



Indigenous mobilisation and the law of consultation in Peru: A boomerang pattern?

Wright, C. (2014). Indigenous mobilisation and the law of consultation in Peru: A boomerang pattern? *International Indigenous Policy Journal*, 5(4 (2014)), 1-18. <https://doi.org/10.18584/iipj.2014.5.4.4>

[Link to publication record in Ulster University Research Portal](#)

Published in:
International Indigenous Policy Journal

Publication Status:
Published (in print/issue): 29/09/2014

DOI:
[10.18584/iipj.2014.5.4.4](https://doi.org/10.18584/iipj.2014.5.4.4)

Document Version
Publisher's PDF, also known as Version of record

Document Licence:
CC BY-NC-ND

General rights

The copyright and moral rights to the output are retained by the output author(s), unless otherwise stated by the document licence.

Unless otherwise stated, users are permitted to download a copy of the output for personal study or non-commercial research and are permitted to freely distribute the URL of the output. They are not permitted to alter, reproduce, distribute or make any commercial use of the output without obtaining the permission of the author(s).

If the document is licenced under Creative Commons, the rights of users of the documents can be found at <https://creativecommons.org/share-your-work/ccllicenses/>.

Take down policy

The Research Portal is Ulster University's institutional repository that provides access to Ulster's research outputs. Every effort has been made to ensure that content in the Research Portal does not infringe any person's rights, or applicable UK laws. If you discover content in the Research Portal that you believe breaches copyright or violates any law, please contact pure-support@ulster.ac.uk



October 2014

Indigenous Mobilisation and the Law of Consultation in Peru: A Boomerang Pattern?

Claire Wright

Universidad Autónoma de Nuevo León, elizabeth.wrightcl@uanl.edu.mx

Recommended Citation

Wright, C. (2014). Indigenous Mobilisation and the Law of Consultation in Peru: A Boomerang Pattern?. *The International Indigenous Policy Journal*, 5(4).

DOI: 10.18584/iipj.2014.5.4.4

Indigenous Mobilisation and the Law of Consultation in Peru: A Boomerang Pattern?

Abstract

Prior to 2009, it was difficult to speak of a national level Indigenous movement in Peru with an impact on national politics. However, the situation changed after the tragic events known as the *Baguazo*. Little by little, diverse organisations representing different ethnic groups came together to push for a law of consultation, which was promulgated in 2011. Nevertheless, the process has been highly complex and is still ongoing. The aim of this article is to offer some interpretative clues in order to understand how the national level movement came about, as well as how it made an impact on national political processes. Referring to social movement theory and constructivist international relations theory, I analyse several important episodes between 2009 and 2013. I find that both the convergence and the impact of a national level Indigenous movement in Peru are embedded in complex bargaining processes in which issues of ethnicity and political opportunities at the national level have been affected by the leverage of global norms (specifically the International Labour Organisation's Covenant No. 169) by both international and national actors.

Keywords

ILO Convention No.169, Indigenous peoples, ethnicity, social movements, Peru, boomerang effect, transnational advocacy networks, globalisation of law, political opportunity structures

Acknowledgments

The research for this article was undertaken in the framework of the following project: "11-CAP2-1516, Desarrollo y recursos en territorios indígenas. Un trabajo comparado desde los derechos y la participación de las comunidades y los impactos de las intervenciones de los agentes públicos y privados," financed by la Agencia Española de Cooperación Internacional para el Desarrollo (AECID).

Creative Commons License



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 License](https://creativecommons.org/licenses/by-nc-nd/4.0/).

Indigenous Mobilisation and the Law of Consultation in Peru: A Boomerang Pattern?

Historically, Indigenous peoples have been excluded from political decision-making processes in Latin American nation states. However, over the last few decades, Indigenous actors have made a considerable entrance onto the political stages of many Latin American countries, particularly in Ecuador and Bolivia (Van Cott, 2005). The processes have been of great interest to observers in terms of how they have come about and what impact they have had in diverse national arenas (Brysk, 2009; Keck & Sikkink, 1998; Martí i Puig, 2007; Radcliffe, 2007). In the abundant literature on the topic, Peru has generally been considered to be an outlier, given that it lacks a powerful Indigenous movement at the national level despite having a considerable Indigenous population (Greene, 2006; Pajuelo, 2006; Yashar, 2005).¹

For this reason, academic attention on Indigenous politics in Peru has pointed to various factors that could explain the lack of a powerful Indigenous movement at the national level. The reasons given include the negative impact of racism and domination throughout Peruvian history (Rénique, 2004), the effects of agrarian reform in the 1970s (Degregori, 1993; Yashar, 2005), the increasing prevalence of a more heterogeneous “cholo” identity due to accelerated migration processes (CVR, 2003), the effect of the violence during the Sendero Luminoso years of the 1980s and 1990s (Martí i Puig, 2010; Yashar, 2005), and the lack of trans-community networks and political association spaces (Martí i Puig, 2010; Yashar, 2005).

However, as of 2014, the situation has changed. Today, it is possible to speak of the experience of a united Indigenous movement in Peru, which mobilised in the aftermath of the *Baguazo*, a tragic event that occurred in June 2009 and led to the deaths of 34 people (both Indigenous and non-Indigenous) in the context of conflict over Indigenous land rights. Andean Indigenous organisations were quick to join their Amazonian counterparts in the defence of their territory and in the condemnation of the massacre (“Perú: Andinos y Amazónicos,” 2009). Mobilisation occurred with an alignment of frames, grievances, and support; it caught the attention of Peruvian intellectuals who noticed the convergence of different groups in defence of the right to “consultation.”² In 2011, following the events in Bagua, five of the main Indigenous organisations of Peru came together to form an organisation called the *Pacto de Unidad* (Unity Pact) and, in the same year, the *Ley de Consulta* (Law of Consultation; see “Ley del Derecho,” 2011) was signed. It was the first law of its kind in Latin America. A prominent Indigenous leader—Alberto Pizango—noted that the *Baguazo* was a watershed, marking the beginning of a visible Indigenous movement in Peru (“Peru: El Movimiento,” 2010).

Given these events, it is necessary to ask new and important questions regarding the emergence of Indigenous actors at the national level in Peru, including (a) how did different organisations come together to form a national Indigenous movement in Peru? And (b) how has the movement achieved an (albeit debatable) impact in terms of the consultation law? The aim of this article is to offer a tentative reply to both questions, given that the process is ongoing. Our argument is that both the convergence and the impact of a national-level Indigenous movement in Peru are embedded in complex bargaining processes in which issues of ethnicity and political opportunities at the national

¹ Other authors have argued that there has been an ethnic dimension in Peruvian politics, although it has not been visible (Degregori, 1993; Manrique, 2006).

² On the importance of consultation, see “Peru: El Movimiento” (2010).

level have been affected by the leverage of global norms (specifically the International Labour Organisation's Covenant No. 169) by both international and national actors.

The article is structured as follows: In the first section, relevant perspectives from social movement and constructivist international relations theory are examined; in the second section, an empirical analysis of the convergence of different organisations into a national-level Indigenous movement is offered together with an evaluation of its relationship to the Law of Consultation; and, in the third and final section, the main conclusions of the study are offered, together with pointers on policy implications and lessons learned. The research carried out is based on secondary documentation (including press releases, government and civil society reports, and newspaper articles), as well as ethnographic fieldwork carried out by the author in Peru in 2009. This is primarily a case study; however, it is hoped that the conclusions may well be valid in those countries where—despite a considerable Indigenous population—there has been a noticeable absence of a strong Indigenous movement at the national level.

Theoretical Framework: Social Movement and Constructivist International Relations Theory

In this section, I refer to two bodies of literature that have been used to understand Indigenous movements in other contexts: social movement theory, on the one hand, and constructivist international relations theory, on the other. Specifically, in the sections below, we revise how perspectives relating to ethnicity and political opportunity from social movement theory and transnational advocacy networks and the leverage of global norms from constructivist international relations theory have been applied to the understanding of Indigenous movements elsewhere.

Social Movement Theory

Social movements have been studied from a variety of perspectives, including their emergence, the activities involved, and their impact on politics (Tarrow, 2004). In the case of Indigenous movements, the literature has focused on two inter-related aspects: the political opportunity structure (Martí i Puig, 2007; Van Cott, 2005) and the important issue of the mobilisation of an ethnic identity (Brysk, 2009; Wright & Martí i Puig, 2012). A conceptualisation of both aspects is offered together with a reconsideration of their application to the study of Indigenous movements in Latin America.

Political opportunity structure. Social movements have been studied from a variety of perspectives (Tarrow, 2004). In recent times, a more contextual reading has prevailed in the socio-theoretical analysis of the different processes of mobilisation. This perspective is known as the Political Opportunity Structure (POS), which focuses on how changes in factors that are external to a movement can reduce the costs of collective action and improve the possibility of success by suggesting possible allies while showing weaknesses among the political elite (Martí i Puig, 2010). The changes are related to three spheres: (a) the political system, in the sense of norms that make mobilisation less costly; (b) the time or place, by finding a favourable position in the cycles of protest at the national or international level; (c) the relationships, in terms of the political elite and other potential allies.

The perspective of POS has been applied successfully to the study of Indigenous movements and their recent emergence on national political arenas in Latin America. In her seminal study, Van Cott (2005) analysed several institutional factors which—in combination with organisational aspects—

can explain the formation and success of Indigenous parties in Latin America, resulting in openness of electoral and party systems, decentralisation, and reserved seats for Indigenous candidates. From a relational perspective, Martí i Puig (2010) argued that the political elite of Latin American polyarchies have become increasingly reticent to offer representation for Indigenous peoples in terms of governance; thus, a “window of opportunity” that was open in the 1990s in the region is now closing. Undoubtedly, POS can both facilitate and hinder Indigenous movements, something that will be taken into account in the empirical analysis below.

Ethnic identity. Another increasingly important issue in social movement theory is related to identity (Tarrow, 2004). Identity is defined as the shared elements that distinguish individuals as belonging to a particular social group. It is difficult to capture due to its dynamic and changing nature. Social movement theory has offered three clear perspectives on the issue of identity in relation to collective action: First, identity as a *cause* of collective action when a group feels that its identity is at risk (Chihu Amparán, 2007; Marx Ferree, 1994; Thompson, 1991) or feels the need to articulate a new identity (Hunt, Benford & Snow, 1994; Klandermans, 1994; Zubero, n.d.); second, identity as a *resource* for social movements when political identities are chosen as a result of *pre-existing* cultural elements and the decision is made to *activate* certain features rather than others in relation to potential allies and common concerns (Della Porta & Diani, 2006; Tarrow, 2004); and finally, identity as an unexpected and secondary consequence of collective action, in that, once social movements expand, groups develop their own culture and become elements of cultural innovation (McAdam, 1994).

It is important to note that identity and ethnicity are not synonymous: While identity refers to a distinctive characteristic of a group, ethnicity refers more specifically to distinctive characteristics based on ancestral, social, cultural, and linguistic features. In this sense, ethnicity is the central identity issue in Indigenous social movements and undoubtedly lies at the heart of a collective struggle. The movements arise to *protect* elements of a collective identity that are under risk—specifically, the recognition of territories and territorial rights, the denouncement of historical treatment, and respect for culture, cosmovisions, and lifestyles (Martí i Puig, Wright, Aylwin & Yáñez, 2013). However, as Brysk (2009) noted, ethnically diverse groups in Latin America have claimed the “Indigenous” label, with a focus on shared traits rather than group differences. In this sense, several authors have offered a strategic understanding of mobilising with an *Indigenous* rather than local or even peasant ethnicity throughout Latin America (Gómez Suárez, 2005; Máiz, 2004; Trejo, 2000; Wright & Martí i Puig, 2012). Finally, authors incorporating an identity perspective on Indigenous movements in Latin America have also found that, when the movements are successful, they can lead to a re-evaluation and re-appreciation of ethnicity amongst Indigenous communities as a result of the reconceptualisation of their position as “ethnic citizens” (Bengoa, 2009).

Constructivist International Relations Theory

As mentioned above, the POS approach in social movement theory contemplates the possibility of the international context—including media attention, potential allies, and normative frameworks—opening up opportunities and reducing the costs of collective action (Tarrow, 2004). For its part, constructivist international relations theory has focused on two interrelated aspects of the impact of international level politics on national Indigenous movement processes: the “boomerang effect” of transnational advocacy networks (Brysk, 2009; Keck & Sikkink, 1998) and the globalisation of law (Brysk & Jimenez-Bacardi, 2013). These perspectives are considered in the sections that follow.

The boomerang pattern. The relational aspect of POS at the international level has been developed more fully by constructivist international relations theory and specifically by Keck and Sikkink (1998) with the identification of a “boomerang pattern.” According to this approach, when national governments are deaf or impenetrable to demands made by NGOs or social movements, the latter will reach out to international allies in order to exert pressure at the national level within the framework of a transnational advocacy network. According to this model, actors in developing countries will look to partners in more developed countries to use their resources and influence to exert leverage from the international level to the national level. What is particularly interesting about this process is the need to align cognitive frames and identity discourses with international standards in order to find suitable allies, as was the case with the human rights, environmental, and women’s movements.

Keck and Sikkink (2009) further identify Indigenous movements as one of the main examples of this pattern. According to Alison Brysk (2009), it was thanks to international intervention that Indigenous movements in countries like Brazil, Bolivia, and Ecuador had greater influence in the domestic sphere. Particularly important was the element of international cooperation through the help of church organisations, NGOs, and professional networks, including anthropologists. The networks offered help in various ways with contact, consciousness, courage, and cash. Salvador Martí i Puig (2010) argued that transnational advocacy networks created an international focus on Indigenous problems, leading to the creation of the Working Group on Indigenous Peoples (WGIP), the Permanent Forum on Indigenous Issues, and the UN Special Rapporteur.

The globalisation of law. Another equally important element of constructivist international relations theory relates to the normative aspect of POS at the international level in the globalization of law. In the words of Brysk and Jimenez-Bacardi (2013), this process relates to “the growth of legal norms, mechanisms, and jurisprudence across borders” (p.1). However, the degree to which international law can be used to successfully defend human rights will depend on political processes at the national level, namely the autonomy of legal institutions, concepts of sovereignty, and the degree to which civil society is empowered in order to make claims based on legal norms.

The globalisation of law has been of tremendous importance for Indigenous movements in general. After heated and difficult debates amongst international and national actors, the International Labour Organisation’s Convention 169 (ILO, 1989) was signed in 1989 as a legally binding instrument for ratifying states.³ While it does not develop the idea of political autonomy, it does establish the right to “free, prior, and informed consent” of Indigenous peoples in relation to the decisions that will affect them, in essence offering basic (albeit vague) protection against potential violations by the state and by non-state actors. According to Martí i Puig (2010), C169 has also been crucial in underlining the importance of self-identification as a criterion for determining the groups to which its principles apply (p. 81). Undoubtedly, this norm has become an important reference point at the national level in ratifying countries, with courts applying the text when dealing with cases involving Indigenous peoples (ILO, 2008). Nevertheless, there is still a great deal of work to do in moving from the symbolic sphere of the convention to the implementation of specific, directed policies and actions (Stavenhagen, 2012), something that undoubtedly depends on the POS at the national level.

³ It is important to note that, in 2007, another important global norm was signed: the United Nations’ Declaration of the Rights of Indigenous Peoples (UNDRIP) (United Nations, 2008). Although it is a non-binding document, it develops more fully the ideas of autonomy and participation, as well as stressing the importance of free, prior and informed consent established in C169 (Fernández Carrillo, 2012).

Case Study: The National-Level Indigenous Movement and the Law of Consultation

At the beginning of this article, two questions were formulated: (a) How did different organisations come together to form a national Indigenous movement in Peru? And (b) how has the movement been able to achieve an (albeit debatable) impact in terms of the consultation law? The aim of this section is to offer a tentative reply to both questions, considering several important episodes between 2009 and 2013. Our argument is that both the convergence and the impact of a national-level Indigenous movement in Peru are embedded in complex bargaining process in which issues of ethnicity and political opportunities at the national level have been affected by the leverage of global norms (specifically, the International Labour Organisation's, 1989, Covenant No. 169) by transnational advocacy networks.

Indigenous Politics in Peru Prior to the Baguazo

As highlighted in the introduction, previous studies have generally argued that there is no national-level Indigenous movement in Peru (Greene, 2006; Pajuelo, 2006; Yashar, 2005), with reasons ranging from the violence of the 1980s and 1990s, to organisational differences, and to POS (Comisión de la Verdad y Reconciliación (CVR), 2003; Martí i Puig, 2010; Rénique, 2004; Yashar, 2005). It is important to note that there have been several organisations active in the defense of Indigenous rights at the national and international level since the 1970s⁴ and, therefore, it is not accurate to talk of an absence of Indigenous movements; rather, what is new is the *convergence* of diverse organisations as a national-level social movement capable of having an impact on national politics.

Historically, ethnic schemas at the national level have led to an unfavourable POS for the emergence of a national-level Indigenous movement. On the one hand, as Greene (2009) pointed out, Amazonian communities have a long history of organisation and self-identification as native peoples ("nativos"). On the other hand, in the Andean region, communities have generally been identified as peasants ("campesinos") as a result of the agrarian reform carried out by the government of Velasco in the 1970s (Pajuelo, 2006).⁵ This differentiation was incorporated into the national normative framework of the *Ley de Comunidades Nativas y Promoción Agraria de las Regiones de la Selva Alta y Selva Baja* (1974; Law on Native Communities and the Agrarian Promotion of the Regions of the Selva Alta and the Selva Baja; see also Eguren, 2006), which was signed in 1974, creating a dichotomous situation in which Amazonian groups were considered to be "Indigenous" and Andean groups were considered to be "non-Indigenous," despite many common ethnic features.

In turn, this important social difference between Indigenous and non-Indigenous communities has had an impact on the way in which the different groups organised politically. On one hand, the Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSESP or in English the Inter-ethnic Association for the Development of the Peruvian Forest) and la Confederación de Nacionalidades Amazónicas del Perú (CONAP or in English the Confederation of the Amazonian Nationalities of

⁴ Including Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSESP or in English the Inter-Ethnic Association for the Development of the Peruvian Forest) and Confederación de Nacionalidades Amazónicas del Perú (CONAP or in English the Confederation of the Amazonian Nationalities of Peru).

⁵ This process does not imply an acculturation of these communities, but rather it constitutes an identity strategy in a context that is not particularly favourable to Indigenous ethnicity (de la Cadena, 2000; Greene, 2009).

Peru) have represented the interests of Amazonian peoples as Indigenous or native people both at the national level as well as at the international level since the 1980s (Van Cott, 2005). On the other hand, popular organisations in the Andes have generally been identified in terms of class rather than ethnic terms (Greene, 2009). In this context, it is clear that national understandings and structures of ethnicity in Peru have generally been unfavourable to the emergence of a national-level movement based on shared aspects of an Indigenous ethnicity.

However, for several years, there have been signs that the ethnicity labels in the Andean region are converging with those of the Amazon region. In a study on the Confederación Nacional de Comunidades del Perú Afectadas por la Minería (National Confederation of Communities of Peru Affected by Mining - CONACAMI), Maritza Paredes (2006) found that communities involved in mining conflicts have been opting to identify according to an Indigenous identity. In addition, Ramón Pajuelo (2006) found a considerable emergence of participation in the Andean region, with discourses based on Indigenous demands by new leaders and organisations. More recently, Claire Wright and Salvador Martí i Puig (2012) carried out an analysis of environmental conflicts in Cusco, Peru in 2008; they found embryonic Indigenous discourses among highland peasant organisations, alongside more consolidated Indigenous discourses among Amazonian communities. This process has undoubtedly constituted an important first step towards a more united Indigenous movement at the national level in Peru; yet, something very important would have to happen in order for the different organisations to converge.

From The Tragedy of the Baguazo to a Window of Political Opportunity

The event that would bring about a rapid change in this situation was the *Baguazo*, the tragic result of strikes carried out by Indigenous communities in the Amazon region in May and June of 2009. Throughout the protest period, a transnational advocacy network became activated with a great deal of support among other Indigenous organisations and NGOs both in Peru (“Perú: Contundente Respaldo,” 2009) and abroad (“Colombia. Indígenas Protestan,” 2009). Following the deaths of 34 people in clashes on June 5, 2009, both national and international attention became focused on the tragedy, and the transnational advocacy network broadened. The bloody outcome of the events brought about important criticisms at both the national level from Amazonian, Andean, and civil society organisations, and at the international level from European and North American NGOs working to defend human rights and the environment (Amnesty International, 2009; “Perú: Instan a Indígenas,” 2009; Piltz, 2009). Several foreign government agencies also offered criticism (“Perú-Alemania: Exigen,” 2009). In Brussels, citizen protests took place in front of the Peruvian embassy; protesters demanded that the Free Trade talks between the European Union and Peru be brought to a halt (“Piden en Bruselas,” 2009). In Spain, 40 NGOs protested in front of the Ministry of Foreign Relations, insisting on a full investigation into the events (“España: 40 ONG,” 2009).

The Indigenous organisations themselves attached great and immediate importance to communicating with the UN’s Special Rapporteur on Indigenous Affairs and with the International Conference of the International Labour Organisation, both of which criticised the Peruvian government’s actions in Bagua (“FIDH Hace Graves,” 2009; “ONU: Estado Peruano,” 2009; “Perú: Invocan Presencia,” 2009). Furthermore, the leader of AIDSESEP, Alberto Pizango, was exiled to Nicaragua, eliciting high profile media attention (“Embajador de Nicaragua,” 2009). It was in this context of intense mobilisation at the international and national levels that the different Indigenous organisations started to come together with several common demands: an investigation into the events of Bagua (“Perú: Primer Ratifica,” 2009), the derogation of the legislative decrees that had given rise to the protests (“Perú: Masiva e Histórica,” 2009), and—eventually—a demand for

respecting the right to free prior informed consultation, which was perceived to be the source of the conflicts (“Perú: Invocan,” 2009). This last demand constitutes the core issue that brought different organisations together to push for a “Law of Consultation,” a process analysed in the following section.

The Law of Consultation, C169, and Transnational Advocacy Networks

The central idea behind the proposed Law of Consultation (“Ley del Derecho,” 2011) was to implement one of the key precepts of C169: the right to free, prior, informed consent. Indeed, references to C169 and its clauses on Indigenous participation and identity permeate the discourse created in the aftermath of Bagua⁶. In their condemnation of the events in Bagua, a group of international NGOs based in Lima released a statement calling for respect for C169 in Peru (“Perú: Instan,” 2009), as did German-Peruvian cooperation agencies (“Perú-Alemania: Exigen,” 2009), and the World Council of Churches (“Internacional: Consejo Mundial de Iglesias,” 2009). Also, the Peruvian press, in its discussions about the rights of Indigenous peoples during this period, invariably refers to the ILO Convention (“OIT: ‘La Ley’”, 2011; Selva Santisteban, 2013). Most importantly, the Indigenous organisations at the national level—such as AIDSESEP and CONACAMI—referred explicitly to the ILO Convention No. 169 during this period to add weight to their demands for participation based on their identity as *Indigenous peoples* (“Perú: El Movimiento,” 2010; “Perú: Jornadas de Evaluación,” 2012).

The global norm, ratified by Peru in 1994, acknowledges the special relationship between Indigenous peoples and their territories, which is stressed throughout the text. Importantly, C169 offers an important element of legitimacy to the ethnicity claims of both Amazon and Andean groups in the post-Bagua context, within the framework of the globalisation of law as understood by Brysk and Jimenez-Bacardi (2013). C169 establishes that Indigenous peoples are those who descend “from populations that inhabited the country or geographical region to which the country belonged in the time of conquest or colonization . . . whatever their juridical situation may be, conserve all or part of their social, economic, cultural and political institutions” (ILO, 2008, Article 1.1.b). Moreover, it establishes that self-adscription or self-identification is equally important (Article 1.2). This concept of Indigenous ethnicity is much broader than the Peruvian state’s traditional schema of Andean-peasant or Amazonian-native. Consequently, C169 had two legitimising effects on the convergence of demands around the right to consultation: firstly, on the idea of protecting Indigenous lands; and secondly, on considering Andean as well as Amazonian communities as subject to this right.

After an extensive period of discussions and mobilisation (“ONU: Exigen que Estado,” 2010), the Peruvian Congress passed the Law of Consultation in 2010, which the different Indigenous organisations considered to be an important achievement (“Ley del Derecho,” 2011). Tellingly, the name of the law refers explicitly to C169, reflecting once again its importance: “Ley 29785 o Ley Del Derecho a la Consulta Previa a los Pueblos Indígenas u Originarios Reconocido en el Convenio 169 de la Organización Internacional del Trabajo” (Law 29785 or the Law of the Right to Previous Consultation of Indigenous or Native Peoples Acknowledged in the ILO Convention No. 169). Consequently, upon the President’s hesitance to promulgate the law, the Indigenous organisations joined together and reached out to powerful actors at the international level in a clear attempt at creating a boomerang pattern. In May 2010, five different organisations released two manifestos in

⁶ Interestingly, there are very few references to the UNDRIP (2008), signed in 2007.

support of the law, demanding that the president promulgate it immediately,⁷ which marked a series of joint actions between Amazonian and Andean organisations. For his part, Bartolomé Clavero, vice president of the Permanent Forum on Indigenous Issues, called on the Peruvian president to promulgate the Law of Consultation after its approval by Congress, in line with the demands of national Indigenous organisations (“Perú: Por la Promulgación,” 2010). Interestingly, the World Bank likewise exhorted the President to promulgate the law (“Perú: Banco Mundial,” 2010). Finally, it is important to note that there was also continuing support from international NGOs, including Amnesty International, during this period (“Perú: Crece Presión Nacional,” 2010).

Limitations to the Boomerang Pattern

Despite the initial momentum gained by the transnational advocacy network and the globalization of C169, there would be further setbacks at the national level. In July 2010, President Alan García rejected several elements of the law, including the possibility of giving Indigenous communities the right to veto, respecting the binding nature of their decision and giving priority to Indigenous rights over economic progress. Importantly, one of the most serious criticisms was of peasant communities becoming subject to the right to consultation given that—according to the precedent established by the Agrarian Reform of the 1970s—they were not considered to be Indigenous (Comisión Andina de Juristas, 2010). Consequently, many major amendments were made to the law and it was sent back to Congress for further review. In reply, the Indigenous organisations reached out once again to the transnational advocacy network and voiced their concerns to the United Nations and Amnesty International (“ONU: Atropellos a Derechos,” 2010), followed by several protests throughout Peru (“Perú: Organizaciones Protestarán,” 2010). In this context, the leader of AIDESEP claimed in October 2010 that the Indigenous movement in Peru had the “solidarity and support of the whole world” (“Perú: El Movimiento,” 2010).

During this process of difficulties followed by intense mobilisation, the different Indigenous organisations, who had been working towards the same problem of defending their territory separately, decided to join together. Four of the five organisations that had publicly signed two manifestos in 2010 calling for President Alan García to promulgate the Law of Consultation—AIDESEP, CONACAMI, CCP, and CNA—joined together with the Organización Nacional de Mujeres Indígenas Andinas y Amazónicas del Perú (National Organisation of Indigenous Andean and Amazon Women in Peru - ONAMIAP) in the so-called Pacto de Unidad de Organizaciones Indígenas de Perú (Unity Pact of Indigenous Organisations in Peru) in May 2011. This step was crucial because it represented the coming together of a national level Indigenous movement in Peru, not just in symbolic terms (as had been the case since the Baguazo and up until this point), but in organisational terms as well. At that time, Alberto Pizango claimed that there was “a political perspective of unity between Andeans and Amazonians” (“Perú: El Movimiento,” 2010), something that became consolidated into a national movement with the signing of the pact. Importantly, at that point, the Pacto de Unidad became the main representative for the different Indigenous organisations in the debates surrounding the Law of Consultation at both the national and international levels.

Despite these developments, in August 2011, the Peruvian Congress approved the law with the revisions that had been made by President García and, in September of the same year, the recently

⁷ Among these organisations were AIDESEP and CONACAMI, as well as the Confederación Campesina del Perú (Peasant Confederation of Peru - CCP), Confederación Nacional Agraria (National Agrarian Federation - CNA), and CONAP.

elected President Ollanta Humala implemented the law in Bagua, undoubtedly looking for symbolic capital amongst Indigenous communities. For the most part, international organisations such as Amnesty International and the Inter-American Commission received the news as a positive step forward for the protection of Indigenous territorial rights in Peru and as a landmark for Latin America (Amnesty International, 2011; Organization of American States [OAS], 2011). For their part, the Pacto de Unidad and other Indigenous organisations appeared to be disappointed by the law, given that, despite a new political context with a different president and majority in Congress, the alternations made by President García in 2010 were maintained in the law promulgated in 2011 (La Rosa, 2013).

In November 2011, the executive rapidly distributed its proposed regulations of the Law of Consultation and the Pacto de Unidad began to work on debating the contents of the regulations (“Perú: Jornadas de Evaluación,” 2012). During the process, there were claims that the government had begun to coopt certain indigenous leaders (“Perú: Estado y Pueblos,” 2012). In any case, the Pacto publicly criticised the regulations for several reasons—for the very narrow understanding of indigenous communities, as well as for the lack of Indigenous participation in the process (Pacto de Unidad, 2012). In protest, the Pacto de Unidad was absent from the final sessions in February and March 2012, when the regulations were signed (“Perú: Reglamento de Consulta,” 2012). The fact that the regulations were drawn up and passed so quickly (in four months) may explain why, during this period, the Pacto did not initially resort to the transnational advocacy network in order to exert additional pressure. During 2013, the Pacto de Unidad, supported by national human rights’ NGOs (Chavarri, 2013), once again reached out to the transnational advocacy network, including the ILO and the UN’s Special Rapporteur (“Perú: Pacto de Unidad Comunicó,” 2013) to restate its original criticisms of the law and to reiterate the difficulties in the proposed database of Indigenous communities and the absence of consultations in practice (Pacto de Unidad, 2013; “Minem Desconoce Derecho,” 2013).

A Tentative Analysis

At the beginning of this article, two questions were asked: (a) How did different organisations come together to form a national Indigenous movement in Peru? And (b) how has the movement achieved an impact in terms of the consultation law? As a result of an empirical analysis, it is clear that both processes are embedded in complex debates between the national and international levels surrounding the nature of Indigenous rights.

The convergence of a national–Indigenous movement in Peru can only be interpreted in the context of the *Baguazo*, a tragedy which highlighted the common grievances between ethnically diverse groups in the Amazonian and Andean region. As a result of the activation of a transnational advocacy network and the normative power of C169, a more favourable POS opened up for the articulation of demands for recognition as Indigenous peoples by different groups at the national level in Peru. Conversely, a convergence of groups was institutionalised in 2011 with the formation of the Pacto de Unidad when it became clear that the national level POS was more restrictive than expected, particularly due to different understandings of Indigenous ethnicity. Although the Pacto has suffered several organisational changes since then, as of 2014, it is still active in the denouncement of abuses of Indigenous rights and in the ongoing conversations of the Law of Consultation.

Undoubtedly, this national norm, firmly rooted in a global norm (C169), is what has kept the different organisations united with a common aim. There were two main strategies employed in the period studied here (from 2009 to 2013): the activation of a transnational network and periods of

intense mobilisation at both the national and international levels. Nevertheless, we consider that the strategies up until now were only partially successful given that, although Peru now counts on a Law of Consultation, many of the clauses have been rejected by the national-level Indigenous movement. In this sense, the impact of the movement in Peru exemplifies how the globalisation of law and the boomerang pattern depend on national level processes—in this case a limited POS due in large part to more restrictive schemas of indigeneity.

Conclusions and Lessons Learned

It is important to note that the processes analysed in this brief article are ongoing, but, given that the events between 2009 and 2013 have occurred at a considerable pace, the next few years will surely be very interesting in terms of the development and impact of a newly converged, institutionalised and—most importantly—visible national-level Indigenous movement in Peru. In any case, the tentative analysis carried out in these pages offers several important lessons in terms of Indigenous mobilisation and the interplay between international and national processes.

One of the most important lessons is that the boomerang pattern is still a key part of the repertoire of Indigenous movements in Latin America. Indeed, in recent times, it has been the main strategy for the national-level Indigenous movement in Peru, which has reached out beyond its borders to international organisations for support. Likewise, the globalisation of legal norms is a key part of this boomerang pattern, given that C169 is still the main reference and leverage point for protecting Indigenous rights at the national level. Nevertheless, the vagueness of this norm on certain key aspects, such as the very nature of Indigenous ethnicity itself, may be one of the causes of the difficult debates at the national level, with states and Indigenous organisations embroiled in different understandings of who has the right to consultation.

Finally, the coming together of a national-level Indigenous movement after the tragic events of the Baguazo in 2009 demonstrates the importance of using a window of opportunity to focus on a common grievance—conflict over the exploitation of natural resources. Likewise, the construction of a common, Indigenous identity to unite organisations representing different ethnicities can be seen as a cause of, a resource for, and a result of this intense period of mobilisation and organisation. Nonetheless, as of 2012, it seems as if the national-level movement has started to suffer from internal divisions. The Pacto de Unidad has lost two of its most important organisations: AIDSESEP and CONACAMI. If the national-level Indigenous movement in Peru is to continue to influence politics and make common demands with any degree of success, it must overcome organisational and leadership conflicts, something that is undeniably one of the key challenges for any social movement.

References

- Amnesty International. (2009). *Peru: Situation in Amazon conflict 'critical' says Amnesty*. Retrieved from <http://www.amnesty.org.uk/press-releases/peru-situation-amazon-conflict-critical-says-amnesty>
- Amnesty International. (2011). *El Congreso de Perú aprueba por unanimidad la ley de consulta indígena*. Retrieved from <http://www.amnesty.org/es/news-and-updates/congreso-peru-aprueba-ley-consulta-indigena-2011-08-25>
- Bengoa, J. (2009). ¿Una segunda etapa de la emergencia indígena en América Latina? *Cuadernos de Antropología Social*, 29, 7 - 22.
- Brysk, A. (2009). *De la tribu a la aldea global. Derechos de los pueblos indígenas, redes transnacionales y relaciones internacionales en América Latina*. Barcelona: Edicions Bellaterra.
- Brysk, A., & Jimenez-Bacardi, A. (2013). The Politics of the globalization of law. In A. Brysk (Ed.), *The Politics of the globalization of law. Getting from rights to justice*. (pp. 1 - 28). New York: Routledge.
- Chavarri, R. M. (2013, May 15). Gobierno retrocede y no publicará la Base de Datos de Pueblos Indígenas. *La República*. Retrieved from <http://www.larepublica.pe/15-05-2013/gobierno-retrocede-y-no-publicara-la-base-de-datos-de-pueblos-indigenas>
- Chihu Amparán, A. (2007). Marcos interpretativos, identidad e imaginario en el Mexica movement. *Región y Sociedad, IX*, 51 - 76.
- Colombia. Indígenas protestan en solidaridad con amazónicos peruanos. (2009, May 10). *Servindi*. Retrieved from <http://servindi.org/actualidad/12722>
- Comisión Andina de Juristas. (2010). Perú: Ejecutivo Observó Ley de Consulta Previa a Pueblos Indígenas. Retrieved from www.cajpe.org.pe
- Comisión de la Verdad y Reconciliación [CVR]. (2003). *Informe Final*. Retrieved from <http://www.cverdad.org.pe/>
- Degregori, C. I. (1993). Identidad étnica, movimientos sociales y participación política en el Perú. In A. Adrianzén, J. Blanquer, R. Calla Ortega, C. I. Degregori, P. Gilhodes, A. Guerrero, . . . J. P. Lavaud (Eds.), *Democracia, etnicidad y violencia política en los países andinos*. (pp.113 - 133). Lima: IFEA / IEP.
- de la Cadena, M. (2000). *Indigenous mestizos: The politics of race and culture in Cuzco, Peru, 1919 - 1991*. Durham, NC: Duke University Press.
- Della Porta, D., & Diani, M. (2006). *Social movements: an introduction*. Malden: Blackwell.
- Eguren, F. (2006). Reforma agraria y desarrollo rural en Perú. In F. Eguren (Ed.), *Reforma agraria y desarrollo rural en la región andina*. (pp. 11 - 31). Lima: CEPES.

- Embajador de Nicaragua: Pizango “Tiene todas las características de perseguido político.” (2009, June 9). *Servindi*. Retrieved from <http://servindi.org/actualidad/12668>
- España: 40 ONG piden investigación internacional de tragedia en Bagua. (2009, June 23). *Servindi*. Retrieved from <http://servindi.org/actualidad/13357>
- Fernández Carrillo, B. (2012). Los pueblos indígenas y el Sistema de Naciones Unidas. Perspectivas de cambio. In F. Gómez Isa & M. Berraondo (Eds.), *Los derechos indígenas tras la Declaración. El desafío de la implementación*. (pp. 65 - 89). Bilbao: Universidad de Deusto.
- FIDH hace graves advertencias sobre derechos humanos en tragedia de Bagua. (2009, June 23). *Servindi*. Retrieved from <http://servindi.org/actualidad/13384>
- Gómez Suárez, Á. (2005). Identidades colectivas y discursos sobre el sujeto indígena. *Revista de Antropología Iberoamericana*, 41, 1 - 24.
- Greene, S. (2006). Getting over the Andes. The geo-eco-politics of Indigenous movements in Peru's twenty-first century Inca Empire. *Journal of Latin American Studies* 38, 327 - 354.
- Greene, S. (2009). *Customizing indigeneity. Paths to a visionary politics in Peru*. Stanford: Stanford University Press.
- Hunt, S., Benford, R., & Snow, D. (1994). Marcos de acción colectiva y campos de identidad en la construcción social de los movimientos. In E. Laraña y J. Gusfield (Eds.), *Los nuevos movimientos sociales: De la ideología a la identidad*. (pp. 221 - 245). Madrid: CIS.
- Internacional: Consejo Mundial de Iglesias pide al gobierno respetar derechos de indígenas. (2009, June 13). *Servindi*. Retrieved from <http://servindi.org/actualidad/12943>
- International Labour Organization [ILO]. (1989). *C169 Indigenous and Tribal People's Convention*. Retrieved from http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169
- International Labour Organization [ILO]. (2008). *Application of Convention no. 169 by domestic and international courts in Latin America: A casebook*. Geneva: ILO.
- Keck, M., & Sikkink, K. (1998). *Activists beyond borders: Advocacy networks in international politics*. London: Cornell University Press.
- Klandermans, B. (1994). La construcción social de la protesta y los campos pluriorganizativos. In E. Laraña y J. Gusfield (Eds.), *Los nuevos movimientos sociales: De la ideología a la identidad*. (pp. 183 - 215). Madrid: CIS.
- La Rosa, J. (2013). *Ley de Consulta: Cuando la forma es tan importante como el fondo*. Retrieved from <http://revistaideele.com/ideele/content/ley-de-consulta-cuando-la-forma-es-tan-importante-como-el-fondo>

- Ley del derecho a la consulta previa a los pueblos indígenas u originarios, reconocido en el Convenio 169 de la Organización Internacional del Trabajo (OIT). (2011). Law No. 29785. Retrieved from <http://consultaprevia.cultura.gob.pe/compendio-normativo.pdf>
- Ley de Comunidades Nativas y Promoción Agraria de las Regiones de la Selva Alta y Selva Baja* (1974). Law No. 20653.
- Máiz, R. (2004). Yawar Mayu: La construcción política de identidades indígenas en América Latina. In S. Martí i Puig & J. M. Sanahuja (Eds.), *Etnicidad, descentralización y gobernabilidad en América Latina*. (pp. 325 - 366). Salamanca: Ediciones Universidad de Salamanca.
- Manrique, N. (2006). Democracia y nación. La promesa pendiente. In PNUD (Ed.), *La democracia en el Perú: Proceso histórico y agenda pendiente*. (pp. 13 - 58). Lima: PNUD.
- Martí i Puig, S. (2007). Emergencia de lo indígena en la arena política: ¿Un efecto no deseado de la gobernanza? In S. Martí i Puig (Ed.), *Pueblos Indígenas y política en América Latina: El reconocimiento de sus derechos y el impacto de sus demandas a inicios del siglo XXI*. (pp. 127 - 148). Barcelona: Fundació CIDOB.
- Martí i Puig, S. (2010). The emergence of Indigenous movements in Latin America and their impact on the Latin American political scene. Interpretative tools at the local and global levels. *Latin American Perspectives*, 37(6), 74 - 92.
- Martí i Puig, S., Wright, C., Aylwin, J., & Yáñez, N. (2013). *Entre el desarrollo y el buen vivir. Recursos naturales y conflictos en los territorios indígenas*. Madrid: Ediciones la Catarata.
- Marx Ferree, M. (1994). El contexto político de la racionalidad: las teorías de la elección racional y la movilización de recursos. In E. Laraña & J. Gusfield (Eds.), *Los nuevos movimientos sociales: De la ideología a la identidad*. (pp.151 - 176). Madrid: CIS.
- McAdam, D. (1994). Cultura y movimientos sociales. In E. Laraña y J. Gusfield (Eds.), *Los nuevos movimientos sociales: De la ideología a la identidad*. (pp. 43 - 64). Madrid: CIS.
- Minem desconoce derecho a la consulta de comunidades mientras no haya base de datos. (2013, April 19). *Servindi*. Retrieved from <http://servindi.org/actualidad/86011>
- Organization of American States [OAS]. (2011). *CIDH saluda promulgación de ley de consulta en Perú*. Retrieved from <http://www.oas.org/es/cidh/prensa/comunicados/2011/099.asp>
- ONU: Atropellos a derechos indígenas en Perú se difunden en Naciones Unidas. (2010, July 15). *Servindi*. Retrieved from <http://servindi.org/actualidad/28838>
- ONU: Estado peruano fue cuestionado en conferencia de la OIT por sucesos de Bagua. (2009, June 12). *Servindi*. Retrieved from <http://servindi.org/actualidad/12861>
- ONU: Exigen que Estado peruano cumpla derecho a la consulta con estándar internacional. (2010, April 29). *Servindi*. Retrieved from <http://servindi.org/actualidad/25143>

- OIT: "La Ley de Consulta Previa es una señal política importante." (2011, August 25). *El Comercio*. Retrieved from <http://elcomercio.pe/peru/lima/oit-ley-consulta-previa-senal-politica-importante-noticia-1179404>
- Pacto de Unidad. (2012, March 4). Estado peruano consume violación de Derechos de los pueblos indígenas, mediante la reglamentación de una inconstitucional ley de consulta. Retrieved from Servindi website: <http://servindi.org/actualidad/60457>
- Pacto de Unidad. (2013). *Perú: Informe alternativo 2013 sobre el cumplimiento del convenio 169 de la OIT*. Retrieved from https://ia601904.us.archive.org/10/items/InformeAlternativo2013_201310/Informe_Alt_ernativo_2013.pdf
- Pajuelo, R. (2006). *Participación política indígena en la sierra peruana: Una aproximación desde las dinámicas nacionales y locales*. Lima: IEP/Fundación Konrad Adenauer.
- Paredes, M. (2006). Discurso indígena y conflicto minero en el Perú. In J. Iguñiz, J. Escobal, & C. I. Degregori (Eds.), *Peru: El problema agrario en debate*. (pp. 501 – 539). Lima: SEPIA XI.
- Perú-Alemania: Exigen a gobierno peruano cumplir normas internacionales. (2009, June 10). *Servindi*. Retrieved from <http://servindi.org/actualidad/12737>
- Perú: Andinos y amazónicos marcharán a Lima si no se derogan decretos inconstitucionales. (2009, June 11). *Servindi*. Retrieved from <http://servindi.org/actualidad/12827>
- Perú: Banco Mundial también recomienda aprobar Ley de Consulta. (2010, June 18). *Servindi*. Retrieved from <http://servindi.org/actualidad/27065>
- Perú: Contundente respaldo nacional a demandas amazónicas. (2009, May 28). *Servindi*. Retrieved from <http://servindi.org/actualidad/12049>
- Perú: Crece presión nacional e internacional para que Alan García firme la ley de consulta. (2010, June 16). *Servindi*. Retrieved from <http://servindi.org/actualidad/26954>
- Perú: El movimiento indígena ahora tiene la solidaridad y respaldo del mundo. (2010, October 27). *Servindi*. Retrieved from <http://servindi.org/actualidad/34231>
- Perú: Estado y pueblos indígenas: viejas prácticas con nuevo rostro. (2012, February 23). *Servindi*. Retrieved from <http://servindi.org/actualidad/59890>
- Perú: Invocan presencia del relator de la ONU. (2009, June 5). *Servindi*. Retrieved from <http://servindi.org/actualidad/12526>
- Perú: Instan a indígenas y a Estado detener violencia y reiniciar el diálogo. (2009, June 7). *Servindi*. Retrieved from <http://servindi.org/actualidad/12600>
- Perú: Jornadas de evaluación y propuesta al reglamento de Consulta Previa. (2012, January 2). *Servindi*. Retrieved from <http://servindi.org/actualidad/56674>

- Perú: Masiva e histórica jornada de movilización nacional en apoyo a indígenas amazónicos. (2009, June 12). *Servindi*. Retrieved from <http://servindi.org/actualidad/12870>
- Perú: Organizaciones protestarán por cambios a ley de consulta aprobada el 19 de mayo. (2010, August 20). *Servindi*. Retrieved from <http://servindi.org/actualidad/30223>
- Perú: Pacto de Unidad comunicó a relator ONU inconsistencias del gobierno en derechos de PPII. (2013, April 26). *Servindi*. Retrieved from <http://servindi.org/actualidad/86364>
- Perú: Por la promulgación inmediata de la ley de consulta. (2010, May 22). *Servindi*. Retrieved from <http://servindi.org/actualidad/26086>
- Perú: Primer ratifica creación de comisión investigadora de Bagua. (2009, August 25). *Servindi*. Retrieved from <http://servindi.org/actualidad/15697>
- Perú: Reglamento de consulta se aprobaría sin apoyo del Pacto de Unidad. (2012, February 18). *Servindi*. Retrieved from <http://servindi.org/actualidad/59414>
- Piden en Bruselas investigación de los disturbios en Perú. (2009, July 11). *Servindi*. Retrieved from <http://servindi.org/actualidad/12810>
- Piltz, R. (2009, June 8). A deadly conflict in Peru over a rush to drill for oil in Amazon rainforest: How culpable is the US? *Climate Science Watch*. Retrieved from <http://www.climate-science-watch.org/2009/06/08/a-deadly-conflict-in-peru-over-a-rush-to-drill-for-oil-in-amazon-rainforest-how-culpable-is-the-us/>
- Radcliffe, S. (2007). Tejiendo redes: Organizaciones y capital social en los pueblos indígenas. In S. Martí i Puig (Ed.), *Pueblos Indígenas y política en América Latina: El reconocimiento de sus derechos y el impacto de sus demandas a inicios del siglo XXI*. (pp. 31 - 56). Barcelona: Fundació CIDOB.
- Rénique, J. L. (2004). *La batalla por Puno: Conflicto agrario y nación en los Andes peruanos*. Lima: IEP.
- Selva Santisteban, R. (2013, June 18). ¿Quién es indígena? *La Republica*. Retrieved from <http://www.larepublica.pe/columnistas/kolumna-okupa/quien-es-indigena-17-06-2013>
- Stavenhagen, R. (2012). Pueblos indígenas: Retos después de la batalla. In In F. Gómez Isa & M. Berraondo (Eds.), *Los derechos indígenas tras la Declaración. El desafío de la implementación*. (pp.15 - 38). Bilbao: Universidad de Deusto.
- Tarrow, S. (2004). *El poder en movimiento: Los movimientos sociales, la acción colectiva y la política*. Madrid: Alianza Editorial.
- Thompson, E. P. (1991). *The making of the English working class*. Toronto: Penguin Books.
- Trejo, G. (2000). Etnicidad y movilización social. Una revisión teórica con aplicaciones a la “cuarta ola” de movilizaciones indígenas en América Latina. *Política y Gobierno*, 7(1), 205 - 250.

- United Nations. (2008). *United Nations Declaration on the Rights of Indigenous Peoples*. Retrieved from http://www.un.org/esa/socdev/unpfi/documents/DRIPS_en.pdf
- Van Cott, D. L. (2005). *From movements to parties in Latin America: The evolution of ethnic politics*. Cambridge: Cambridge University Press.
- Wright, C. & Martí i Puig, S. (2012). Conflicts over natural resources and activation of Indigenous identity in Cusco, Peru. *Latin American and Caribbean Ethnic Studies* 7(3), 249 - 274.
- Yashar, D. J. (2005). *Contesting citizenship in Latin America. The rise of Indigenous movements and the postliberal challenge*. Cambridge: Cambridge University Press.
- Zubero, I. (n.d.). Movimientos sociales y alternativas de sociedad: El componente cultural de los movimientos sociales. *El Foro Ignacio Ellacuría*. Retrieved from http://www.foroellacuria.org/publicaciones/Zubero_movimientos.htm