gómez Isa, 'The UNDRIP'.
[236] Felipe Gómez Isa, 'The Role of Soft Law in the Evolution of Indigenous Peoples' Rights', in *Tracing the Roles of Soft Law in Human Rights Law* (Oxford: Oxford University Press, 2016), 185–213.
[237] United Nations, 'United Nations Declaration on the Rights of Indigenous Peoples', 13 September 2007, https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.
[238] Gómez Isa, 'The Role of Soft Law in the Evolution of Indigenous Peoples' Rights'.
[239] Opinio juris, derived from the Latin phrase "opinio juris sive necessitatis," translates to "an opinion of law or necessity." In customary international law, it constitutes the second element required to establish a legally binding custom. Opinio juris signifies a subjective sense of obligation, as a state perceives itself to be bound by the law in question.
[240] Gómez Isa, 'The UNDRIP'.
[241] UNFCCC, 'What Is the United Nations Framework Convention on Climate Change?', accessed 4 June 2024, https://unfccc.int/process-and-meetings/what-is-the-united-nations-framework-convention-on-climate-change.
[242] Smith and Sharp, 'Indigenous Climate Knowledges'.

marginalising Indigenous Peoples and their knowledge. This exclusion affects their status and limits their participation in international negotiations[243]. They argue for recognising Indigenous Peoples' unique knowledge and expertise, insisting they be included as experts rather than standard stakeholders, given the severe climate impacts on their lives[244]. De Jong illustrates how the UNFCCC addresses Indigenous rights through the REDD+ mechanism's safeguard principle, aiming to minimise negative effects on forest-dependent communities and ensure active consultation and participation[245]. This includes securing FPIC and upholding the human rights of all affected individuals.

5.3.1. The Paris Agreement

The Paris Agreement, a binding treaty on climate change adopted by 196 Parties at COP21, took effect on November 4th, 2016, following Peru's ratification in July 2016[246]. Under this agreement, each member state commits to periodic emission reduction pledges known as Nationally Determined Contributions (NDC). However, countries have discretion over their NDCs' content, potentially limiting their effectiveness. Peru aims to reduce emissions by 30% by 2030, or up to 40% with international support[247], requiring near-term actions to halve emissions by 2030 and long-term strategies for deep decarbonisation by 2050[248]. Concerns persist about the willingness of national governments, including Peru, to fulfil these obligations and cooperate internationally on climate change.

At COP28 in December 2023, disagreement over Article 6 of the Paris Agreement, which governs carbon markets, stalled progress[249] as parties split into opposing camps regarding the roles of mechanisms outlined in Articles 6.2 and 6.4[250]. The EU advocated for stringent rules to ensure emission reductions, while the US viewed Article 6 as an opportunity for private sector involvement in climate finance with fewer regulations. Concerns about oversight loom large, potentially disadvantaging IP in the CM. Developing countries, supported by initiatives often shaped by donor preferences, struggle to navigate market complexities, exacerbating disparities[251]. The ongoing deadlock impedes global efforts to mitigate climate change and reduce emissions, highlighting the urgent need for collaborative action.

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[243] Ibid.
[244] Ibid.
[245] de Jong, 'Carbon Cowboys in Peru and the Prospects of Local REDD Governance'.
[246] UNFCCC, 'The Paris Agreement', UNFCCC, accessed 30 April 2024, https://unfccc.int/process-and-meetings/the-paris-agreement.
[247] giz, "Implementation of Peru's National Climate Change Goals," accessed April 11, 2024, https://www.giz.de/en/worldwide/123427.html.
[248] Sophie Boehm et al., 'State of Climate Action 2021: Systems Transformations Required to Limit Global Warming to 1.5°C', *World Resources Institute*, 2021, https://doi.org/10.46830/wrirpt.21.00048.
[249] "Shades of REDD+ Two Clashing Visions for Article 6," *Ecosystem Marketplace* (blog), accessed April 29, 2024, https://www.ecosystemmarketplace.com/articles/shades-of-reddtwo-clashing-visions-for-article-6/.
[250] Ibid.
[251] UNDP, 'Carbon Markets', UNDP Climate Promise, accessed 4 May 2024, https://climatepromise.undp.org/what-we-do/areas-of-work/carbon-markets.

Without clear pathways for Indigenous Peoples to participate in and benefit from carbon markets, their future remains uncertain.

5.4. National Policies of Peru

This discussion will now briefly examine some of Peru's national legislations relevant to Indigenous Peoples and their implications in the face of climate change.

5.4.1. Peru's Framework Law on Climate Change (Law No. 30754)

Passed in 2018 in response to ratification of the Paris Agreement, this law represents Peru's first climate change legislation. It grants significant responsibilities to the Ministry of Environment (MINAM) for guiding climate initiatives, including coordinating national policies and implementing NDCs[252]. MINAM also oversees mechanisms for managing benefits from REDD+ results and authorising GHG Emission Reductions unit transfers[253]. The law prioritises climate mitigation measures such as carbon capture, reforestation, and sustainable transportation[254]. Successful implementation hinges on robust collaboration among regional governments, ministries, the private sector, civil society, and political commitment.[255]

5.4.2. The Forest and Wildlife Law (Law No. 29763)

In Peru, this law mandates forest zoning under MINAM to ensure sustainable use of natural resources. It categorises forested areas considering technical, social, and economic factors. Land ownership requires authorisation specifying its intended use, such as agriculture or conservation[256], which must align with designated regulations. Deforestation is prohibited in Indigenous territories, yet pressures for intensive land utilisation frequently leads to illicit encroachments, exacerbating violence and coercion. Political instability contributes to increased impunity for environmental crimes, worsening this predicament[257].

[252] Peña and Sarmiento Barletti, 'Peru's Regulatory Framework for Carbon Markets'.
[253] *Comparative Study of Carbon Rights in the Context of Jurisdictional REDD+*.
[254] Romany Webb, 'Peru Passes New Framework Climate Change Law: Top Nine Developments', Climate Law Blog, 26 April 2018, https://blogs.law.columbia.edu/climatechange/2018/04/26/peru-passes-new-framework-climate-change-law-top-nine-developments/.
[255] Ibid.
[256] Envol Vert, 'Peru's Battle for Amazonian Forests: Controversial Law Amendment Threatens Environmental Protection', 8 June 2023, https://envol-vert.org/en/news/2023/06/perus-battle-for-amazonian-forests-controversial-law-amendment-threatens-environmental-protection/.
[257] Rainforest Foundation US, 'Peru'.

5.4.2.1. Decree No.1090 and 1064

Chapter 3 highlighted legal reforms during President Alan García's administration, including the passing of 99 legislative decrees. Among these, Decrees 1090 and 1064 were issued in 2008 to facilitate a free-trade agreement with the United States. Decree 1090 stripped protection from approximately 45 million hectares of Peruvian forest, allowing transfer of abandoned or deforested lands to private entities. However, ambiguous definitions of 'wasteland' or 'deforested' posed risks to primary forests[258]. Decree 1064 streamlined zoning changes for companies with concessions, bypassing the need for approval from local communities[259], and permitted conversion of state forestlands into private agricultural lands[260], sparking conflicts with Indigenous Peoples for undermining their land rights. As discussed in Chapter 3, this was the trigger for the Bagua Massacre, and as a result, the country's Congress revoked the land laws in 2009[261].

5.4.3. Law of Prior Consultation (No. 29785)

The right to prior consultation entered the Peruvian legal system upon the adoption of ILO C.169, effective from February 2nd, 1995. Since then, the Peruvian State has been obligated to consult Indigenous Peoples regarding any administrative or legislative measures that impact them. Scholar Amelia Alva contends, however, that for a significant period, no state entity implemented this obligation, nor did Peru establish the necessary legal framework to enact this right[262]. In July 2011, Ollanta Humala, the President of Peru at the time, enacted the Law of Prior Consultation. The legislation grants Peru's Indigenous Communities the right to be consulted about any activity, plan, administrative or legal measure, development, or project that involves, affects, or occurs in their ancestral territories[263]. In theory, this approach appears promising. However, as examined in Chapter 3, in practice, these consultations often fall short of the legal requirements. Cleyton Valentin Chumpate asserts that prior consultations seldom occur, and when they do, Indigenous Communities are often misled and provided with incorrect information, undermining the efficacy of this legislation entirely.

[258] Monterroso et al., *Reclaiming Collective Rights*.
[259] Rhett A. Butler, 'Peru Revokes Decrees That Sparked Amazon Indian Uprising', Mongabay Environmental News, 19 June 2009, https://news.mongabay.com/2009/06/peru-revokes-decrees-that-sparked-amazon-indian-uprising/.
[260] Monterroso et al., *Reclaiming Collective Rights*.
[261] Butler, 'Peru Revokes Decrees That Sparked Amazon Indian Uprising'.
[262] Amelia Alva-Arévalo, 'The Right To Prior Consultation Of Indigenous Peoples: Evaluating National Legislation And Practice In Peru From An International Human Rights Law Perspective' (PhD, Ghent, Ghent University, 2019).
[263] Graciela Rodriguez-Ferrand, 'New Law Granting Right of Consultation to Indigenous Peoples', web page, Library of Congress, Washington, D.C. 20540 USA, 27 September 2011, https://www.loc.gov/item/global-legal-monitor/2011-09-27/peru-new-law-granting-right-of-consultation-to-indigenous-peoples/.

5.5. Current Jurisprudence

There are currently ongoing developments in the Inter-American Court of Human Rights (IACtHR) legal system regarding the impact of climate change on the environment and vulnerable peoples. On 6th February 2020, the IACtHR ruled in Lhaka Honhat Association v. Argentina that Argentina had violated the rights of Indigenous groups to communal property, a healthy environment, cultural identity, food, and water[264]. This contentious case depicted the first instance where the IACtHR held a country accountable for failing to respect Indigenous Communities' right to a healthy environment, signalling a significant milestone in the protection of Indigenous Peoples' rights. Further developments were observed in 2023, when an amicus curiae brief was submitted by the Peter A. Allard School of Law's International Justice and Human Rights Clinic (IJHRC) in response to a letter dated March 22nd, 2023, from the Secretary of the IACtHR on behalf of the Court's President[265]. The letter invited the IJHRC to share its views on the issues it considered relevant concerning an Advisory Opinion request filed by Chile and Colombia on January 9th, 2023[266]. The brief concluded by stating that the IACtHR should decide that the threat of climate change triggers the duty of prevention outlined by the Court in Advisory Opinion OC-23/17 and determine that States must reduce their harmful GHG emissions to mitigate the threat climate change poses to the enjoyment of the rights to life and personal integrity for those within their jurisdiction[267]. It also stated that the Court should determine that ongoing harmful GHG emissions violate the right to a healthy environment for those within the jurisdiction of the emitting State, and that domestic courts should grant remedies that seek to reduce harmful GHG emissions to address violations[268].

5.6. Implementation Gaps

International institutions and contemporary international law have undoubtedly aided Indigenous Peoples in their quest for the recognition of their rights. The adoption of the UNDRIP in 2007 saw the realisation of a longstanding effort to advocate for Indigenous voices on the international stage. It finally signified a halt in the deeply ingrained patterns of marginalisation, dispossession, subjugation and

[264] Maria Antonia Tigre, 'Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina', *American Journal of International Law* 115, no. 4 (October 2021): 706–13, https://doi.org/10.1017/ajil.2021.47.
[265] Nicole Barrett and Ben Risk, 'In The Matter Of The Request For An Advisory Opinion On The Scope Of State Obligations For Responding To The Climate Emergency' (International Justice and Human Rights Clinic, Peter A. Allard School of Law, n.d.). pp.2.
[266] Ibid.
[267] Ibid.
[268] This case is still ongoing at the time of writing, and its future outcome will significantly affect Indigenous Peoples in Latin America.

cultural assimilation stemming from colonialism, and how poignant that Indigenous Peoples themselves played a central role in this challenging journey. However, the observations of this research note a demonstrated implementation gap, as Indigenous Communities persist in experiencing disproportionate vulnerability and poverty in countries the world over. While legal acknowledgment of Indigenous Peoples in Peru is anchored in several international legal norms, the Constitution, and various specialised laws, there remains a disregard for the rights of Indigenous Communities in certain institutions and contexts[269]. Despite the active involvement and supportive stance of the Peruvian government in adopting legal frameworks such as the UNDRIP, Amazonian Indigenous Peoples still face mounting challenges to their lands, territories, and natural resources. While these frameworks hold moral weight, they alone are insufficient to drive certain nations to tangible action.

With regards to national legislation, Peru's Framework Law on Climate Change places much of its success in the ability of regional governments and ministries to cooperate with one another, which depends on the willingness of the stakeholders to enact meaningful change. Furthermore, in the case of the Forest and Wildlife Law, while the law strictly prohibits deforestation within Indigenous territories, its effectiveness is undermined by mounting pressure for intensive land use. The legal recognition of Indigenous Peoples' land and resource rights is only partial, leading to insecurity amid significant pressure on Indigenous collective lands[270]. This exploitation of land title processes by Peruvian authorities frequently leads to illegal encroachments and subsequent violence against Indigenous Communities. The passing of legislative decrees 1090 and 1064 exemplifies the government's capacity for abrupt action, bypassing due diligence procedures to pursue economic gains. As previously mentioned, the Law of Prior Consultation falls short as an effective legal framework, frequently disregarded when multinational companies pursue mining and extraction in the Amazon rainforest, as noted by Cleyton Valentin Chumpate. Therefore, there exists a significant disparity between the official pronouncements made at the UN, the conduct of certain state bodies exemplified by Peru, and the challenging circumstances faced by Indigenous Peoples in reality. Despite purported safeguards provided by diverse legal frameworks, Indigenous Communities often find themselves at a disadvantage in real-world scenarios.

With this in mind, the conclusion will synthesise these points to evaluate whether the international community has effectively safeguarded Indigenous Peoples from the dangers to their livelihoods exacerbated by climate change and assess the adequacy of national and international laws in supporting this protection.

[269] Sandra Rodríguez, Juan Pablo Sarmiento Barletti, and Anne M Larson, 'Examining Support for the Rights of Indigenous Peoples in the Context of REDD+ in Peru', February 2022.
[270] Ibid.

Conclusions and Recommendations

In conclusion, this investigation underscores the urgent need for immediate action on behalf of the international community as the Earth's climate nears a tipping point, beyond which lies an unimaginable reality. The global surface temperature and the state of the environment are at a critical juncture; if current trends continue, we face untold calamities. Among the most vulnerable to these dangers are Indigenous Peoples, particularly those residing in and dependent upon rainforests such as the Amazon. Incredibly, the alarm bells alerting us to the dangers of climate change have sounded for over forty years, leaving no room to ignore the stark reality: we are actively destroying the Earth and her environment. The greatest victims to this ignorance have been the Indigenous Peoples of our world, and now we need decisive action to fully realise Indigenous Rights amidst the impending climate crisis. The global community is to blame, as it has passively observed the encroaching disaster, while the human rights of Indigenous Peoples have been consistently neglected. Climate justice cannot be achieved without the recognition and realisation of Indigenous Rights, and human rights cannot be fully realised without ensuring a safe and stable living environment within our global climate.

Despite countless declarations and goals set by the international community, real, tangible action has been sorely lacking. The era of mere pacts and promises has now passed. The Global North and developed states, wielding significant power, must use their influence to halt the catastrophic destruction of the Amazon caused by illegal practices such as deforestation and resource exploitation. The acknowledgment and cessation of harmful activities is crucial for developing effective programs and policies aimed at climate adaptation and GHG reduction. Such policies must successfully curb emissions to keep the global average temperature below a maximum of 2°C above pre-industrial levels – a temperature which we are rapidly approaching by current trends.

This discussion generates several key recommendations based on its findings. It has been established that it is unacceptable for large multinational companies to continue to pollute the environment while offsetting their emissions by paying developing countries for carbon storage. Therefore, this study proposes the implementation of a penalty system. If countries, companies, and private entities are found to be offsetting their GHG emissions by purchasing carbon credits rather than actively reducing their emissions, a cap will be placed on their production capacity. For instance, a company that continues to pollute without making any effort to reduce emissions would be required to cut its production by 5% each year that it fails to lower its emissions. This penalty will be enforced by an independent global body established specifically for this purpose. Governments, businesses, and individuals will be required to report their activities, and if no progress is achieved in reducing emissions, the proposed

system will be triggered, with penalties compounding each year until a significant reduction in environmental impact is achieved.

This recommendation arises from the demonstrable inefficacy and inaction of Peru in terms of climate change adaptation. It is evident that allowing each country to determine its own NDCs in accordance with the Paris Agreement does not effectively mitigate climate change nor its impacts on vulnerable populations. The international community bears the responsibility to enact quantifiable improvement, yet the current system fails to inspire this. Although MINAM has emphasised the importance of implementing national adaptation plans, significant gaps remain in the country's preparedness for extreme weather events, forest fires, deforestation, and future climate-related risks. These deficiencies are particularly pronounced in the planning and support provided for rural and remote populations, as well as Indigenous Communities, who are frequently neglected and left to manage on their own in the face of climate-induced calamities. The proposed penalty system could serve as a stronger incentive for ratified states to take action beyond the current NDC framework in place.

This discourse calls for greater inclusion of traditional IK in international and national platforms. This is essential for recognising the value of information passed down through generations within Indigenous Communities. Such knowledge can complement mainstream research on biodiversity, climate change mitigation, and adaptation. Establishing horizontal relationships between governments and IP is essential for facilitating the exchange of information, strengthening relationships, and fostering trust between these parties. Transitioning from hierarchical structures that hinder the incorporation of IK into broader societal frameworks to a more linear approach would help address this gap in inclusion.

Although the legal recognition of Indigenous Peoples is anchored in various international legal norms, the Constitution, and numerous specific laws, community rights are still disregarded in certain institutions and contexts in Peru. While Indigenous Peoples' land and resource rights are legally acknowledged, this recognition is only partial, leading to insecurity amidst intense external pressures on their collective lands. Communal rights in Peru are granted solely to lands classified as suitable for agriculture or pastures, whereas Indigenous Peoples can only claim usufruct rights over lands designated as forests. The process to access these contracts is complex and lengthy, often leading communities to extract timber informally or illegally. The state also retains rights over subsoil resources within titled communities. The effective functioning of the land titling system for IP depends on the securement of rights to their ancestral lands. Consequently, it is imperative to overhaul the current system to streamline a more efficient and expedited titling process, thereby reducing the extensive waiting periods faced by Indigenous Communities. Once such systems are established and IP obtain legal recognition of their customary lands, they can exercise their inherent stewardship over the biodiversity of these areas.

The existing laws in Peru suggest that those who hold tenure rights over land – whether private, communal property, or forestry concessions – also possess carbon rights. However, since IC only have usufruct rights over forest lands, they may be entitled to benefits but lack the authority to decide or directly negotiate the terms of carbon credit commercialisation. Providing secure tenure and direct funding for community-led forest protection stands out as one of the most effective and equitable methods for safeguarding biodiversity. This approach enables Indigenous Peoples to protect trees, ensure respectful use of the land, prevent exploitation, care for biodiversity, and receive compensation for these longstanding practices which they undertake regardless. Evidence demonstrating the impact of Indigenous Peoples as stewards of highly biodiverse forest landscapes suggests that enhancing safeguards to support their self-determination and access to and control of their ancestral territories will not only promote equity but also advance the broader goals of REDD+.

Furthermore, there is an urgent need for substantial improvement of legal safeguards to protect vulnerable communities affected by environmental degradation, especially in Peru. The United Nations, under the UNFCCC, should refrain from using the 'national and/or international law' criterion in their safeguards and instead enforce adherence to international law standards by ratified countries. This approach is crucial to ensure that weak safeguards are no longer tolerated and that national laws are not chosen by governments as a means to seek weaker protections. The strengthening of these frameworks necessitates the clear and transparent definition of levels of ambition, the provision of more precise guidelines, and the imposition of stricter requirements for REDD+ countries, alongside enhanced monitoring of their compliance. Indigenous Peoples must be placed at the forefront of the discussion, and their needs, desires, and customs must be held in the highest regard. A top-down approach is no longer acceptable; instead, emphasis must be placed on a bottom-up approach to reform this flawed system.

Regarding REDD+, this framework has become synonymous with violations of Indigenous Peoples' basic human rights and disruptions to their livelihoods. Its impacts encompass an uneven distribution of benefits, food insecurity, illegal land grabs, unfair processes of FPIC, and the establishment of monoculture plantations. Moreover, REDD+ simplifies the evaluation of forests' contributions to climate change mitigation to merely quantifying the carbon stored in trees, thereby overlooking their complexity as ecosystems. Therefore, a key recommendation arising from this discussion is the re-evaluation of REDD+ proponents as duty bearers and Indigenous Communities as rights holders. It is crucial to acknowledge that these communities possess the capabilities and mechanisms to hold proponents accountable. This includes monitoring compliance with rights obligations such as ensuring access to participation, FPIC, and equitable distribution of benefits. Empowering Indigenous Peoples

as duty bearers within this framework reinforces their contributions, recognises their vital role in rainforest conservation, and ensures their rightful place in decision-making processes.

The carbon market as a climate change mitigation strategy predominantly benefits the elite, intermediaries, and governments involved in its utilisation. It fundamentally fails to address the unique vulnerabilities and needs of Indigenous Peoples, often causing more harm than benefit. Effective carbon trading necessitates rigorous verification to ensure genuine emissions reductions, yet the current system lacks comprehensive verification and monitoring mechanisms. Carbon offsetting does not reduce the overall concentration of GHG in the atmosphere; instead, it simply transfers emission reductions from one location to another. The proliferation of offsets allows high-emitting activities to persist without significant reduction efforts. Furthermore, there is a limited supply of high-quality projects capable of achieving meaningful emission reductions, potentially leading to a scenario where demand surpasses available projects. The efficacy of offsets must be critically evaluated, as their deployment could contribute to deforestation in other regions or result in adverse social and environmental impacts.

The purported necessity of carbon markets warrants critical examination. This research pursuit has meticulously amplified the voices of Indigenous leaders who contest these mechanisms. Why does the Global North disregard these protests and vigorously advocate for this supposedly equitable and sustainable climate change mitigation strategy, despite its glaring flaws and injustices? This framework is not crafted with the best interests of Indigenous Peoples in mind; rather, it inherently discriminates against them and other vulnerable global populations. It is evident that this system fails to adequately address the distinctive vulnerabilities and requirements of Indigenous Peoples, instead serving the interests of the wealthy and influential, who are shielded from the daily impacts of climate change crises. This underscores the imperative for accountability from developed nations and demands that they confront the consequences of their environmental negligence. Implementing a penalty system that imposes restrictions and potential tariffs on powerful, polluting governments and multinational corporations is indespensible. Revenues generated from these penalties could be allocated to support those most affected by climate change, including vulnerable communities such as Indigenous Peoples, women, and children. Such an approach could potentially mitigate the subsidisation of pollution through emission offsets, and eliminating subsidies for fossil fuels would mark a significant stride toward effectively reducing global temperatures.

The culmination of this research unequivocally supports the hypothesis that the international community has failed to effectively address climate change and its disastrous impacts on Indigenous Peoples. Specifically, developed nations bear responsibility for these detrimental environmental consequences. The emissions of GHG by industrialised nations have placed the very existence of these vulnerable Indigenous Communities at an unparalleled risk. Accelerating environmental degradation,

loss of traditional lands, and disruption of cultural practices erode centuries-old connections to their territories and ways of life. This failure underscores the critical need for transformative action that places Indigenous rights, knowledge, and voices at the forefront of climate governance frameworks. Such action must prioritise equitable and sustainable solutions to ensure the survival and well-being of IC globally. Centring these aspects of Indigenous Peoples' identity is critical for respecting their cultures and preferences. Unfortunately, current interventions frequently overlook these critical considerations, thereby disrupting Indigenous livelihoods and excluding them from decision-making processes concerning their territories. This oversight is no longer permissible. Although carbon credit trading may represent a viable pathway toward transitioning to a low-carbon economy, the existing system is profoundly flawed. It must not advance without implementing rigorous verification processes and establishing monitoring bodies to address these challenges. Solidifying the integrity of carbon markets, and indeed all other climate change mitigation strategies, is crucial to fully harness their potential in combating climate change, while protecting Indigenous Rights at the forefront. A unified global effort is paramount to safeguard the environment and uphold the rights of Indigenous Peoples, ensuring a sustainable and equitable future for us all.

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