MAKING INDIGENEITY. STATE EXPERTS, INDIGENOUS PEOPLES, AND ETHNIC

IDENTIFIERS IN PERU

By

ALONSO BURGOS

(Under the Direction of Pablo Lapegna)

ABSTRACT

While focusing on the role of states in creating official ethnoracial categories, historical sociological research loses sight of the dynamics of state and nonstate actors that lie behind the creation of these categories. Drawing on interviews with government officials and indigenous leaders and media content analysis, I integrate historical sociology with political ethnography to show how state officials and indigenous leaders remake indigeneity in Peru. I analyze the implementation of the Law of Prior Consultation (2011-2015), which standardizes the "objective" and "subjective" criteria to identify populations as indigenous. I argue that official indigeneity is in in-betweenness. State officials and indigenous leaders have multiple interpretations of the law and its criteria, constantly disputing who should be considered indigenous in Peru.

INDEX WORDS: Indigeneity, race-making, political ethnography, neoliberal

multiculturalism, the many hands of the state, Peru

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DEDICATION

This thesis is dedicated to the indigenous leaders and government officials who collaborated with this project.

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CHAPTER 1

INTRODUCTION

Danilo is an indigenous state official in multicultural policies at the Vice Ministry of Intercultural Affairs, an area of the Ministry of Culture in Peru. Danilo self-identifies as part of the Awajun people, who live mainly on the Marañón River in the Peruvian Amazon, near the border with Ecuador. I met Danilo when I was conducting my online interviews in the summer of 2021. Danilo began working for the Vice Ministry of Intercultural Affairs in 2014 after several years of experience as an activist for various indigenous umbrella organizations. His inclusion in the Vice Ministry responded to a context of the development of multicultural policies that sought to incorporate indigenous leaders into the Ministry of Culture.

Although Danilo works for a government agency, he does not agree that the Vice Ministry should be in charge of identifying who is considered indigenous in Peru. He believes that being indigenous "depends on how I identify myself. It doesn't matter where I am. I can live in Washington, Paris, or Lima, but the truth is that I still feel indigenous. The state can't tell me that I am or am not indigenous just because there is a law to identify indigenous peoples." Danilo is referring to the Law on the Right to Prior Consultation of Indigenous or Original Peoples (*Ley del Derecho a la Consulta Previa a los Pueblos Indígenas u Originarios,* hereafter the Law of Prior Consultation). The law requires government agencies to identify the indigenous population in areas where the state or private entities carry out extractive or infrastructure projects. The Law of Prior Consultation led to a discussion about what it means to be indigenous, who is indigenous, and how states and indigenous peoples make racial categories.

Focusing on contemporary Peru, my research draws on historical sociology and political ethnography to reconstruct the process of how indigenous leaders and government officials institutionalized indigeneity with the implementation of this law.

Historical sociology has emphasized the role of censuses in state legibility (Scott 1999). Racial categories in censuses serve to exclude and include populations in the nation-state, making visible what or who belongs to it and is under the limits of its sovereignty (Bailey, Loveman, and Muniz 2013; Loveman 2014; Bailey, Fiahlo, and Loveman 2018; Castro 2019). This literature argues that the historical process of creation of racial categories in Latin America responds to political processes such as the creation of nation-states (1820s-1930s), the nationalist integration and modernization (1930s-1940s), and how indigenous and Black communities used censuses to increase their visibility in Latin American societies (1990s-present). The international context also influences the decision of Latin American states to make populations visible (Loveman 2014). Thus, during nationalist integration, many states did not include racial categories in their censuses as they wanted to present themselves to the international community as white or mestizo countries. However, due to pressure from global governance institutions, which demanded racial and ethnic inclusion since the 1990s, these states began to count the indigenous and Black population in their censuses (Loveman 2014).

While analyzing similar issues, political ethnography tends to focus on the interactions between indigeneity and neoliberal multiculturalism. The term neoliberal multiculturalism refers to the policies of inclusion of ethnic diversity that Latin American neoliberal governments have promoted since the end of the 1990s. These policies partially recognize the cultural rights of indigenous peoples as long as they do not question the neoliberal model (Hale 2005). Unlike historical sociology, political ethnography analyzes the dynamics of actors on the ground, paying

attention to how indigeneity changes in processes of resistance, negotiation, and accommodation of indigenous organizations to the racial inclusion policies of Latin American states during the 1990s and the 21st century (Hale 2005; Postero 2007; Richards 2013). This perspective shows how indigenous peoples adjust their identities in their interaction with neoliberal multiculturalism, obtaining different results. In Central America and Chile, the Mayan and Mapuche indigenous peoples have a complicated coexistence with multicultural policies that lead some of them to negotiate and accommodate the benefits they can obtain from their states. On one hand, states offer indigenous peoples policies of cultural recognition and social inclusion; on the other hand, these states, local elites, and extractive companies promote discourses and practices that reproduce systemic racism and justify social inequality (Hale 2005; Richards 2013). In Bolivia, the failure of the negotiations of neoliberal multiculturalist policies between indigenous organizations, the state, NGOs, and global governance institutions led to a political project that promoted the construction of an indigenous citizenship (Postero 2007).

My research furthers the dialogue between historical sociological literature (Bailey, Loveman, and Muniz 2013; Loveman 2014; Bailey, Fiahlo, and Loveman 2018; Castro 2019), and political ethnographic studies (Hale 2005; Postero 2007; Richards 2013). Reconciling both perspectives provides a new approach to how the creation of racial categories is a co-constructed and heterogeneous process of constant negotiation and dispute between government officials and indigenous leaders, various government agencies, and among indigenous leaders themselves.

The Peruvian context presents a unique and interesting case for historical sociology and ethnographic research on indigeneity in Latin America. Peru is one of the countries with the largest population of indigenous groups in Latin America, inhabited by 55 indigenous groups who speak 47 languages. In the Andes, the major ethnolinguistic groups are Quechua and

Aymara. In the Amazon, the groups with the largest population are the Ashaninka, Shipibo-Conibo, Awajún, Kichwa, Shawi, Kukama-Kukamiria, and Yagua (Ministerio de Cultura 2021). Despite Peru being a country with a lot of ethnic and cultural diversity, most of the population does not identify as indigenous. The 2017 National Census shows that only 25.7% of the 31,237,385 Peruvians self-identify as indigenous (Instituto Nacional de Estadística e Informática 2018).

Until a decade ago, scholars considered the Peruvian case an exception (Yashar 2005). Andean countries with a similar ethnic composition than Peru, such as Ecuador and Bolivia, had a strong indigenous identity and movement. In contrast, in Peru, elites and indigenous peoples themselves historically discouraged indigenous identity (De la Cadena 2000). This context began to change at the beginning of the 21st century when the Peruvian state had been promoting a series of initiatives to empower the indigenous population. The most important of these initiatives was the Law of Prior Consultation and the 2017 National Census. For the first time in history, the Law of Prior Consultation provided the tools for dialogue between the Peruvian state and indigenous peoples, with the aim of reaching binding agreements "on administrative or legislative measures that could affect their collective rights" (Gobierno del Perú 2012). The law is inspired by the principles established in International Labor Organization Convention 169 (ILO Convention 169), which recognizes indigenous collective rights (Sanborn, Hurtado, and Ramírez 2016). The Law of Prior Consultation also regulated the creation of the Database of Indigenous Peoples (*Base de Datos de Pueblos Indígenas*), through which the state institutionalized the existence of the various indigenous groups that inhabit the Peruvian territory (Torrejón 2018). The 2017 National Census continued these efforts by incorporating the ethnic

self-identification question, in which the population could self-identify as part of an ethnic group (Instituto Nacional de Estadística e Informática 2017).

My study focuses on the Law of Prior Consultation because it is the first legal instrument that officially legitimizes indigenous peoples through the Database of Indigenous Peoples. Although the Peruvian state recognized the existence of indigenous peoples in previous laws and documents, the database provides official information on who and how many there are. The Law of Prior Consultation is unique in its kind in Latin America since no other country has a similar law. In the rest of Latin American countries, prior consultation is a right recognized in the Political Constitutions or in decrees. This law is also particular because it establishes that the Peruvian state must identify indigenous populations in areas of extractive and infrastructure projects as an initial step in the implementation of prior consultations (Torrejón 2018). I reconstruct the process of how government officials and indigenous organizations make indigeneity in Peru with the implementation of the Law of Prior Consultation. Thus, my research questions are: How did the Peruvian state officially implement the category of indigenous peoples? How did government agencies remake indigeneity with the Law of Prior Consultation? What role did indigenous organizations play in the process of implementing the law?

I begin this chapter by making a brief account of the formation of indigeneity in the Peruvian context and situating my research. Then, I reflect about my methods and positionality. Finally, I present an overview of the thesis.

Tracing Indigeneity in Peru

In his voyages financed by the Spanish Empire, Christopher Columbus arrived in the current territories of the Americas thinking that he had reached the East Indies. Since then, the

Spanish colonizers used the term Indians (*indios)* to refer to the aboriginal population of the

Americas (Stern 1992). The colonial structure in the 16th century created a racially differentiated

society between Spaniards, *criollos* (descendants of the Spaniards), Black slaves, *indios,*

mulattoes (miscegenation between Blacks and Spaniards), and *mestizos* or *cholos* (miscegenation

between *indios* and Spaniards) (Catelli 2017). In the colonial order, commoner *indios* were

forced to work to pay tribute to the Spanish crown. The Spanish monarchy also recognized the

noble titles of the indigenous elite descended from the Incas. This elite enjoyed social and

economic privileges in the colonial structure because they mediated between commoner *indios*

and the Spanish Empire. This situation changed in the 18th century after the Spanish army

suppressed the rebellion of the Inca leader Tupac Amaru II. The Spanish monarchy decided to

eliminate the status of indigenous nobility to prevent future uprisings, also prohibiting any

cultural manifestation that recalled the Inca past. The defeat of Tupac Amaru II was a turning

point for *indios*, who lost their mechanisms of social advancement and negotiation and were also

culturally marginalized by the Spanish elites (Mallon 1992; Méndez 2005; Walker 2014).

In 1821, the Latin American Liberator José de San Martín proclaimed the independence

of Peru, stating that in the new republic there would be no more *indios* but Peruvians (Gaceta del

Gobierno de Lima Independiente 1950). San Martín, influenced by the liberal thinking of the

time, believed that *indios* were a remnant of the colonial past and should be assimilated into the

new nation as citizens with equal rights. However, the *criollo* elites reinvented *indios* in the new

republican order. Like the rest of the Latin American countries, the *criollo* elites governed under

an exclusionary oligarchic paradigm (Degregori 2003). A few *criollo* families ruled the country.

They excluded the majority of the indigenous population from the right to citizenship. *Criollo*

families became landowners (*hacendados*) keeping *indios* in an exploitative regime in which

they had to work the land for the owners of the *hacienda*s (Thurner 1997). In addition, *hacendados* maintained the system of cultural racism that discriminated against *indios* (De la Cadena 2000). The *hacendados* considered *indios* an inferior race, a problem that had to be resolved in order to transform Peru into a nation. Paradoxically, these same elites reclaimed the Inca past as glorious and as the cornerstone of Peruvian identity (Mendez 1996).

Indios continued to be a concern during the early 20th century for politicians and intellectuals who proposed alternatives to the exclusionary paradigm of the oligarchy. President Augusto Leguía changed Peru's political constitution in 1920 to recognize the existence of indigenous communities (*comunidades de indígenas*) as an ancestral organization that originated with the Inca ayllus (traditional rural family clans). Leguía sought to reduce the power of *hacendados* by giving land to the *comunidades de indígenas*. However, this measure was ineffective, and the oligarchy did not lose its political influence until the middle of the 20th century (Drinot 2011). The intelligentsia of that time also had debates on how to define *Peruvianness*. Positivist thinkers such as Víctor Andrés Belaunde (1987) defined Peruvians as *mestizos* since they were the result of interbreeding between Spaniards and *indios*. Belaunde's views were shared by other Latin American thinkers in that context. In Mexico, José Vasconcelos (1997) raised the idea of the cosmic race to justify the *mestizaje* of the Mexican nation. In opposition to the *mestizaje* stance, the Indigenista Movement (*Movimiento Indigenista*) argued that the Peruvian identity should be based on indigeneity since *indios* were the aboriginal population. The *indigenistas* believed that *indios* needed the education to liberate themselves and form a national project (De la Cadena 1998; Molinié 2004). Another perspective on the role of *indios* was that raised by the Marxist intellectual José Carlos Mariátegui (2011). Unlike the *indigenistas*, Mariátegui stated that the problem was the economic and political structure that

oppressed *indios*. Therefore, the liberation of *indios* did not lie in their education but in their ability to organize themselves and overthrow the oligarchy.

The social and political changes of the mid-twentieth century influenced the formation of new ideas of indigeneity and *mestizaje*. The migrations from the countryside to the cities that occurred between the 1940s and 1950s transformed the culture and economy of the indigenous populations with the birth of *cholos*. The term *cholo* has a colonial origin, and it is an equivalent to *mestizo*. However, this word was used specifically in the 20th century by the *criollo* elites to refer with contempt to the Andean population that migrated to the cities. Migrants settled in peripheral urban areas developing survival strategies based on informal businesses and new artistic expressions resulting from the fusion of Andean and *criollo* culture (Quijano 1980). In rural areas, *indios* began to organize to confront the *hacendados* and recover the lands that were taken from them since colonial times. Marxist leftist parties played a crucial role in the organization of *indios* whom they called peasants (*campesinos*) because they believed on the importance of a worker-peasant alliance to consolidate a socialist revolution. Thus, Marxist leftist parties promoted the creation of the Peruvian Peasants' Confederation (*Confederación Campesina del Perú, CCP*) in the 1940s, which claimed the right to the land of *campesinos* (Neira 1964). The Peruvian Peasants' Confederation took part in the land seizures in the 1960s led by *campesino* leader Hugo Blanco, who raised the banner of agrarian reform (Brass 1989).

The process of transforming *indios* into *campesinos* had a turning point in 1969 with the agrarian reform of Juan Velasco's military government, which promulgated the General Law of Peasant Communities (*Ley General de Comunidades Campesinas*). This law recognized the right to the land of Andean and Amazonian indigenous communities, which were institutionally called peasants and natives communities (*comunidades campesinas y nativas*). During this period, the

Velasco government founded the National Agrarian Confederation (*Confederación Nacional Agraria*, CNA), a peasant organization that promoted agrarian reform (Puente 2019). In Bolivia and Ecuador indigenous and peasant identities coexisted after their agrarian reforms (Sawyer 2004; Postero 2007). In Peru after the agrarian reform the term *indio* was replaced by the term *campesino*. The new definition of *campesinos* erased *indios* from official state discourse (Degregori 2003). Paradoxically, Velasco used indigenous leader Tupac Amaru II as the official symbol of his government. However, the new political subject was the *campesino* empowered by the agrarian reform (Walker 2021).

The homogenizing view of the *campesino* entered into crisis with the deployment of political violence in the 1980s. The Communist Party of Peru—Shining Path (*Partido Comunista Peruano- Sendero Luminoso*, hereafter the Shining Path) and the Tupac Amaru Revolutionary Movement (*Movimiento Revolucionario Tupac Amaru*, MRTA) declared war on the Peruvian state. The Shining Path was a Maoist guerrilla that believed they could overthrow the Peruvian government by staging the people's war from the countryside to the city with the support of the peasant masses (*masas campesinas*) (Gorriti 2000). The MRTA drew inspiration from the experience of the Cuban Revolution, organizing urban and rural guerrilla fronts. Like Velasco, the MRTA used Tupac Amaru II as a symbol of its political project. However, for *emerretista*s there was no room for ethnic identities, only the worker-peasant alliance (La Serna 2020). Although these organizations had different ideologies and strategies, both recruited the Andean and Amazonian indigenous populations, forcing them to become involved in the war. In turn, the Peruvian army used a scorched earth strategy to combat subversion. The result was the massacre of peasant and indigenous communities by guerrilla organizations and the Peruvian army (Truth and Reconciliation Commission of Peru 2014). Political violence brought to light the cultural

racism of the *criollo* elites against indigenous peoples. The Shining Path and the MRTA believed that indigenous peoples were inferior and had to be led by their organizations that supposedly represented the vanguard of the people, not accepting that leadership implied collaborating with the Peruvian state and betraying the communist cause. The army also conceived of indigenous peoples as inferiors assuming they were part of the subversive organizations and, therefore, should be eliminated (Degregori 1994).

In the late 1980s, the emergence of the Confederation of Amazonian Nationalities of Peru (*Confederación de Nacionalidades Amazónicas del Perú, CONAP*), the Inter-Ethnic Association for the Development of the Peruvian Jungle (*Asociación Interétnica para el Desarrollo de la Selva Peruana, AIDESEP*), and the indigenous NGO CHIRAPAQ, began to challenge the ideas of peasantry of Marxists organizations by introducing an agenda that incorporated Amazonian peoples' collective rights (Hughes 2010). The birth of these organizations responded to the need to face extractive activities that have historically existed in the Amazon, such as the extraction of rubber, gold, and oil (Zuñiga and Okamoto 2019). The agrarian organizations did not consider the Amazonian agenda in their program, a fact that led the Amazonian indigenous peoples to seek to organize themselves separately. The activist work of NGOs belonging to international cooperation would also favor the development of Amazonian indigenous organizations. In the 2000s, the Amazonian indigenous organizations signed agreements with various NGOs that helped strengthen their organizational structure and promoted the indigenous agenda worldwide (Hughes 2010). The empowerment of indigenous organizations with the help of NGOs was a phenomenon that occurred not only in Peru but throughout Latin America. Specifically, NGOs sought to develop environmental projects by having indigenous organizations as allies. At the same time, the indigenous organizations saw the work with the NGOs as an opportunity for
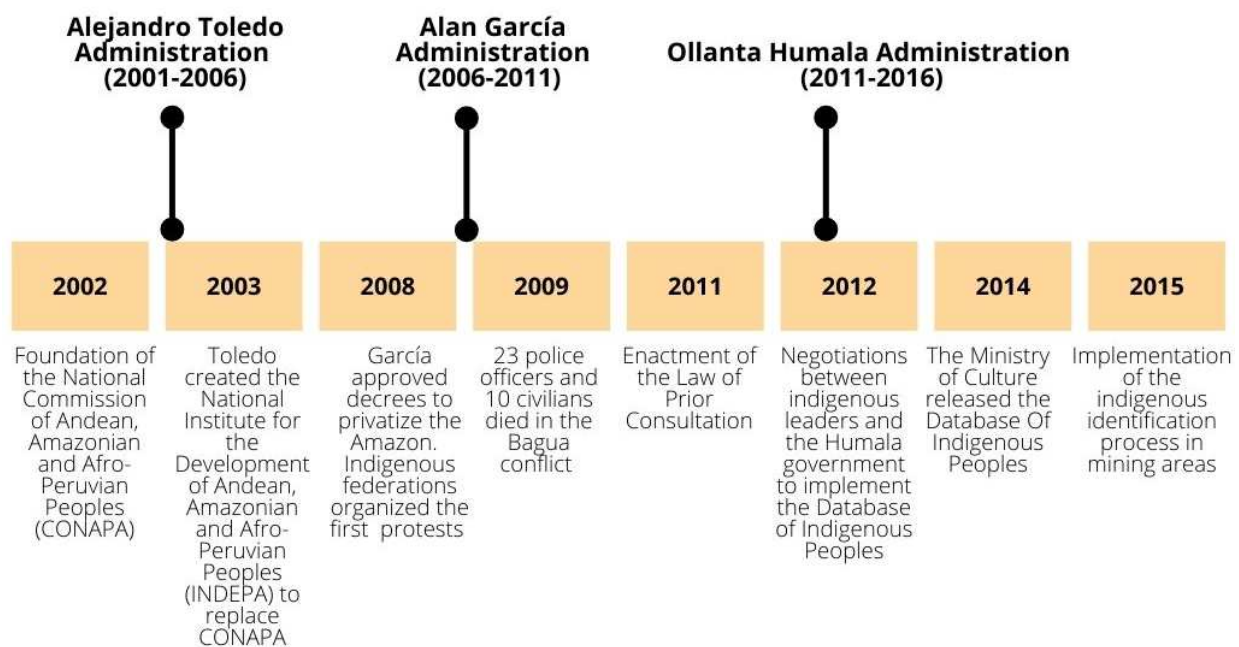
organizational strengthening and network expansion (Jackson and Warren 2005). Given the international visibility of the indigenous agenda, successive Peruvian governments began to promote initiatives to recognize cultural diversity. Thus, in 2002 the Alejandro Toledo´s administration created the National Commission of Andean, Amazonian and Afro-Peruvian Peoples (*Comisión Nacional de los Pueblos Andinos, Amazónicos y Afroperuanos, CONAPA*), which would later be called the National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples (*Instituto Nacional para el Desarrollo de los Pueblos Andinos, Amazónicos y Afroperuanos, INDEPA*) (Greene 2006). Feminist NGOs also helped to consolidate indigenous organizations with a gender agenda. In 2009, Amazonian indigenous female leaders founded The National Peruvian Andean and Amazonian Indigenous Women's Organization (*Organización Nacional de Mujeres Indígenas Andinas y Amazónicas del Perú, ONAMIAP*) as the first indigenous organization that incorporated women's rights in their grievances (Rousseau and Hudon 2016).

In 2009, the Amazonian indigenous movement gained prominence due to the events that occurred in the province of Bagua, Peru, where the most important indigenous rebellion of the 21st century took place. The government of President Alan García passed decrees to privatize the lands of indigenous communities in the Peruvian Amazon. García's law prompted AIDESEP to organize a large-scale protest in which police officers and indigenous people died (Merino 2015). In response to the controversial *Baguazo,* in 2011 the incoming government of President Ollanta Humala enacted the Law of Prior Consultation. The law was based on ILO Convention 169, which highlights the importance of consulting indigenous peoples on administrative decisions that affect their territories (Sanborn, Hurtado, and Ramírez 2016). In chapter three and four, I analyze the Bagua conflict and the subsequent enactment of the Law of Prior Consultation.

The Law of Prior Consultation regulated the creation of the Database of Indigenous Peoples, an instrument that would serve to identify indigenous peoples in Peru. The Humala administration created the database because of the ambiguities that existed regarding indigenous identities in the Andean country. The Ministry of Energy and Mines (*Ministerio de Energía y Minas*) and the Ministry of Culture (*Ministerio de Cultura)* hired teams led by anthropologists and sociologists to identify indigenous communities (Torrejón 2018). The Law of Prior Consultation established "objective" and "subjective" technical criteria to identify population as indigenous. These criteria are territorial connection, historical continuity, distinctive institutions, and self-identification. Government officials who were in charge of fieldwork in rural communities used the criteria of the Law of Prior Consultation to identify which rural population should be classified as indigenous for the Peruvian state (Gobierno del Perú 2011).

The period that I address in my research are the years 2001-2015 (see Figure 1). This time frame comprises the creation of the first multicultural institutions that integrated indigenous and Black peoples during the government of Alejandro Toledo (2001-2006), the Bagua conflict in the government of Alan García (2006-2011), and the enactment of the Law of Prior Consultation in the government of Ollanta Humala (2011-2016).

Figure 1 National Administrations of Contemporary Peru

Alejandro Toledo Administration (2001-2006)

Alan García Administration (2006-2011)

Ollanta Humala Administration (2011-2016)

2002	2003	2008	2009	2011	2012	2014	2015
Foundation of the National Commission of Andean, Amazonian and Afro-Peruvian Peoples (CONAPA)	Toledo created the National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples (INDEPA) to replace CONAPA	García approved decrees to privatize the Amazon. Indigenous federations organized the first protests	23 police officers and 10 civilians died in the Bagua conflict	Enactment of the Law of Prior Consultation	Negotiations between indigenous leaders and the Humala government to implement the Database of Indigenous Peoples	The Ministry of Culture released the Database Of Indigenous Peoples	Implementation of the indigenous identification process in mining areas

Methods

This is a qualitative study that examines in-depth interviews with government officials and indigenous leaders, and an analysis of the Law of Prior Consultation and ILO Convention 169 to further delve into ideas and criteria about who is indigenous in Peru. I conducted in-depth interviews with government officials and indigenous leaders to reconstruct the political process underlying the enactment of the law. I also considered among my sources not only the Law of Prior Consultation but also its regulation, and the Methodological Guide to Identify Indigenous Peoples (hereafter the methodological guide). In addition, my data collection comprises a content analysis of newspapers headlines and YouTube videos as well as online interviews with indigenous leaders.

Due to the COVID-19 outbreak, I conducted in-depth interviews by Zoom and Google Meet during summer 2021. My participants were current and former government officials from the Ministry of Culture and the Ministry of Energy and Mines. These agencies are of interest since they primarily have been in charge of identifying indigenous peoples in Peru. The Ministry of Energy and Mines was the first government agency to take charge of identifying indigenous population in areas of hydroelectric and mining projects. The Ministry of Culture was responsible for creating the Database of Indigenous Peoples and a methodological guide detailing the technical criteria for the identification of indigenous populations (Sanborn, Hurtado, and Ramírez 2016).

I also considered it relevant to interview the indigenous organizations and activists who participated in the negotiations of the implementation of the Law of Prior Consultation. To that end, I interviewed the leaders of the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDESEP) and the Confederation of Amazonian Nationalities of Peru

(CONAP) because they are the most representative indigenous umbrella organizations in Peru, with many of the indigenous federations of the Amazon being affiliated with them. Furthermore, I interviewed the leaders of the National Peruvian Andean and Amazonian Indigenous Women's Organization (ONAMIAP), one of the few organizations that consider indigenous women´s agenda. In addition, I interviewed the leaders of the Peruvian Peasants' Confederation (CCP) and the National Agrarian Confederation (CNA), the oldest peasant umbrella organization, whose origins date back to the years of Agrarian Reform in the 1970s. Lastly, I included a representative of CHIRAPAQ in my sample, for being one of the first NGOs to raise the indigenous agenda in Peru since the 1980s.

Since I am a former Peruvian government official, I had contact with some government officials from the Ministry of Culture and the Ministry of Energy and Mines. I met some of them when I worked in the Office of Compliance of the Presidency of the Cabinet between 2019-2020. My job was to meet with various government agencies to monitor compliance with the agreements between the state and its citizens. I met another group of them when I worked as a consultant to the Ministry of Culture and the Ministry of Energy and Mines in the early stages of implementation of the Law of Prior Consultation. The first interviews were with people with whom I had previously worked. I used snowball sampling (Noy 2008) to interview more government officials and indigenous leaders with the help of my first participants, who provided me with their contact information. The final sample consisted of 19 interviews. I conducted six interviews with officials and former officials of the Ministry of Culture who worked on drafting the Database of Indigenous Peoples and the methodological tools for indigenous identification, and another seven with former officials of the Ministry of Energy and Mines who were part of the indigenous people's identification process. Regarding indigenous peoples, I interviewed one

leader of each of the main Amazonian and Andean organizations. Although classifications are somewhat schematic, I separated the indigenous organizations by their most prominent agenda to differentiate them into two large blocks. Thus, I associate the Amazonian organizations with territorial demands and the Andean organizations with agrarian and class grievances. As part of the ethical considerations, I protected the anonymity of my participants by changing their names when presenting the information. Table 1 shows the list of my participants with their respective pseudonyms. I also did not publish information that could endanger the life, physical, personal, or occupational integrity of my participants. Once I completed the interviews, I uploaded the recordings to Sonix, a transcription software. I reviewed the transcripts to make sure they matched the audio.

Table 1 List of Participants

Pseudonym	Role	Institution/Organization	Goals/ Claims	Type of Organization
Walter	Indigenous Leader	Peruvian Peasants' Confederation (CCP)	Stand for the rights of peasant communities	Indigenous Umbrella Organizations
Arturo	Indigenous Leader	National Agrarian Confederation (CNA)	Stand for the rights of small farmers	
Julio	Indigenous Leader	Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDESEP)	Stand for the rights of indigenous Amazonian communities	
Carla	Indigenous Leader	National Peruvian Andean and Amazonian Indigenous Women's Organization (ONAMIAP)	Stand for the rights of indigenous women	
Omar	Indigenous Leader	Confederation of Amazonian Nationalities of Peru (CONAP)	Stand for the rights of indigenous Amazonian communities	
Nicanor	Historian/ Indigenous Activist	CHIRAPAQ, Center for Indigenous Cultures	Work on development projects that promote indigenous identity	NGO

Aldo	Anthropologist	General Directorate of Energy/ Ministry of Energy and Mines	Identification of indigenous populations in hydroelectric projects	Government Agencies
Alberto	Lawyer	Office of Social Management/Ministry of Energy and Mines	Identification of indigenous populations in mining areas	
Leonel	Anthropologist			
Tamara	Anthropologist			
Norberto	Anthropologist			
Ileana	Sociologist			
Jean Pierre	Anthropologist	Office of Social Management/Ministry of Energy and Mines Prior Consultation Team/Ministry of Culture	Identification of indigenous populations in mining areas	
Juan Pablo	Anthropologist	Prior Consultation Team/Ministry of Culture	Review the reports on the identification of indigenous peoples from the Ministry of Energy and Mines	
Marcia	Anthropologist			
Danilo	Activist/ Journalist	Vice Ministry of Intercultural Affairs	Promote multicultural policies with indigenous communities	
Carmen	Political Scientist		Advice the Vice Minister of Intercultural Affairs about political issues concerning multicultural policies	
Franco	Political Scientist	Unit of the Database of Indigenous Peoples	Manage the Database of Indigenous Peoples	
Camilo	Lawyer	Ministry of Agriculture/Ministry of Culture	Community Liaison	

To complement the information from my participants, I carried out media content analysis to reconstruct the process that preceded the enactment of the Law of Prior Consultation. I selected a sample of five Peruvian newspapers that gave media coverage of the Bagua conflict during 2008-2009. I chose these newspapers because they are widely read in Peru and represent opposing views of the conflict influenced by the political alignment of their owners, as shown in

Table 2. I also did a YouTube search for news clips on the Bagua conflict and testimonials from local radio station reporters. Complementarily, I used testimonies taken from the documentary *When Two Worlds Collide*, which narrates the events of the Bagua rebellion. I also pursued a content analysis on the law and its regulations to delve into the political process that allowed the implementation of the Database of Indigenous Peoples and the indigenous identification. The documents I considered in my analysis are: ILO Convention 169, the Law of Prior Consultation, its regulations, and the methodological guide. To analyze the data, I used Atlas.ti 9, creating closed coding with some categories that come from my theoretical framework and open coding with the data that emerged from the interviews, news and documents (Emerson, Fretz, and Shaw 2011). I conducted the qualitative analysis during the summer of 2022.

Table 2 List of Peruvian Newspapers

Newspaper	Political Views
El Comercio	
El Peruano	Conservative
Correo	
La República	Liberal
La Primera	Leftist

My positionality also had personal and methodological implications in this study. My research led me to wonder how I identify myself. Despite overt racism of Peruvian society, race is not a category that has a meaning for the official discourse of the Peruvian state as it does in the United States. Since I was a child, I never asked myself who I am and who my ancestors are. This study helped me to connect with my roots and assume myself as a *mestizo* since I am a descendant of Black and indigenous peoples. Identifying myself as a *mestizo* does not imply not wanting to recognize my indigeneity or Blackness, but it is assuming an identity that includes both. As Eduardo Bonilla-Silva (2015) argues, being *mestizo* is an identity in Latin America and

not an escape route to avoid being racialized. My *mestizo* identity also had methodological

implications, allowing me to empathize with both government officials and indigenous leaders.

Despite the fact that I tried to engage with all the participants, it was easier for me to have a more

fluid dialogue with the government officials because I used to be one of them. Knowing the

technical jargon, procedures, regulations, laws, and the Peruvian bureaucracy helped me to carry

out a detailed analysis of how government experts conceptualize indigeneity.

My online data collection represented for me personal and methodological challenges.

Despite the fact that there are different videoconferencing platforms that constitute a partial

solution by not being able to establish face-to-face interactions (Lobe, Morgan, and Hoffman

2020), virtual interviews were a source of stress and anxiety for myself and my participants.

Connectivity issues were a constant in almost all the interviews. I had to reschedule interviews

with government officials and indigenous leaders several times and even missed the opportunity

to interview some participants. One of my fears about my online methodology was not being

able to interview indigenous leaders since they are back and forth from their rural communities

to Lima. Fortunately, after rescheduling some interviews, I was able to interview most of them.

Conducting online interviews and not in-person fieldwork also made me feel isolated and

frustrated. However, online interviews allowed me to protect my participants and myself from a

risky situation when the pandemic was at its highest peak in Peru. My online interviews also

allowed me to establish contacts and collaboration opportunities with indigenous leaders and

government officials for future fieldwork, whether in person or remote. I plan to conduct

workshops and feedback interviews with my participants as I further develop this research

project.

Overview

In this thesis, I reconstruct how the Peruvian state implemented the official recognition of indigenous peoples during 2001-2015. I argue that the state recognition of indigenous peoples arose from internal disputes among government agencies to define who is indigenous in the implementation of the Law of Prior Consultation. This process was also the result of pressure from indigenous organizations and their accommodations to state initiatives.

In the second chapter, I discuss the contributions of historical sociology and political ethnography in the study of indigeneity in Latin America. I also present my approach, which reconciles both perspectives, stating that official ethnoracial categories are not imposed by the state but the result of a co-creation process between state and non-state actors.

In the third chapter, I address how the Peruvian state introduced the category indigenous peoples in the official discourse. I analyze the process of institutionalization of indigeneity in the Peruvian neoliberal governments of Alejandro Toledo (2001-2006) and Alan García (2006-2011). I show how the ideas of the authorized Indian and the unruly Indian interact in neoliberal multiculturalism. More specifically, I tackle the case of the Bagua conflict and how it led to the enactment of the Law of Prior Consultation.

In the fourth chapter, I show how government officials and indigenous leaders remade indigeneity with the implementation of the law of Prior Consultation. I focus on the discrepancies between indigenous leaders and the Peruvian state to define who should be considered indigenous. I also center on how officials from the Ministry of Culture, the Ministry of Energy, and Mines and leaders of indigenous organizations legitimize/delegitimize the indigeneity of Andean communities based on different interpretations of the Law of Prior Consultation.

Finally, in the conclusions, I return to the discussion of race-making, neoliberal multiculturalism, and the many hands of the state in the construction of ethnic and racial categories. I also highlight the theoretical contribution that involves integrating historical sociology and political ethnography to study indigeneity in Latin America.

CHAPTER 2

CO-CREATED INDIGENEITY

How do states and ethnic groups make race? How does the formation of indigeneity take place in Latin America? Research on indigeneity in Latin America is extensive, with the two primary approaches being historical sociology and political ethnography. Historical sociology has emphasized how states use censuses as political artifacts to make race (Bailey, Loveman, and Muniz 2013; Loveman 2014; Bailey, Fiahlo, and Loveman 2018; Castro 2019). Ethnographic studies highlight how indigenous peoples resist, negotiate, and accommodate the ethnic and racial policies of state and non-state actors (Hale 2005; Postero 2007; Richards 2013; Gajardo 2021). The aim of my research is to integrate both approaches to argue that both the many hands of the state (Morgan and Orloff 2017) and non-state actors co-create ethnic and racial categories.

In this chapter, I first analyze the literature on race-making in Latin America from the perspective of historical sociology. Then, I complement this approach with studies that emphasize the contradictory role of the many hands of the state and the processes of consent-building in the creation of official categories to classify the population. Lastly, I summarize the contributions of political ethnographic studies that show how indigenous peoples resist and negotiate their identities with multiple state and nonstate actors. I argue that connecting historical sociology with ethnographic studies of state and indigenous identity allows the exploration of the contradictory dynamics between the different government agencies and indigenous leaders in the creation and implementation of ethnoracial categories.

Race-Making and Official Ethnoracial Classification

Literature from historical sociology evaluates the impact that censuses have had on changes in ethnic and racial identities. These studies not only explain how states create racial categories at the national level but also demonstrate how the international geopolitical context influences the emergence of these categories. Politicians in Latin American countries, influenced by racist and social Darwinist ideologies, presented themselves as white or *mestizo* during the 19th century, making their indigenous and Black population invisible. The opposite happened during the 20th century, in which these countries began to make visible the racial differences of their population, aligning themselves with the policies of global governance that promoted affirmative action (Loveman 2007; Bailey, Loveman, and Muniz 2013; Loveman 2014; Bailey, Fiahlo, and Loveman 2018).

Mara Loveman argues that censuses are instruments of politics since "the decision of politicians, scientists, and bureaucrats who are positioned to influence the content of censuses can determine which ethnic or racial distinctions in society are statistically visible and thus seemingly self-evident and which are hidden from view" (2014, 33). Thus, censuses have served to build national political projects, which in turn have been influenced by global politics. A clear example is the 19th century in which Latin American governments sought to present their countries to the international community as predominantly white or *mestizo*, hiding the indigenous and Black population.

Research from historical sociology has also explored how affirmative action policies directed at racial groups have altered how the population identifies itself in censuses and surveys in Brazil. Since the 2000s, in response to the demand for inclusion at the national and global level, the Brazilian state has been promoting inclusive policies for Black people as part of the

racial democracy project, leading more Brazilians to identify as Black (Bailey, Loveman, and Muniz 2013; Bailey, Fiahlo, and Loveman 2018). In addition, this scholarship shows how the ambiguity of ethnic categories in Latin America becomes a space for political dispute. The visibility of racial groups often depends on their ability to mobilize their demand to be racially visible, as Andrés Castro (2019) demonstrates in his comparative study of the indigenous and Black communities of Colombia and the Dominican Republic. Indigenous and Afro-descendant groups in Colombia put pressure on the state, making themselves visible in the statistics as political actors. On the contrary, in the Dominican Republic, Black communities are not represented in the statistics, due the inability to mobilize their demands as a racial group.

Another branch of this scholarship focuses on how the populations of contemporary Latin American societies perceive their racial differences. These authors use experimental surveys to show how racial census statistics are relative, since by changing the variables of the way people self-identify varies dramatically (Flores and Telles 2012; Sulmont and Callirgos 2014; Telles and Torche 2019). In this thesis, I do not focus on this literature since my goal is to analyze the political processes from which the official categories to classify indigenous peoples emerge.

Drawing on the contributions of historical sociology, my research addresses how Peruvian state government agencies create ethnic and racial categories with the enactment of the Law of Prior Consultation. I agree with Mara Loveman (2014) and Tianna Paschel (2018) in using the term *ethnoracial* since, in Latin America, race and ethnicity are somewhat interchangeable concepts. However, states like Peru use the denomination of ethnicity to refer to different ethnoracial groups. To differentiate how the state calls the indigenous population, I use the term *official ethnoracial classification*. To understand how the indigenous peoples identifies themselves, I adopt the concept of ethnoracial (Loveman 2014).

My study also questions the limitations of historical sociology. Although this approach demonstrates that ethnoracial categories are not objective and respond to political projects of Latin American elites, it does not delve into the processes from which these categories emerge. Historical sociology tends to understand the state as a homogeneous institution that imposes ethnoracial categories on the population. To address these limitations, my approach considers the role of the many hands of the state (Morgan and Orloff 2017) to show how government agencies have different views of who should be considered indigenous. I also draw from political ethnography to show how indigenous peoples are able to resist, negotiate, and accommodate official state categories.

The Many Hands of the State and Consent-Building Processes

The study of indigeneity implies considering the role of the states and bureaucrats in the creation of ethnoracial categories and the agency of indigenous organizations and nonstate actors. Classical sociological theory conceptualized the state as a homogeneous institution that based its power on the monopoly of physical violence (Weber 2021 [1919]). Later, influenced by Gramsci's (2009) idea of hegemony, sociological research began to study the consensus mechanisms generated by the state to legitimize its domination (de Leon and Clarno 2020). Michel Foucault and Pierre Bourdieu expanded research on how states exercised their domination through consensus. Foucault (2012 [1975], 1991) explored how the state legitimized its domination through government techniques with which it controlled its population both through physical violence and the use of legal forms, science, and technology. Bourdieu redefined the Weberian idea of the monopoly of physical violence to understand the state as the institution that monopolizes symbolic violence in the bureaucratic field (de Leon and Clarno

2020). Despite their contributions, the theories of domination by consensus (with the exception of Bourdieu) tended to understand the state as a homogeneous institution. Bourdieu (1994), in contrast, argued that the state should not only be studied in its materiality but also in how it reproduces itself in the mental structures and common sense of its population. However, the fact that people reproduce the state in society does not mean that they cannot question it. Individuals in society often compete for power by moving in different fields and appropriating material and the symbolic resources of the state.

Influenced by Bourdieu (1994) and the cultural turn (Mitchell 1999; Steinmetz 1999), scholars in recent decades have begun to rethink the state as a contested field in which multiple institutions, actors, and interests dispute power (Abrams 1988; Migdal 1988; Morgan and Orloff 2017; Menjívar 2023). According to this perspective, political processes and state decisions are the product of contradictory logics that involve both state and nonstate actors. My research uses the metaphor of "the many hands of the state" (Morgan and Orloff 2017) to illustrate the complex dynamics of race-making. I account for the negotiations and disputes over indigeneity between the various agencies of the Peruvian state and indigenous peoples. By understanding that many hands interact within the state, my theoretical perspective addresses the missing gap in the historical sociology of race-making: what are the political processes behind official ethnoracial classifications?

Studying the creation of official ethnoracial categories implies understanding the role of bureaucracies and their expertise in the administration of the state apparatus. Max Weber (1978 [1922]), based on his ideal type of legal-rational domination, argued that the power of bureaucracies lies in their expertise in managing the state. States always seek to make society legible to them (Scott 1999), developing governmental techniques such as censuses and

databases to measure and control their population (Foucault 1991). These techniques are always associated with bureaucrats who are in charge of creating them, and whose expertise depends on the operation and legibility of the states. Ethnographic studies have emphasized how the state bureaucracy plays a crucial role in maintaining stratification structures in societies (Hetherington 2011; Gupta 2012; Vithayathil 2018). These kind of studies also address how interactions between bureaucrats, activists, and media executives constructed the Hispanic and Latino categories in the United States (Mora 2014; Gómez 2020; Rodríguez-Muñiz 2017, 2021), and categories of indigeneity and Blackness in Latin America (Martínez Novo 2006; Paschel 2018). Current sociological scholarship on bureaucracies and politics of expertise has focused on "1) the creation and politicization of objects of knowledge, whether categories, instruments, or devices; 2) the emergence of institutional and organizational contexts for the production of expertise; and 3) the effects of knowledge and expertise" (Graizbord, Rodriguez-Muñiz, and Baiocchi 2017, 6). My research integrates the first two elements as it delves into the political role of the official indigenous classification, and the institutionalization process of the government agencies that created it.

To analyze the enactment of the Law of Prior Consultation and the negotiation between government officials and indigenous organizations, I use the concept of consent building. Michael Rodríguez-Muñiz defines consent-building as "efforts undertaken by state actors and their nonstate collaborators to transform popular noncompliance into cooperation by means of persuasion" (2017, 391). Consent-building is a concept that addresses a complex actor dynamic in which government officials and activists cultivate and dismantle consensuses according to their different agendas. These agendas are not homogeneous either since in consent-building there are internal disputes between activists and even within state actors.

Neoliberal Multiculturalism and Indigenous Agency

Ethnographic research shows how indigeneity is constructed and negotiated on the ground in interactions between indigenous communities, non-indigenous populations, local and regional state actors, NGOs, and global political projects such as neoliberal multiculturalism (Hale 2005; Postero 2007; Richards 2013). In his study of Central American indigenous communities, Charles Hale (2005) defines neoliberal multiculturalism as a new governance strategy based on intercultural equality that deepens the capacity of the state to neutralize political opposition through the creation of an authorized Indian (indio permitido), who must accept state policies without protest. Although Hale's conceptualization of an authorized Indian "explains the process whereby indigenous people are subjectified by the state, it does not address the self-making aspect of subjectification" (Park and Richards 2007, 1324). Neoliberal multiculturalism is not only imposed top-down on indigenous communities. Indigenous peoples negotiate neoliberal multiculturalism to claim their rights at the local, national and international levels by appealing to their ancestry, benefiting from projects that grant them land and material resources, or occupying jobs offered by states, companies, and NGOs (Postero 2007; Richards 2013; Gajardo 2021).

Indigenous peoples not only negotiate neoliberal multiculturalism but also establish complex relations of accommodation and resistance to it in their everyday life interactions with the state. The case of the Mapuche indigenous people in Chile shows how some Mapuche have chosen to work for the Chilean government in intercultural programs, while others reject such programs, becoming unruly Indians in the eyes of the Chilean state (Richards 2013). However, even those Mapuche who chose to work for the state have hybrid subjectivities about what it means to be a public official. Despite many of them sympathizing with the Mapuche struggle,

they work for the state to survive, others accommodate state policies, and another group uses

state resources for the benefit of the Mapuche (Park and Richards 2007).

Indigenous peoples can also collaborate with multicultural initiatives, as shown by Anahy

Gajardo (2021) with the women of the Diaguita indigenous people in Atacama, Chile. The

Diaguita have a long history of conflict with the Barrick Mining Company. However, this

situation began to change when the mining company launched a program of ventures aimed at

revaluing traditional Diaguita handicrafts. Barrick's initiative socially divided Diaguita men and

women. While men remain suspicious and distant from Barrick, women actively participate in

entrepreneurship. Women saw handicrafts as a way to have financial autonomy. Diaguita women

also felt that the company values their culture and work. In return, they supported the mining

project in their community.

In a different context, Nancy Postero's (2007) ethnography in Bolivia with the Guaraní

indigenous communities shows that neoliberal multiculturalism can also be the foundation of a

new type of indigenous citizenship. In her fieldwork with Guaraní leaders in Bolivia, Postero

shows how the Guaraní "negotiated complex cultural policies that involved them and their

people in national indigenous activism, neoliberal political reforms, internationally funded

development projects, and radical economic change" (2007, 8). The failure of neoliberal

multicultural policies in these negotiations led the Guarani to support the political movement of

the leftist union leader Evo Morales, which resulted in the construction of an indigenous

citizenship project in Bolivia.

Ethnographical and historical literature shows how mestizaje, cultural racism, migration,

and neoliberal multiculturalism decisively influence the process of the construction of

indigeneity in Peru. Criollo elites promoted a mestizo identity for the Peruvian nation project

during the 19th and 20th centuries (De la Cadena 2000). Historical research suggests that the origin of this cultural racism lies in the Spanish empire's fear of indigenous insurgency after the failed indigenous rebellions of the 18th century (Méndez 2005; Walker 2014). Thus, the Spanish colonizers tried to erase all vestiges of the pre-Hispanic past by encouraging the idea of indigenous inferiority (Quijano 2000). This cultural racism extended until the 20th century of the Republic with the migratory processes from the countryside to the cities during the 1940-1950s. Indigenous peoples adopted mestizo identities to avoid being discriminated against in urban areas by the criollo middle and upper classes, who associated indios with illiterate, poor, and non-educated people (De la Cadena 2000). Scholars also focus on the re-indigenization of Peru during the neoliberal governments of the 21st century with the creation of multicultural institutions that recognized the cultural rights of indigenous peoples and, at the same time, denied their rights to make political decisions over their territories (De la Cadena 2001; Greene 2005, 2006).

Based on anthropology and legal studies, research also tackles the implementation of prior consultation in Peru and other Andean countries. These studies emphasize the vernacularization of international conventions (Merry 2006). According to this perspective, indigenous peoples use international conventions to dispute their collective rights in local contexts with the presence of extractive projects. Indigenous peoples construct their identities in interaction with international law and extractive companies (Schilling-Vacaflor and Flemmer 2015; Flemmer and Schilling☐Vacaflor 2016; Merino 2018).

I use an ethnographic and historical perspective that takes into account the agency of indigenous organizations as well as the role of government officials in the construction of indigeneity (Richards 2013). I draw on the concept of neoliberal multiculturalism by Charles

Hale (2005) to account for the process of creating multicultural institutions in Peru. I specifically address how neoliberal governments create an indigenous institutionality in which some indigenous people are authorized Indians, whom the state recognizes as part of the country's cultural diversity. However, when indigenous people protest for the right to decide on their territories, they are considered unruly Indians.

Conclusions

In this chapter, I have reviewed the contributions of historical sociology and political ethnography to the study of indigeneity in Latin America. Although scholars of these two traditions have approached indigenous identity formation differently, I argue that the two are complementary. Therefore, a theory of indigeneity must articulate the analysis of how states create race through the construction of ethnoracial categories but also how indigenous actors dispute, negotiate and accommodate those categories.

My research emphasizes how ethnoracial categories emerge from interactions between the state, indigenous peoples, and other nonstate actors such as NGOs and companies (Park and Richards 2007; Richards 2013). I draw on the concepts of neoliberal multiculturalism (Hale 2005), consent-building (Rodríguez-Muñiz 2017), and the many hands of the sate (Morgan and Orloff 2017) to study how government officials and indigenous leaders institutionalize indigeneity in Peru. In the following chapters, I discuss how neoliberal governments and indigenous leaders created a multicultural institutionality in Peru and how this collided with the Bagua conflict. Then, I show how the Peruvian state and indigenous leaders reinvented multicultural institutions with the enactment of the Law of Prior Consultation and how they

discussed its regulations and instruments. I examine how state officials and indigenous leaders

have different interpretations of who should be considered indigenous.

CHAPTER 3

INDIGENOUS PEOPLES AND NEOLIBERAL MULTICULTURALISM

In 2010, indigenous congresswoman María Sumire presented the Bill for the Preservation

and Use of the Original Languages of Peru (*Proyecto de Ley para La Preservación, Uso y*

Difusión de las Lenguas Aborígenes del Perú). Martha Hildebrant, a congresswoman and

member of the Royal Spanish Academy, was categorically opposed to the approval of the bill.

Hildebrant declared in the discussion of the plenary session of the Congress that "this bill is

useless." Once the plenary session was over, Hildebrant and Sumire had a verbal altercation

outside the Congress, televised by various newscasts:

> Hildebrant: I don't know what intellectual work Sumire has, but I have 30, 40
> books quoted and translated. She clearly doesn't have the college education to
> introduce any bill in our Congress.
>
> Sumire: Ma´am, I have a college education. I´m indigenous, but I am a lawyer.
>
> Hildebrant: There are plenty of mediocre lawyers!
>
> Sumire: I have publications too.
>
> Hildebrant: Hahaha! No one knows your publications. I have 10,000 published
> copies of my book *El Habla Culta*.
>
> Sumire: You know a lot about the Spanish language, but you don't know anything
> about aboriginal languages.
>
> Hildebrant: I´m not a Quechuologist, referring to the Quechua language. I can talk
> to my intellectual peers but not to you. You don't know anything about linguistics
> (de la Puente 2013).

Hildebrandt's contempt for indigenous culture exemplifies the *criollo* elites' legacy of

cultural racism. This conception frames indigenous peoples as inferior and opposed to

development and celebrates Western culture as superior. At the same time, Sumire's claim for the

recognition of native languages is an expression of how indigenous peoples dispute their

collective rights in a scenario of expansion of neoliberal multiculturalist policies. In this chapter,

I show how the Peruvian state introduced the category of indigenous peoples in official

documents and created government institutions to address indigenous matters. I focus on how the

state and indigenous organizations co-constructed multicultural institutions during the neoliberal

governments of Alejandro Toledo (2001-2006) and Alan García (2006-2011). I argue that the

Toledo government inaugurated a multicultural institutionality by creating government bodies to

liaise with indigenous organizations, framing them as authorized Indians (Hale 2005) without the

right to make political decisions. García, on the other hand, embraced conservative neoliberalism

by framing indigenous peoples as backwards and enemies of development.

"Authorized Indians "and Multicultural Institutionality

In Chapter 2, I discussed how neoliberal multiculturalism emerges in Latin America as a

governance strategy that partially recognizes the cultural rights of indigenous peoples as long as

they accept neoliberal policies (Hale 2005). Neoliberal multiculturalism in Peru dates back to the

government of Alberto Fujimori (1990-2000). Fujimori was the first president to implement

neoliberalism in Peru, promoting aggressive economic reforms that privatized public companies

and reduced labor rights (Burt 2007). Despite his economic conservatism, Fujimori ratified ILO

Convention 169 in his second term, recognizing the collective rights of indigenous peoples in

Peru. Such recognition was only formal since the Fujimori government did not take into account

the demands of indigenous peoples. Instead, the Fujimori administration built an authoritarian

relationship with the indigenous organizations, to which refuses to recognize and provided aid

but also violently repressed. Fujimori accused *campesino* and indigenous organizations of being terrorists (*terrucos*), allies of the Shining Path and the MRTA, to justify the persecution and imprisonment of their leaders (Burt 2011; Stavig 2022).

Julio, leader of the Awajun people and founder of AIDESEP, the largest indigenous umbrella organization in the Amazon, expressed his criticism of the Fujimori government saying: "Fujimori ignored us. We founded AIDESEP in the 1980s, and ten years later with Fujimori we did not receive any aid from the state. We were about to disappear as an organization." Omar, leader of the Amazonian organization CONAP, agreed with Julio. According to Omar: "We didn't receive anything from Fujimori. Indigenous peoples were invisible to his government." Arturo is the former leader of the *campesino* organization CNA, founded at the time of the Agrarian Reform. He remembers general Velasco and how CNA was one of the largest *campesino* organizations in the country. Arturo claimed that all organizational strength collapsed in the 1990s when Fujimori dismantled the *campesino* movement and imprisoned and assassinated leftist activists. Walter is a leader of the *campesino* union CCP, which was born in the struggle for agrarian reform. He remembered how he dropped out of college as a young activist in the 1970s because he believed that "the revolution was just around the corner." Walter recounted how Fujimori "trampled indigenous rights and killed leftists CCP activists." Nicanor is also a senior indigenous activist. He is a representative of the indigenous NGO CHIRAPAQ, which began promoting food sovereignty for indigenous peoples in the 1980s. Nicanor considered that the Fujimori government "was a dark time for indigenous peoples. There was a lot of repression and violations of our rights as in the case of forced sterilizations."

The Fujimori regime during his second administration carried out forced sterilizations of indigenous women in rural areas as part of the National Program for Reproductive Health and Family Planning. The program's aim was to reduce poverty in rural areas by preventing the birth of new impoverished people. The eugenic policies of poverty reduction that inspired the program and the non-consensual sterilization of indigenous women was the focus of criticism from both human rights and indigenous organizations after the fall of the Fujimori regime (Stavig 2022). Carla is the leader of the Amazonian women's organization ONAMIAP. From a young age, she was always concerned about indigenous women's rights. Carla described how the forced sterilizations of the Fujimori government motivated her organization's activism:

> We founded ONAMIAP in 2008 thanks to the work of some feminist NGOs with Amazonian and Andean women indigenous grassroots organizations. One of the first things we addressed was the case of our sisters sterilized by the Fujimori government. Along with human rights NGOs, we demanded civil reparation for this heinous act.

Like Carla, other indigenous leaders also opposed the Fujimori government, questioning its violations of indigenous peoples' rights and its neoliberal policies. Walter claimed how his background as a leftist *campesino* activist led him to organize the resistance against Fujimori. In his words:

> Years later, we along with the unions, organized the resistance against this neoliberal and corrupt regime. The result was the fall of Fujimori with the Rally of the Four *Suyos*, the largest popular mobilization in our history with which the people defeated the dictator.

The Rally of the Four *Suyos*, mentioned by Walter, was a collective effort of grassroots organizations and political parties to overthrow Fujimori in light of the corruption and electoral fraud scandals that became visible with his third re-election in 2000. Alejandro Toledo, the candidate for the presidency of Peru, emerged as the main organizer of the rally. Toledo, an

economist trained at Stanford University, used his contacts in the United States to finance the

rally (Burt 2007). Toledo and participating organizations called the rally the Four *Suyos*, drawing

inspiration from the four regions that were part of the Inca Empire. Toledo also used Andean

indigenous symbolism during the protests and his political campaign, adopting the *chakana*

(Andean cross) as a symbol of his political party called Peru Possible. He also wore a headband

that alluded to those used by the Incas (Greene 2006).

In 2001 Toledo won the presidential elections taking office in the Inca sanctuary of

Machu Picchu. Toledo called himself Pachacuti, the Inca of Peace, and promised to bring order

to the country after Fujimori's authoritarian regime. During his administration, Toledo was the

first president to create state multicultural institutions in Peru. In 2002, the Toledo government

enacted the Law that Establishes the Regime for the Protection of the Collective Knowledge of

Indigenous Peoples Related to Biological Resources (*Ley que Establece el Régimen de*

Protección de los Conocimientos Colectivos de los Pueblos Indígenas Vinculados con los

Recursos Biológicos, hereafter Law of Indigenous Collective Knowledge). This law was the first

to introduce the term indigenous peoples in Peruvian state regulations. Although the Political

Constitution of 1920 recognized the existence of indigenous communities, the Agrarian Reform

replaced that category with that of native and *campesino* communities (Drinot 2011). In Peru, the

Velasco military government conceptualized native and peasant communities as a human group

that has the right to collective ownership of agricultural, livestock, and hunting lands (Gobierno

del Perú 1971). Instead, the Law of Indigenous Collective Knowledge defined indigenous

peoples as those "who have rights prior to the formation of the Peruvian state, maintain their own

culture, a territorial space and recognize themselves as indigenous or original. This denomination

includes peoples in voluntary isolation or uncontacted people, as well as *campesino* and native

communities" (Gobierno del Perú 2002). Thus, during the Toledo government, the communities that were previously defined as *campesino* and native were automatically considered indigenous peoples for the Peruvian state.

Toledo's wife and First Lady of the Nation, Eliane Karp, was the one who advised the president to ally with indigenous peoples, promoting laws for the recognition of their collective rights (Greene 2005). Karp, an anthropologist who was also trained at Stanford, noticed that Toledo's indigenous traits closely resembled those of the Peruvian population (Greene 2006). During his presidential campaign and his government, the media called Toledo the *cholo*, a term that refers with contempt to the mixture of indigenous peoples and Spaniards since the colonial times. *Criollo* elites used the word *cholo* in the Republican period to denigrate indigenous Andean migrants who settled in coastal cities. However, Karp adopted the term to market her husband's indigeneity, calling him "her *cholo*" (De la Cadena 2001).

The First Lady was also a fervent promoter of spaces for dialogue between the government and indigenous peoples. In 2002, she founded the National Commission of Andean, Amazonian and Afro-Peruvian Peoples (CONAPA) as the official government body to channel indigenous and Black peoples' demands. From the beginning, the newly founded multicultural space received criticism from both congressmen and indigenous leaders. Congressmen opposed to the government alleged that Toledo and Karp were using the native and *campesino* communities for political purposes. The Andean and Amazonian indigenous organizations decided to participate in the space on the condition that the Toledo government reform the Political Constitution to include the rights of indigenous peoples. Karp set aside these demands since she was more interested in recognizing cultural diversity and not in the political agenda of indigenous organizations. A year later, Karp decided to resign from the presidency of CONAPA,

giving her place to Gil Inoach, former leader of AIDESEP. Inoach also resigned shortly thereafter, arguing that the Toledo government wanted to impose on him the officials he was supposed to work with (Greene 2005).

The indigenous organizations had a critical assessment of their participation in CONAPA. Arturo believed that Toledo and Karp "manipulated indigenous peoples and used them to the purposes of their neoliberal administration." Nicanor added that "Mrs. Karp created CONAPA only to legitimize her husband's government in the international arena. We, CHIRAPAQ, advised our Andean and Amazonian brothers and sisters not to trust Toledo and Karp. Unfortunately, they didn't listen to us." As a result of the criticism received from indigenous organizations and from the Congress, Toledo replaced CONAPA with the National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples (INDEPA). However, the newly founded multicultural institution quickly became delegitimized with little involvement from Black organizations and the gradual withdrawal of indigenous umbrella organizations (Greene 2006).

The Toledo government was thus the first to create multicultural institutions based on, what Hale (2005) calls, authorized Indians, indigenous subjects to whom governments grant cultural recognition but without the right to raise their political demands. Toledo himself appeared in the international arena as an authorized Indian. He called himself the Inca of Peace, the one who would bring order and political stability after Fujimori's dark period. At the national level, Toledo was the *cholo* who believed in progress, understood in neoliberal terms as economic growth. CONAPA and INDEPA should only serve to mediate with indigenous leaders on cultural policies and not on their political and social demands. These institutions were an attempt to create ethnoracial apparatuses (Paschel 2018) in which Karp and Toledo could

channel indigenous support. Unlike other cases in Latin America, in which governments and ethnic groups built relationships of mutual dependence and collaboration that they maintained over time (Fontaine et al. 2017; Paschel 2018; Kaltmeier 2018), indigenous leaders in Peru delegitimized these multicultural spaces, weakening them to the point of almost disappearing.

The Baguazo: Becoming the "Unruly Indians"

After the Toledo government, Alan García was elected president in 2006. García had already served as president during 1985-1990, leading Peru into one of the worst crises in its history. García's contender in the 2006 elections was Ollanta Humala, a former military man who questioned neoliberalism and advocated a nationalist government. García won the presidential elections stating that he would act responsibly by continuing economic growth, unlike Humala, who wanted to lead Peru to socialism (Vergara and Watanabe 2019). In 2008, President García signed the Peru-US Free Trade Agreement. To enforce the new agreement, García issued decrees allowing the privatization of indigenous collective lands in the Amazon.

AIDESEP organized the first protests against García's decrees in March 2008. Rather than use INDEPA as a government institution to channel indigenous grievances, the president commissioned Prime Minister Yehude Simons to dialogue with AIDESEP about the implementation of the decrees (Merino 2015). Karp immediately criticized the García government's refusal to use INDEPA as the organization to negotiate indigenous claims, as this detracted from the work she and her husband did to establish an indigenous governing body. In response, the García administration assured that INDEPA was a non-representative institution and that the Prime Minister guaranteed an objective dialogue since he did not represent the interests of the government party but those of civil society (Espinoza 2009).

After months of fruitless dialogue with the Prime Minister, AIDESEP leaders decided to call a general strike in August 2008, which lasted until 2009. Beginning in March 2009, various Amazonian peoples mobilized in their respective territories against the decrees. On June 5th, the García administration ordered a police intervention in the province of Bagua, where indigenous protesters had been blocking a highway for 55 days. The confrontation resulted in 33 deaths (23 police and 10 civilians), one person disappeared and hundreds wounded by bullets (Regan 2010).

During the Baguazo, President García expressed his opinion on what he thought of indigenous peoples. Heidi Brandenburg and Matthew Orzel (2016) collected these statements in their documentary film: When Two Worlds Collide. When asked by journalists about the indigenous beliefs that prevent them from privatizing their collective lands, García stated that indigenous peoples have "primitive ideas of religiosity. These people say: 'don't touch that hill because it is an Apu (sacred hill)'. We are still stuck in this primitive animism. Listen! The souls of our ancestors are in heaven and not on the land that will attract private investment." García, in another newscast, also pointed out that indigenous demonstrators "have no special privileges. They are not first-class citizens." He also added that "Peru is a sad country because there are still indigenous peoples who harvest coca leaves."

The media played a crucial role in the conflict by supporting or criticizing President García's stance. The most powerful media group in Peru, El Comercio, supported the President even before the Bagua events. In 2007, El Comercio published García's essay "The Dog in the Manger Syndrome" (El Síndrome del Perro del Hortelano), which anticipated the President's plans for the Amazon. In his essay, García argued that it was necessary to "give value" to the resources not used by those who cannot take advantage of them and who are the same ones that prevent others from doing so. In his words:

> There are many unused resources that cannot be commercialized, that do not receive investment and that do not create employment. That is because of the taboo of outdated ideologies, laziness, indolence or because of the law of the dog in the manger, who says: "If I don't do it, no one can do it" (García 2007).

El Comercio also blamed indigenous peoples for the death of the police officers during the *Baguazo*. In one of its headlines this newspaper affirmed that "death came with arrows and bullets" (El Comercio 06/06/2009), blaming the indigenous protesters for the deaths in Bagua. In another headline, *El Comercio* was even more direct in accusing the protesters, saying that the government "determined that those responsible for the deaths are the indigenous peoples of Bagua" (12/30/2009).

Like *El Comercio*, the official government newspaper *El Peruano* accused indigenous peoples of being responsible for the violence. In a June 2009 headline, this newspaper stated that the "President deplores the violence and demands that those responsible be punished" (El Peruano 06/06/2009). *Correo*, a conservative newspaper, demanded to "investigate the leftists who fueled the Bagua conflict" (12/29/2009). This newspaper also featured this headline in a smaller section, highlighting a bus accident on its front page instead of what happened in Bagua.

Liberal and leftists' newspapers, on the other hand, held the government responsible for what happened in Bagua. *La República* in its June 2009 headline stated that the "Amazon is bleeding to death" (06/07/2009). The leftist newspaper *La Primera* accused García of being a "murderer" (01/02/2010). Similarly, the international media and human rights organizations held the Peruvian state accountable for the deaths. The Argentine newspaper *El Mundo* stated in its June 6, 2009 headline that there was a "bloodbath in the Peruvian Amazon" (El Mundo 06/06/2009). On its website, *Amnesty International* claimed in the midst of the conflict "justice for the victims of violence in the Amazon" (2009). International media companies such as the

BBC also expressed that President García "rejected the recognition of indigenous rights" (BBC 2010).

Another relevant actor in the conflict was the local media. Local radio station *La Voz de Bagua* supported the indigenous rebellion by denying what the conservative media said about indigenous demonstrators. *El Comercio, El Peruano*, and *Correo* accused the indigenous peoples who participated in the Bagua rebellion of having killed the police officers. A few days after the deaths, Carlos Flores, reporter from *La Voz de Bagua* stated:

> There is no news that police bodies have been found in the area. The government unjustly imprisoned the indigenous man who supposedly appears in the photo with the police officers before their death. We have doubts about whether this photo is real or not. This photo has not been taken with any camera but arrived in an envelope. Natives are suspicious because they believe the government is making false accusations against them (La Voz de Bagua 2010).

Radio Marañón in its broadcasts a few days after the conflict recalled "the Bagua massacre where indigenous people and police officers died." The radio demanded to "investigate the complaints about the death of indigenous activists" (Radio Marañon 2010).

Indigenous leaders felt supported by these local radio stations. Julio believed that "the only media outlets that reported accurately were the radio stations *La Voz* and *Marañón*. All the other media lied, blaming us for the death of the police officers." Carla also agreed with Julio. She stated:

> Indigenous peoples were so invisible to the state that politicians didn't consider us citizens but rather exotic beings that decorated postcards. When we protested then we were backwards, underdeveloped, savages, and police killers. The only ones who supported us in our struggle in Bagua were the brothers of radio stations L*a Voz* and *Marañón.*

In addition to the role of local radio stations, NGOs and human rights organizations supported the Bagua protest. Nicanor argued that although CHIRAPAQ were not part of the events in

Bagua, "we moved all our contacts in the international cooperation to let the world know what was happening in Bagua and those responsible for the deaths were the García administration." Walter pointed out that his organization mobilized their grassroots activists in the highlands and also with their connections with OXFAM America and other NGOs that organized campaigns with the international media.

National, international, and local political pressure led Congress to annul the decrees at the end of 2009. The annulment was also possible thanks to the efforts of the Nationalist Party (*Partido Nacionalista*) led by former military officer Ollanta Humala, who at that time was a presidential candidate. The Nationalist Party was the main opposition force to the García government. Humala's party had a large contingent of indigenous congressmen, including Sumire, with whose story this chapter begins. As a result, the García government resumed dialogue with the Amazonian indigenous organizations by creating a commission to discuss the mechanisms for consultation with indigenous peoples. The commission's debates would lead to the future promulgation of the Law of Prior Consultation, which I discuss in the next chapter. In the process of working together in the commission, Andean indigenous organizations strengthened ties with Amazonian indigenous peoples, deciding to found the Unity Pact in 2010 as the space for indigenous representation to dialogue with the Peruvian state (Torrejón 2018). Despite resuming the dialogue, the Prosecutor's Office began a trial against the indigenous protesters in 2010 that lasted seven years. Finally, in 2016 the Peruvian state cleared indigenous demonstrators of all charges (Freire and Perez Serrano 2016).

The case of Bagua conflict is consistent with the literature on neoliberal multiculturalism, which shows how states, elites, and the media represent indigenous peoples as unruly Indians when they protest against neoliberal policies (Hale 2005; Postero 2007; Richards 2007, 2013).

President García framed indigenous peoples who protest against the decrees as "primitives," "second-class citizens," and "backwards." García's discourse demonstrates his reluctance to accept multicultural policies and to lean towards conservative neoliberalism. Ethnographic studies show how local and national elites reproduce systemic racism towards indigenous peoples with discourses similar to García's (Richards 2013). The same literature also emphasizes the role of the media by presenting an image of indigenous peoples as integrated into society, rebellious and backwards (Richards 2007; Montiel Valle 2021).

My research complements ethnographic studies on neoliberal multiculturalism by showing how public opinion is also a space for disputing indigeneity. Conservative national media such as *El Comercio*, *El Peruano*, and *Correo* supported President García by blaming the indigenous protesters for the violence in Bagua and the deaths of police officers and indigenous peoples. These newspapers reproduced the idea of the unruly Indian framing indigenous peoples as violent individuals that are against economic growth. On the other hand, international and local media began to report on the deaths of both police and indigenous peoples, demanding that the García government assume responsibility. In addition, local radio stations denied that the indigenous people were responsible for the police deaths and accused the García government of lying about the facts. International and local media focused on cataloging the events of Bagua as a "massacre," "brutality," and "bloodbath." Indigenous organizations also appealed to their international networks with NGOs that organized campaigns in favor of the Bagua protesters. Media, political and social pressure made the García government annul the decrees and stopped the attempt to privatize the Peruvian Amazon.

Conclusions

In this chapter, I have shown how the Peruvian state, indigenous activists, and the media made and unmade multicultural institutions. The Toledo government created CONAPA, later called INDEPA, under the idea of the authorized Indian. This multicultural space had a brief function of channeling the dialogue between indigenous organizations and the Peruvian government. However, the indigenous organizations themselves and President García delegitimized this institution.

I also pointed out how García marginalized INDEPA, preferring confrontation over dialogue with indigenous peoples. García embraced the idea of the unruly Indian calling the Bagua protesters "primitives" and "backwards." The conservative media supported President García by accusing the indigenous protesters of inciting violence. In turn, international and local media challenged this discourse, blaming García for the Bagua deaths. Media and political pressure made President García stop his attempt to privatize the Amazon and raised the discussion of consultation mechanisms for indigenous peoples, which would lead to the enactment of the Prior Consultation Law. In the next chapter, I argue that the Law of Prior Consultation, in its attempt to standardize the mechanisms for recognition and consultation of indigenous peoples, shows the internal disputes and contradictions of the many hands of the Peruvian state.

CHAPTER 4

THE LAW OF PRIOR CONSULTATION AND THE CONFLICTING VIEWS OF

INDIGENEITY

In 2011, the newly elected President Ollanta Humala went to Bagua to sign the Law of

Prior Consultation, where he gave a speech supporting indigenous peoples:

> I fondly remember this blessed land of Bagua. Today, I wanted to come here to
> sign this law that will benefit all of Peru. I have come here with my ministers to
> show them the extreme poverty in which our native and *mestizo* communities live.
> We are all brothers, we are all one country, one flag. I´m proud to have signed a
> law that we fought for when we were in opposition in Congress and make that law
> real today (Cepes Rural 2011).

Humala assumed the presidency of Peru after the *Baguazo* crisis, promising to change the

neoliberal economic model and grant rights to indigenous peoples. During his presidential

campaign, Humala presented himself as a nationalist candidate allied with indigenous peoples

and workers, willing to confront the large corporations that appropriated Peru's resources.

However, shortly after being elected, Humala changed his nationalistic stance to assume a tacit

governance pact with the economic and political powers he said he wanted to confront (Vergara

and Watanabe 2019). One of the first actions of the Humala government was to summon

indigenous organizations to enforce the Law of Prior Consultation. In the dialogue between the

government and the indigenous organizations, Humala would yield to the pressures of the

corporations, questioning the indigeneity of the Andean communities (Torrejón 2018).

In this chapter, I show how the Peruvian state and indigenous leaders remade indigeneity

with the implementation of the Law of Prior Consultation. I address how the Humala

administration and indigenous leaders disputed who should or should not be considered indigenous in Peru. I argue that the Humala government failed in its attempt to cultivate consensus (Rodríguez-Muñiz 2017) with indigenous organizations in the implementation of the law. The lack of consensus between indigenous organizations and the Humala administration was due to the latter's refusal to include Andean organizations in the Database of Indigenous Peoples. I also analyze how the Process of Indigenous Identification took place from the perspective of the indigenous leaders, as well as government officials from the Ministry of Energy and Mines and the Ministry of Culture. I contend that despite the fact the Law of Prior Consultation and ILO Convention 169 standardize the criteria that define indigeneity, government officials and indigenous leaders have different interpretations of these criteria. The institutionalization of the Database of Indigenous Peoples and the Identification Process of Indigenous Peoples is the result of the contradictions between the many hands of the state (Morgan and Orloff 2017), and how indigenous peoples disputed their inclusion in the official ethnoracial classification.

The Database of Indigenous Peoples: Who is indigenous in Peru?

The enactment of the Law of Prior Consultation followed the Amazonian uprising in Bagua. The law was based on ILO Convention 169, which recognizes indigenous peoples as part of an ancestral territory with the right to self-determination (Merino 2015). The Convention also emphasizes the role of nation-states in free, prior, and informed consent processes when administrative or legislative measures affect the collective rights of indigenous peoples. States must consult indigenous populations through their representative institutions in a process without coercion that guarantees good faith (International Labor Organization 1989). Although Peru had

already ratified the ILO Convention in 1995, it was the first time that indigenous peoples actively participated in discussing and enforcing a law related to their collective rights.

In 2009, immediately after the Baguazo, the García administration created the National Coordinating Group for Development of Amazonian Peoples (*Grupo Nacional Coordinación por el Desarrollo de los Pueblos Amazónicos,* hereafter The National Coordinating Group) as a forum for dialogue with the Amazonian indigenous organizations. The National Coordinating Group had three main tasks: 1) drafting a development plan for the Amazonian peoples, 2) forming a commission to investigate the deaths from the Bagua conflict, and 3) proposing prior consultation mechanisms for indigenous peoples based on the Convention. Of these three tasks, the National Coordinating Group prioritized the latter. With the support of the Ombudsman's Office, the National Coordinating Group decided to present a bill for prior consultation. The National Coordinating Group did not include Andean indigenous organizations, who were only invited to comment on the bill. Given their exclusion, the Amazonian organizations demanded that the García government include Andean indigenous leaders in the dialogue to approve the bill (Ramos 2018). However, fearing the formation of an indigenous bloc that could blame their government for the Bagua deaths, the García administration did not want to include Andean organizations in the National Coordinating Group and refused to pass the bill.

In response to García, Andean and Amazonian organizations founded the Unity Pact of Indigenous Organizations of Peru (*Pacto de Unidad de Organizaciones Indígenas del Perú,* hereafter the Unity Pact) as a space to demand recognition of their collective rights. The Unity Pact henceforth formed the representation of the umbrella indigenous organizations would use to negotiate agreements with future governments and specifically discuss the enactment of the Law of Prior Consultation with the Humala government (Sosa 2016).

Upon assuming office in 2011, President Humala sought to distance himself from García's neoliberal government and gravitated towards the sectors that had elected him. One of Humala's priorities was to approve the Law of Prior Consultation, commissioning the Ministry of Culture to draft it. The plenary session of Congress immediately passed the bill presented by the Ministry of Culture, based on the Ombudsman's Office´s draft. The speedy passage generated positive reactions from the Unity Pact who viewed the Humala government with sympathy (Freire and Perez Serrano 2016).

The law recognizes the right of the indigenous peoples of Peru to be consulted when administrative or legal measures affect their territories. To be consulted, the law indicates that the Peruvian state must determine who should be considered indigenous peoples. The law also points out that the Ministry of Culture is the government agency in charge of creating the Database of Indigenous Peoples, the instrument that legitimizes those who are officially considered indigenous. In addition, the law establishes that the dependencies of the Peruvian state have to identify which communities are indigenous in areas in which the state or private corporations carry out extractive or infrastructure projects, providing inputs to the database (Torrejón 2018).

The Peruvian legal system requires that for a law to be enforced, it is necessary that it has a regulation that defines the steps for its implementation (Ardito 1997). Given that the Law of Prior Consultation stated that government agencies had to identify who was indigenous, the Ministry of Culture suggested that President Humala have a dialogue with the Unity Pact to regulate the law in consensus. The state had to know who the indigenous peoples were, and in turn the Unity Pact and its organizations sought representation and visibility in the prior consultation (Torrejón 2018). Ethnographic research shows that in cases where the state has an

interest in knowing its population, and ethnoracial groups seek representation, the latter

cooperate with the state to achieve their goals. The cooperation between states and activists

allows consent-building that legitimizes the presence of the state with its citizens, and, at the

same time, strengthens the representation of these ethnoracial groups (Mora 2014; Paschel 2018;

Rodríguez-Muñiz 2017, 2021). However, in Peru, the marked differences among the indigenous

leaders themselves and between state and indigenous actors would lead the Humala government

to decide to enact the regulation of the law and the database without indigenous participation,

frustrating the consent-building process.

Studies that focus on the negotiation of ethnoracial categories between state and nonstate

actors show how ethnic minorities unify around panethnicities to guarantee their political

representation. For example, Hispanics in the United States have managed to create an identity

based on the Spanish language and cultural stereotypes encouraged by media networks such as

Univision (Mora 2014; Gómez 2020; Rodríguez-Muñiz 2017, 2021). Despite their differences,

indigenous peoples in Mexico, Bolivia, and Ecuador coalesced around political struggles for the

representation of their collective rights (Sawyer 2004; Jackson and Warren 2005; Martínez Novo

2006; Postero 2007). While the Unity Pact is a common space for indigenous peoples, cultural

and ideological differences prevailed among their leaders impeding the consolidation of an

indigenous panethnicity, as expressed in the interviews with my participants.

From the beginning of the dialogue with the Humala government, Andean and

Amazonian indigenous organizations had different conceptions on what it meant to be

indigenous. Omar, one of my Amazonian participants, stated: "Andeans are not entirely

indigenous. They consider themselves *campesinos* whose demands revolve around the agrarian

issue. We Amazonians have a holistic vision, which comprises our culture, territory, and self-

determination." Nonetheless, Andean organizations also claimed to identify themselves as indigenous. As *campesino* leader Arturo pointed out: "We self-identify as indigenous peoples. Our general Velasco [President Juan Velasco,1968-1975] called us *campesinos* because in the time of the landowners, *indio* was a derogatory category. We are also *campesinos* because we till the land, but that doesn´t mean that we are not indigenous." In addition, the Amazonian organizations also said that they were ideologically different from the Andean ones. As Julio, former leader of the Amazonian organization AIDESEP, highlighted: "Andeans were anti-establishment. They were the ones who believed in extremist Marxist ideologies. We have our own Amazonian philosophy linked to our territory." The literature on indigeneity in Peru emphasizes the contrasts between the Andean and Amazonian peoples shown in the interviews. While in neighboring Andean countries *campesinos* and indigenous peoples share a common identity, in Peru the situation is quite different. Cultural racism of local and national elites (De la Cadena 2000), the Agrarian Reform, and the political work of leftist parties (Puente 2019) contributed to the de-indigenization of the Andes and the separation between indigenous and *campesinos* as differentiated groups (Babb 2020).

The debate about who is indigenous not only involved indigenous leaders and government officials but also business associations. The Confederation of Private Business Institutions (*Confederación de Instituciones Empresariales Privadas,* hereafter *CONFIEP*) and the National Society of Mining, Petroleum, and Energy (*Sociedad Nacional de Minería, Petróleo y Energía,* hereafter *SNMPE*) were for and against the law, respectively. Alfonso García Miró, president of CONFIEP stated: "the Law of Prior Consultation and its regulations favor native peoples and private investment because it allows resolving disputes with objective criteria" (Andina: Agencia de Noticias 2012). In turn, Carlos del Solar, president of SNMPE argued: "the

Law of Prior Consultation is stupid, we don't need it. This law only makes mining investment more difficult" (ProActivo 2016).

At the end of 2011, amid disagreements between business associations about whether to support the Law of Prior Consultation, a new social conflict emerged. In Cajamarca, the northern highlands of Peru, the *campesino* communities of the province of Celendín protested against the execution of the Conga Mining Project, led by Minera Yanacocha (Li 2015). During his presidential campaign, Humala met with the peasant communities of Celendín to express that he was against mining and in favor of defending the *campesinos*' natural resources. However, after holding meetings with the business associations, Humala supported the Conga mining project, which prompted the resurgence of the protests and the death of civilians and police officers in Celendín (Vergara and Watanabe 2019).

The Conga conflict also affected the debate about who should be included in the Database of Indigenous Peoples. The business associations were concerned that the government would recognize the communities of the highlands as indigenous, which might unleash new social conflicts like the one in Conga and delay investment (Vergara and Watanabe 2019). After holding further meetings with the business associations, the government decided to postpone the publication of the database. The indigenous and labor organizations that originally supported Humala in his campaign began to argue that the government had been captured by right-wing sectors and demanded the immediate publication of the database (Torrejón 2018).

While the leaders of the Andean and Amazonian indigenous organizations had different views of indigeneity, they both wanted their inclusion in the database. The leaders of the Unity Pact proposed to the Humala government the acceptance of what they called minimum non-negotiable principles on free and informed prior consultation. One of these principles was the

inclusion of all Andean and Amazonian *campesino* and native communities in the Database of Indigenous Peoples (Salmon 2013). However, President Humala disagreed with this demand and was reluctant to recognize the Andean communities as indigenous and continued to delay the publication of the database. For some of the indigenous organizations, this non-recognition of the Andean communities was due to the government's interest in promoting mining in Andean areas. Finally, indigenous organizations decided to withdraw from the dialogue with the exception of CONAP. According to its leader, Omar, "the dialogue was not so bad since at least indigenous peoples have a Law of Prior Consultation." Arturo, Andean leader, on the other hand, contended the dialogue could not continue under the terms proposed by the Humala administration. In Arturo´s words:

> We proposed that the Database of Indigenous Peoples should include all
> *campesino* communities, especially those located in mining areas. Humala said
> that only Amazonian communities are indigenous, and that is why we decided to
> withdraw. Humala didn´t want to recognize that we are indigenous because he
> was supporting the mining companies. He betrayed the people who elected him,
> and he betrayed indigenous peoples.

Finally, the Ministry of Culture passed the regulation of the Law of Prior Consultation in early 2012 without the participation of most of the indigenous organizations. However, due to controversies between the indigenous leaders and the Humala government, the officials from the Ministry of Culture decided not to publish the Database of Indigenous Peoples (Torrejón 2018).

President Humala's decision not to include the Andean communities in the database generated tensions not only with indigenous organizations but also within the government. As the literature that explores the contradictory dynamics of the many hands of the state points out (Hetherington 2011; Gupta 2012; Morgan and Orloff 2017), the state is not a homogeneous entity but there are disputes between government agencies and bureaucracies within it. The

debate between the Ministry of Culture, the Ministry of Energy and Mines, and other government agencies to define the indigeneity of the Andean communities and their inclusion in the database, illustrates this point.

In 2012, the Ministry of Culture presented a first version of the database in which both Andean and Amazonian communities were considered indigenous. The first version of the Database of Indigenous Peoples was a map showing 52 indigenous peoples (48 in the Amazon and four in the Andes). The Ministry of Energy and Mines supported by the Ministry of Economy and Finances (Ministerio de Economía y Finanzas), and the Presidency of the Cabinet (Presidencia del Consejo de Ministros), criticized this version of the database. These agencies argued that only the Amazonian communities were indigenous since Andean communities are campesinos (Torrejón 2018). According to Marcia and Juan Pablo, anthropologists and former officials from the Ministry of Culture who participated in the elaboration of the database, the stance of the aforementioned government agencies was biased since it showed clear support for mining investment. As Marcia emphasized:

> The business associations said that there are no indigenous people in the Andes because they already use cell phones and technology there. They think that indigenous peoples are naked or feathered individuals who lived in remote areas. Both the Ministry of Energy and Mines and Humala himself supported the business associations.

Juan Pablo also believed that President Humala "opposed considering the Andean population as indigenous peoples because that meant hindering mining projects. The vast majority of the Andean indigenous population lives in the Southern highlands, where several mining projects are located."

The high officials from the Ministry of Culture presented a second version of the Database of Indigenous Peoples that only considered the Amazonian groups to ease the tension

with the other government agencies. However, these officials decided not to immediately publish

this version as they planned to dispute the inclusion of the Andean communities for its final

publication. As of early 2013, the Humala government had not yet published the database

(Salmon 2013). Given the delays in the publication of the database, President Humala gave an

interview in which he stated that the government must ensure that the information in the database

is reliable before publishing it. In addition, when asked which communities should be included in

the database, Humala claimed:

> Everyone wants prior consultation because people can use it to negotiate
> economic benefits. We are in the process of reviewing the list of communities. If
> we publish the database as it stands, half of Peru would be indigenous. As a result
> of migratory processes, there are no indigenous communities on the coast. In the
> highlands, most of them are agrarian communities. Indigenous communities are in
> the Amazon because there are uncontacted peoples who have not been integrated
> into society (La Mula Reportajes 2013).

Humala's statements affirming that there are only indigenous peoples in the Amazon prompted

the resignation of Ivan Lanegra, Vice Minister of Intercultural Affairs, who was replaced by

Paulo Vilca. Shortly after assuming office, Vilca also decided to resign due to constant

disagreements with the Humala government regarding the non-inclusion of Andean indigenous

peoples in the database. After these rearrangements, Patricia Balbuena took over as Minister of

Culture. The new minister met with the Ministry of Culture and the Presidency of the Cabinet to

discuss the release of the database, agreeing to publish it. In 2014, The Ministry of Culture

released information on the 48 Amazonian indigenous peoples, and in 2015 on the four Andean

indigenous peoples. In the following years, The Ministry of Culture added three more indigenous

peoples to the database, thus completing the 52 indigenous peoples that the Peruvian state

officially recognized (Torrejón 2018).

While states seek the cooperation of activists to legitimatize themselves, this cooperation is not necessarily guaranteed but has to be cultivated (Rodríguez-Muñiz 2017). The case of Peru shows how the Humala government attempted to cultivate consensus with indigenous leaders for discussing the inclusion of the Andean communities to the Database of Indigenous Peoples. However, the pressure from business associations on President Humala and the disagreements between government agencies ended up closing the possibilities of dialogue between the indigenous leaders and the Humala government in this first stage.

The Indigenous Identification: Disputing Regulations and Expertise

By 2015, the Peruvian state had already carried out prior consultation processes on oil, energy, and hydroelectric projects. Even before the enactment of the Law of Prior Consultation, the government carried out the first prior consultation process to approve the Forest Law of Wild Fauna in dialogue with Amazonian indigenous organizations in 2010 (Ramos 2018). However, the disagreements between indigenous leaders and the Humala government had delayed prior consultation on mining projects. Faced with pressure from the media and business associations, Humala decided that it was time to begin this process for mining projects, using the Law of Prior Consultation's legal mechanisms to make it feasible.

The Law of Prior Consultation regulation indicates the steps for the application of the law and specifies the characteristics of the process and the formalization of agreements. It also detail the seven stages of prior consultation: (i) identification of the affected area, (ii) identification of peoples, (iii) publication of the affected area, (iv) information, (v) internal evaluation, (vi) dialogue, and (vii) decision (Gobierno del Perú 2012). Given that the regulation of the law implied identifying who should be considered indigenous in the mining areas, officials from the

Ministry of Culture and the Ministry of Energy and Mines engaged in a new debate in which both used the law and its regulation to conceptualize the indigeneity of the Andean communities in mining projects.

The Ministry of Energy and Mines had already been identifying indigenous communities since 2012 for hydroelectric and energy projects. For this process, the Ministry of Energy and Mines entrusted the work to consulting companies in order to carry out the identification of indigenous communities. These companies hired anthropologists and sociologists who did fieldwork to identify these communities. The specialists hired used the "objective" and "subjective" criteria stated in the Law of Prior Consultation and its regulation. To be objectively considered indigenous, individuals must: a) be a direct descendant of aboriginal populations of the national territory; b) preserve ways of life and spiritual and historical ties with the territory it traditionally occupies; c) preserve its social institutions and customs; and d) have cultural patterns different from the rest of the national population. The subjective criterion is related to the consciousness of the collective group having an indigenous or native identity (Gobierno del Perú 2011).

Aldo, an anthropologist who worked in the first process of identification of indigenous people, explained how his team implemented it:

> We were hired as external consultants by a company and not directly by the Ministry of Energy and Mines. Our job was to do fieldwork in the areas of hydroelectric projects to determine whether the surrounding population was indigenous or not. We used secondary sources and conducted interviews with representatives of the Andean communities we visited to decide if these populations met the objective and subjective criteria of the law.

In 2013, the Ministry of Culture alleged a lack of rigor in the reports presented by the Ministry of Energy and Mines. Officials from the Ministry of Culture disagreed that private companies

should carry out the identification work since the law and regulation established that government agencies are in charge of identifying the indigenous populations. As Juan Pablo, a former senior official from the Ministry of Culture, argued, "The Ministry of Energy and Mines was not doing a good job. There was a lot of bias in those reports that were prepared by consulting companies that sought to favor hydroelectric projects." Aldo's experience also reveals that the hydroelectric companies tried to influence the results of the reports on the identification of indigenous peoples:

> I remember that sometimes, representatives of the hydroelectric companies tried to indirectly influence our work. They made comments like "do you think these communities are indigenous? They have cellphones, they use the internet, they are already civilized."

Criticism by the Ministry of Culture of how the Ministry of Energy and Mines was carrying out the identification of indigenous peoples led the prior consultation team of the Ministry of Culture to develop a methodological guide for the identification of indigenous peoples. The purpose of the guide was to give clear guidelines to all state agencies on how prior consultation should be conducted, including also the identification of indigenous peoples (Ministerio de Cultura 2013). According to Carmen, counselor of the Vice Ministry of Intercultural Affairs, the Ministry of Culture sought to "guarantee its leadership as the government agency in charge of coordinating prior consultation with all other government agencies."

The Ministry of Culture presented the methodological guide in 2013, which summarized the Law of Prior Consultation and its regulation. According to this guide, the objective criteria were historical continuity, territorial connection, and distinctive institutions. There were no relevant changes in the definition of the subjective criterion of self-identification. The guide also clarified that the Database of Indigenous Peoples was an instrument that did not limit the collective rights of indigenous peoples who were not there. Communities that consider

themselves indigenous could request their inclusion in the identification process of the indigenous population promoted by the state (Ministerio de Cultura 2013).

In 2015, officials from the Ministry of Culture signed an agreement to train the teams from the Ministry of Energy and Mines in charge of prior consultation on mining projects on how to implement the methodological guide. According to Juan Pablo, "We trained the teams of the Ministry of Energy and Mines in the identification of indigenous peoples by reviewing their reports and making comments on how they should use the methodological guide." The agreement between the two government agencies generated a new dispute over the indigeneity of Andean communities. Public officials from the two agencies had different interpretations of the Prior Consultation Law, its regulation, and the methodological guide in the discussion of who should be considered indigenous in the areas surrounding the mining projects.

As Menjívar points out, "classification into state categories is accomplished through the implementation of rules and regulations"(2023, 2). The interpretation that state bureaucracies have of these classification tools is contradictory to the extent that the state is not a homogeneous entity but a terrain of struggle that articulates state and nonstate actors (Hetherington 2011; Morgan and Orloff 2017). Thus, censuses, databases, regulations, and decrees are political artifacts (Loveman 2014). State bureaucracies, activists, politicians, scientists, NGOs, and companies, constantly dispute recognition, inclusion, and the exercise of power in society through official classification.

So far, I have described the main content of the Law of Prior Consultation, its regulation, and the methodological guide. In the following sections, I show how government officials from the Ministry of Culture and the Ministry of Energy and Mines legitimized their conceptions of indigeneity based on the interpretation of the methodological guide criteria. I also examine how

officials from the Ministry of Culture used the regulations to supervise the work of the Ministry of Energy and Mines in the identification of indigenous populations. Furthermore, I analyze how indigenous leaders and local indigenous communities demanded their inclusion in the Database of Indigenous Peoples by first questioning the official ethnoracial classification and then accommodating it.

The Battle Over the Criteria of Indigeneity

Historical sociology has explored how elites and bureaucrats in Latin America use censuses and databases to make and unmake ethnoracial classifications (Loveman 2007, 2014; Bailey, Loveman, and Muniz 2013; Bailey, Fiahlo, and Loveman 2018; Castro 2019). However, this literature does not show the internal debates among government officials who use these political artifacts to create racial categories. The debates and contradictions between the Ministry of Culture and the Ministry of Energy and Mines to legitimize or delegitimize the indigeneity of Andean communities sheds light on this unexplored issue.

At the beginning of 2015, the Ministry of Energy and Mines created the General Office of Social Management (*Oficina General de Gestión Social*, hereafter Office of Social Management) to centralize the implementation of prior consultation in all its dependencies, hiring a new team of anthropologists and sociologists for this purpose. The social management team's first assignment was to identify the indigenous communities in the mining areas, carrying out fieldwork in the southern highlands under the Ministry of Culture's supervision. Officials from the Ministry of Culture and the Ministry of Energy and Mines had a heated debate when discussing the reports of the social management team, especially in the interpretation of the criteria that defined the indigeneity of the Andean communities. Although both agencies used the

same methodological guide, the discrepancies lay in which criteria were the most important to define who should be considered indigenous.

Juan Pablo, together with Marcia, participated from the beginning of the implementation of the Law of Prior Consultation, being part of both the team in charge of creating the Database of Indigenous Peoples and the prior consultation team of the Vice Ministry of Intercultural Affairs. Juan Pablo believed that "the fact that the communities of the southern highlands speak native languages is itself a strong indicator that they are indigenous peoples since an aboriginal language is a distinctive institution." Alberto, a lawyer, and former official of the Ministry of Energy and Mines, strongly disagreed with Juan Pablo´s stance. As Alberto stated:

> *Esos conchasumadres* (these mother fuckers) from the Ministry of Culture say that language is the most relevant criterion for identifying indigenous peoples. They even say that the Quechua people exist. *Son pendejadas*! (bullshit) Is there a community that identifies itself as Quechua? People living in Andean territories identify themselves as *campesinos* or *comuneros* (members of *campesino* communities). Besides, what about those Andean peoples who migrated from the countryside to the cities? Some of them speak Quechua or Aymara. For instance, my grandad used to speak Aymara but he wasn't identified himself indigenous. These people have already lost that territorial connection, and that is why they are not indigenous anymore.

Norberto, a young anthropologist who recently joined the Office of Social Management, agreed with Alberto, arguing that "what determines if they are indigenous peoples is the territorial connection. They can speak Quechua or other aboriginal languages, but that is not an indicator that they are indigenous. They must have an ancestral connection with the territory."

Other former officials of the Ministry of Energy and Mines consider that historical continuity defines which communities should or should not be considered indigenous. Ileana, a sociologist, and one of the founders of the Office of Social Management recounted the findings from her fieldwork experience:

> We visited Andean communities that are not isolated. They are populations that, despite having their traditions rooted, are part of the capitalist economy. We realized that most of these communities had migrated in recent decades to the territory they now occupy, not being natives of the place. Therefore, they do not maintain a link with their culture. In our opinion, there is no historical continuity.

Tamara, an anthropologist and also one of the founders of the Office of Social Management, had a similar opinion. According to her, "many communities were already in a relationship with the capitalist economy. These communities are embedded in new practices and cultural patterns."

Leonel and Jean Pierre are also anthropologists and were part of the Office of Social Management along with Ileana and Tamara. They believed that self-identification is the criterion that defines who is indigenous. As Leonel pointed out, "the law is based on ILO Convention 169, which clearly states that self-identification is the criterion that defines who is indigenous. What happens is that Andean communities do not identify themselves as indigenous." Jean Pierre added, "a crucial aspect for the identification of indigenous peoples is that there is a collective identity. If a community shares the same identity, then, we can say they are indigenous."

Marcia believed that the way officials from the Ministry of Energy and Mines have interpreted the criteria for identifying indigenous communities is incorrect insofar as they want the communities strictly to meet those criteria:

> We are experts who collect information to make decisions. We provide that information to the state and communities. The communities are the ones who decide whether they want to identify themselves as indigenous. The problem with the Ministry of Energy and Mines is that they think they just have to make a checklist and if the communities don't meet one of the criteria, they are not indigenous. They often asked us what happens if rural communities don't meet the four criteria of the law and the methodological guide. Are they not indigenous peoples? Our answer was always that the communities do not have to meet the four criteria to be indigenous. Through different processes, indigenous peoples have lost their traditional institutions and their territorial connection. However, the fact that they maintain some of these criteria already implies that they are indigenous peoples.

Juan Pablo also argued that "Andean communities are indigenous, regardless of formal recognition by the state and whether they identify themselves as indigenous. If people decide not to participate in prior consultation because they don't feel indigenous, they have the right not to do so." Leonel, on the other hand, had a pragmatic approach. He claimed that "both the officials from the Ministry of Culture and the Ministry of Energy and Mines assumed the spirit of our institutions. Our team defended the idea that most Andean communities were not indigenous, while the Ministry of Culture contended that all Andean communities were indigenous."

The debate between officials from the Ministry of Culture and the Ministry of Energy and Mines focused on determining what is the most important criterion for classifying Andean communities as indigenous. However, as Marcia emphasized, the Law of Prior Consultation and the methodological guide do not establish a predominant criterion. This ambiguity about the criteria is a terrain of struggle that allows officials to make and remake the official ethnoracial classification by excluding and including communities in their reports.

In the debate on the criteria of indigeneity, there was also a process of double legitimation. On the one hand, officials used the Law of Prior Consultation to legitimize their own conceptions of indigeneity which, according to Leonel, responded to the "spirit of their institutions." In other words, both government agencies defended their own interests. The role of the Ministry of Culture is the recognition of cultural diversity, and that of the Ministry of Energy and Mines is the promotion of private investment in the extractive and energy sector. On the other hand, the officials of both agencies interpreted and reinterpreted the criteria, legitimizing the law and the methodological guide as the state's tools for the knowledge of its population and for public management. In this regard, Paschel (2018) argues that in the creation of racial and

multicultural institutions, anthropologists and sociologists are in charge of legitimizing with their expertise the functioning of the norms and tools of such institutions.

The implementation of the Law of Prior Consultation, its regulation, and the methodological guide also reformulated the model of the authorized Indian (Hale 2005) introduced by the Toledo government. According to the law, indigenous peoples should be part of a rural community far from urban centers where there are also distinctive institutions, a connection with an ancestral domain, and the historical continuity of its traditions (Gobierno del Perú 2011). Despite their differences, the officials of both institutions share an idea of essentialized indigeneity. These officials believe that indigenous people should be isolated from the capitalist economy, preserve an aboriginal language, and inhabit an ancestral territory. The connection with the ancestral territory was one of the themes highlighted by some of my participants from the Ministry of Energy and Mines. According to Alberto and Norberto, many of the Andean communities have lost their connection with their ancestral territory and, therefore, they are no longer indigenous. These officials' ideas about the deindigenization of the Andean communities are similar to the analysis of De la Cadena (2000), who stated that the migratory processes from the countryside to the cities contributed to the self-identification of the indigenous populations as *mestizos* to avoid being discriminated against.

Government officials' notions of indigeneity demonstrate that the state is not only a materiality but also incarnates subjective structures, common senses, ideologies, categories of perception and thoughts that are produced and reproduced in society (Bourdieu 1994). As a result of historical processes of cultural racism, national and local elites and bureaucracies have conceptualized indigenous peoples as traditional and anchored to a remote past. These

conceptions of indigeneity coexist and adapt to the governance project of neoliberal multiculturalism (Jackson and Warren 2005; Park and Richards 2007; Richards 2013, 2007).

Coordination and Control

Weber's (1978 [1922]) classical model of rational-legal authority emphasized how bureaucracies exercise domination over the state apparatus through their expertise. Bureaucracies often exert their power over other officials through their expertise in reviewing reports (Gupta 2012). Officials from the Ministry of Culture oversaw the reports of officials from the Ministry of Energy and Mines in 2015 in accordance with the agreement between both agencies. The joint work between the Ministry of Culture and the Ministry of Energy and Mines generated disagreements between both teams. As Ileana stated, "the main obstacle was the Ministry of Culture. Our Senior Management Office always passed our reports without any problem. The issue then was to resolve the observations raised by the Ministry of Culture and that was where we fell behind." Juan Pablo had a different opinion than Ileana. He mentioned that his team always constructively criticized the reports of the Office of Social Management. In Juan Pablo´s words:

> One of the things that we always emphasized in our comments was that the experts from the Ministry of Energy and Mines often omitted important aspects of the history of the communities they identified. Doing a bit of research, we found that these communities had a historical continuity that connected them with an ancestral past.

Marcia argued that one of the agreement's purposes of reviewing the reports from the Ministry of Energy and Mines was "to strengthen the Ministry of Culture as the governing body in indigenous matters. Our comments were useful to the Ministry of Energy and Mines to improve its work of identifying indigenous peoples in the mining sector."

Jean Pierre worked for the teams of the Ministry of Energy and Mines and the Ministry of Culture. As he mentioned, "In addition to commenting on the reports from the Ministry of Energy and Mines, the Ministry of Culture team also prepared Identification Reports on Indigenous Peoples in the same communities that the Ministry of Energy and Mines had worked in. Thus, they tried to refute the Ministry of Energy and Mines with evidence that came directly from primary sources." Leonel had a different opinion. He considered that "the criticisms from the Ministry of Culture were often unjustified. I think we made good reports. We documented our work with primary and secondary sources. The Ministry of Culture also made reports that were five-pages templates where everyone was indigenous."

According to officials from the Ministry of Energy and Mines, the methodology used in the reports from the Ministry of Culture was not reliable either. Alberto stated:

> The Ministry of Culture doesn't have the necessary expertise and the methodological tools to identify indigenous peoples. I remember that in one community, officials from the Ministry of Culture conducted ten interviews. They concluded that the community was indigenous. How can they affirm that they are all indigenous with only ten interviews in a community of more than a thousand people? Is that representative?

Similarly, Leonel also questioned the methodology used by the Ministry of Culture. He added:

> The reports from the Ministry of Culture were not good because they were based on the methodological guide, which is already a confusing document. It says that experts must conduct interviews and focus groups but does not detail how many or how to make them. Instead, we developed our own instruments, such as the Indigenous Peoples Identification Form, and community surveys. We also validated our data with secondary sources. Thus, we triangulated historical, qualitative, and demographic information.

The last step to resolve the differences between the Ministry of Culture and the Ministry of Energy and Mines teams were in meetings where both discussed the reports. Juan Pablo believed

that "those meetings were productive because both teams agreed and validated each other's work." Leonel, on the other hand, alleged that:

> Those meetings didn't get anywhere due to Juan Pablo's biased position as leader of the prior consultation team of the Ministry of Culture. Despite the rigor of our reports, Juan Pablo's team always sought to refute them, especially if they contradicted their database. If our report said that a community in the database was not indigenous, they immediately looked for any minimal weakness to dismiss it. The Ministry of Culture believed that the Database of Indigenous Peoples was the Holy Bible. I remember once we spent hours discussing the case of an Andean community in the southern highlands. In the end, both teams agreed that the community was not indigenous. However, the Ministry of Culture never removed that community from its database.

At the end of 2015, both agencies terminated the agreement. Marcia firmly believed that "the agreement served its purpose. We managed to train the Ministry of Energy and Mines on how to carry out the identification of indigenous peoples and how to apply the methodological guide." Ileana thought that "it was very wise not to continue with the agreement. Government agencies need autonomy to make decisions, and the Ministry of Culture didn't give us that autonomy."

The Ministry of Culture tried to assume leadership as the governing body in indigenous matters, exercising control over the Ministry of Energy and Mines. The signing of the agreement between the two institutions allowed the Ministry of Culture to supervise the work of the Ministry of Energy and Mines by reviewing its reports. The Ministry of Culture also prepared counter-reports to refute the evidence presented by the Ministry of Energy and Mines. In turn, officials from the Ministry of Energy and Mines responded to the criticism by arguing that their team had greater expertise in identifying indigenous communities. According to these officials, incorporating more methodological tools into fieldwork and preparing long reports are indicators of their vast expertise.

Resistance and Accommodation to the Official Ethnoracial Classification

Political and historical sociology show how people individually and collectively

challenge official classification by seeking inclusion and representation (Bourdieu 1994;

Loveman 2014). When these responses are collective, people organize to achieve formal state

recognition as a group. Thus, nonstate actors contribute to the creation of official categories

(Menjívar 2023). Following its withdrawal from dialogue with Humala in 2011, the Unity Pact

claimed the Law of Prior Consultation's unconstitutionality. The leaders of the Unity Pact argued

that the law went against what ILO Convention 169 states. According to the Convention, "self-

identification as indigenous or tribal shall be regarded as a fundamental criterion" (International

Labor Organization 1989). As Carla, leader of ONAMIAP argued:

> The Law of Prior Consultation is not in accordance with ILO Convention 169,
> which establishes that self-identification is the most relevant criterion. That means
> we indigenous peoples can maintain only a few of our traditional institutions, but
> as long as we self-identify as indigenous, that is what matters.

The *campesino* leader Arturo agreed with Carla by saying that, "no anthropologist or sociologist

can say whether we are indigenous peoples. We self-identify as indigenous peoples, as stated by

ILO Convention 169." Walter, leader of *campesino* organization CCP also added, "these

anthropologists say that they are experts in identifying indigenous peoples, but they don´t take

into account the indigenous rights that are protected by ILO Convention 169."

At the local level, indigenous organizations and communities not affiliated with the Unity

Pact also used ILO Convention 169 to question the Law of Prior Consultation and demand its

modification. In the southern highlands, the Aymara organizations of Puno also expressed that

the law did not comply with the recognition of indigenous people in accordance with the

provisions of the Convention, which recognizes the original denominations used by indigenous

peoples. The law only considers the terms indigenous or original, leaving out the local denominations that the Aymara communities use to express their identities (Salmon 2013). In 2013, the Campesino Community of Chinchaypujio, located in the southern highlands of Cusco, demanded that the Peruvian state annul the Database of Indigenous Peoples and the criteria for the identification of indigenous populations. The *campesinos* of Chinchaypujio argued that the objective criteria of the law restricted indigenous identity and did not correspond to the provisions of ILO Convention 169 (Torrejón 2018). The same year, the Campesino Community of San Juan de Cañaris also demanded that the Peruvian state conduct the identification of indigenous peoples and prior consultation in their territory, located in Lambayeque, the northern highlands. The *campesinos* were against the execution of the Cañariaco mining project by the Canadian mining company Candente Cooper Corp. One of the community's arguments to oppose the mining project was that Cañariaco violated their collective rights as an indigenous population. The leaders of Cañaris argued that the inhabitants of the community descended from the Cañaris ethnic group, an indigenous people that dates back to the time of the Inca Empire. Given the delay of the state, the Cañaris proposed self-recognition and self-consultation. After the media made the case public, the Peruvian state sent a team from the Ministry of Culture and the Ministry of Energy and Mines to identify the indigenous peoples, deciding to include the Cañaris in the Database of Indigenous Peoples and then carry out the prior consultation process (Servindi 2013).

Camilo and Marcia are former government officials from the Ministry of Agriculture and the Ministry of Culture, respectively. Both consider that indigenous organizations are right insofar that the Law of Prior Consultation created confusion with the database and the identification of indigenous peoples. Camilo is an experienced government official who worked

for the Ministry of Agriculture during the first prior consultation process for the Forest Law of

Wild Fauna. He believed that "Humala's government distorted ILO Convention 169 because the

Law of Prior Consultation mentions that the state must identify indigenous peoples. There is no

reference to indigenous identification or to the Database of Indigenous Peoples in the

Convention." Marcia also pointed out:

> ILO Convention 169 doesn't say that states must categorize populations as indigenous. The law and the regulations for prior consultation do say that the state must identify indigenous peoples. In 2002, the Law of Indigenous Collective Knowledge was the first to define who were indigenous peoples. Later, some regulations also referred to Convention 169. Therefore, the state assumed that indigenous peoples were *campesino*, native, and even Afro-descendant communities. When the Humala government promulgated the Law of Prior Consultation and its regulations, government agencies, companies, and academia began to discuss whether or not indigenous peoples exist, especially in the Andes.

As government agencies legitimized the Law of Prior Consultation and its regulation by

implementing the identification of indigenous peoples and prior consultation processes, the

leaders of the Unity Pact decided to participate and monitor compliance with the law. Since

2015, the Unity Pact resumed the meetings with the Ministry of Culture to guarantee the

implementation of prior consultation as well as the phase of identification of indigenous peoples.

As a result of these meetings, the Ministry of Culture published new guides, brochures, and

audiovisual materials collecting the contributions of the Unity Pact. These documents

systematize the experiences of prior consultation in hydrocarbon projects in which Amazonian

indigenous organizations participated. They also gave specific guidelines on the process of

identifying indigenous peoples. Some of the recommendations provided by the Ministry of

Culture are:1) the accompaniment of the indigenous federations in the process of identifying the

communities; 2) the involvement of the communities through direct questions to the specialists

about the work they are carrying out; 3) the right of the communities to request the Indigenous

Peoples Identification Report; and 4) the right of the communities to request their inclusion in

the Database of Indigenous Peoples (Ministerio de Cultura 2015). As the Amazonian leader

Omar highlighted:

> We don't like that law, but it is what it is. We are now closely monitoring that the
> identification and consultation processes are carried out in accordance with what
> is established by law and the methodological guide. For example, the interviews
> must be conducted in the aboriginal language of the communities, there must be
> indigenous translators in the interviews and meetings, the specialists should
> contact the representative leaders of the communities, and so on.

The leaders of the Unity Pact used ILO Convention 169 and the Law of Prior Consultation to

guarantee the identification of indigenous peoples and prior consultation. In the first phase, they

questioned the law using the Convention, arguing that the law did not comply with its provisions.

In the second phase, they adhered to the law by resuming their meetings with the Ministry of

Culture to co-produce official informative documents that reinforce the identification of

indigenous peoples.

Cecilia Menjívar points out that "classification systems assign people to categories into

which either do or do not fall, but people's experiences can also fall between categories" (2023,

13). The identification of indigenous peoples in mining areas is still ongoing and puts the state's

official indigeneity in in-betweenness. Despite the law standardizes the criteria to identify

indigenous peoples, determining who should be considered indigenous depends on how

government agencies, extractive companies, and indigenous leaders dispute and negotiate their

multiple interests.

Conclusions

 In this chapter, I have shown how indigenous leaders and government officials from the Ministry of Culture and the Ministry of Energy and Mines contested and negotiated indigeneity in the implementation of the Law of Prior Consultation during the Humala administration. Both the indigenous leaders and the Humala government failed to reach a consensus due to their constant disagreements on whether the Andean communities should be considered indigenous and included in the Database of Indigenous Peoples.

 I also examined how the Ministry of Energy and Mines and the Ministry of Culture engaged in a debate to define whether the Andean communities are indigenous. In this debate, government officials from both teams legitimized their views by having different interpretations of the Law of Prior Consultation. The ideas expressed in the documents and also in the stance of government officials reinforce an essentialized conception of indigeneity.

 The Law of Prior Consultation and its regulations were also used by officials of the Ministry of Culture to oversee the work of the Ministry of Energy and Mines in identifying indigenous people. The Ministry of Culture exercised this control by reviewing the reports of the Ministry of Energy and Mines and preparing counter-reports to refute them. Officials from the Ministry of Energy and Mines responded to the criticism in the debates that took place between the two institutions, arguing that they have greater methodological expertise and rigor in their reports. The indigenous organizations used the ILO Convention 169 to first question the Law of Prior Consultation and then to guarantee its implementation.

CHAPTER 5

CONCLUSIONS

This chapter summarizes the findings of my thesis, emphasizing its sociological contributions. I return to the discussion about the importance of reconciling historical sociology with political ethnography to understand how ethnoracial classification arises. I argue that the standardization of ethnoracial categories results from internal contradictions between the many hands of the state, indigenous leaders, and external actors such as extractive companies and the media. Finally, I discuss the future directions of this research.

Summary of my Findings

My research examined how indigenous activists and government officials in Peru co-constructed ethnoracial categories. This study approached the case of Peru to sociologically explore how ethnic groups and states make race. Although the literature on race-making in Latin America focuses on how states create ethnoracial categories (Bailey, Loveman, and Muniz 2013; Loveman 2014; Bailey, Fiahlo, and Loveman 2018), it does not explain the dynamics of actors from which these categories emerge. I integrated the race-making approach with political ethnography (Hale 2005; Postero 2007; Richards 2013) to emphasize that ethnoracial categories are co-created as the result of various negotiations, disagreements, and contradictions between indigenous leaders and government officials. The decisions and the stance of these actors are, in turn, influenced by the media, extractive companies, NGOs, politicians, and the international context.

I chose the case of Peru because it is a country where, despite its great diversity of indigenous groups, the majority of the population does not identify as indigenous because of historical state-driven processes of classification. This denial of indigeneity led to state policies and regulations to recognize indigenous peoples (Telles and Torche 2019). My thesis addressed the implementation process of the Law of Prior Consultation, which established the official mechanisms to identify populations as indigenous.

In chapter two, I reviewed the literature of race-making and indigeneity in Latin America and presented my theoretical approach. I showed how historical sociological literature has focused on how censuses are instruments of politics that allow states to classify and make visible and invisible their populations (Bailey, Loveman, and Muniz 2013; Loveman 2014; Bailey, Fiahlo, and Loveman 2018; Castro 2019). I have pointed out that these studies fall short in explaining the dynamics of state and nonstate actors that underlie the creation of ethnoracial categories. To fill this gap, my approach integrated political ethnography and historical sociology by introducing the idea of the many hands of the state (Morgan and Orloff 2017). Thus, in this research, I have conceptualized the state not as a homogeneous entity that imposes categories on the population, but as a set of state and non-state institutions and actors that have often conflicting interests from which ethnoracial categories emerge. These actors can cooperate, reaching consent-building processes (Rodríguez-Muñiz 2017, 2021), as well as confront one another in making official ethnoracial classifications. Indigenous resistance, negotiation, and accommodation to the new official ethnoracial categories are situated in a context of growing neoliberal multicultural policies in Latin America. States seek to partially recognize the cultural rights of indigenous peoples, leaving these actors aside in political decision-making (Hale 2005; Greene 2006; Postero 2007; Richards 2013).

In chapter three, I situated the background of the Law of Prior Consultation and the official indigenous categorization. Specifically, I analyzed how the neoliberal governments of Presidents Toledo and García made and unmade multicultural institutions in Peru. Toledo was the first president to create CONAPA and INDEPA as multicultural spaces that mediated between the state and indigenous organizations. The underlying idea of the institutions founded by Toledo was that of the "authorized Indian," who cooperated with the state without questioning economic growth. García, on the contrary, delegitimized these spaces and opted for a strategy of confrontation with indigenous peoples. García framed the indigenous peoples who protested against the privatization of their territories in Bagua as "primitives" opposed to economic development. In other words, he presented them as "unruly Indians." I contended that both Toledo and García represented the two sides of the neoliberal multiculturalist governance strategy: the authorized Indian and the unruly Indian (Hale 2005). The unmaking of multicultural institutions by the García administration opened the path for their subsequent reinvention with the Law of Prior Consultation and the establishment of the official indigenous classification.

In chapter four, I analyzed how the implementation of the Law of Prior Consultation led to the creation of the Database of Indigenous Peoples and the Indigenous Identification Process as the official tools to classify populations as indigenous. I reconstructed the debates between indigenous leaders and the Humala government in the making of the database, arguing that there was a consent without consensus in determining who should be considered indigenous. Humala, supported by the Ministry of Energy and Mines and the Ministry of Economy and Finances, stated that only Amazonians are indigenous because they are "uncontacted people." On the other hand, indigenous organizations and the Ministry of Culture defended the idea that the Andeans should also be considered indigenous because they speak traditional languages such as Quechua

and Aymara. Given the lack of consensus, the indigenous organizations withdrew from the

dialogue with Humala, who published the database without indigenous participation. The first

version only considered Amazonian indigenous peoples, later adding only four Andean

indigenous groups.

In the second section of the chapter, my narrative focused on how the Ministry of Culture

and the Ministry of Energy and Mines implemented the Indigenous Identification Process as a

requirement to determine who should be considered indigenous in mining areas. Although the

Law of Prior Consultation standardized the criteria to identify the indigenous population,

government officials from both agencies emphasized some criteria over others to justify their

interpretation of the law. Officials from the Ministry of Culture affirmed that language and

cultural traditions were determinants to categorize Andean populations as indigenous. On the

other hand, officials from the Ministry of Energy and Mines claimed that the Andean population

was not indigenous because they had no connection with an ancestral territory and are articulated

to the capitalist economy. Officials from the Ministry of Culture also supervised the Ministry of

Energy and Mines through a work agreement. The teams from both agencies met to discuss the

reports from the Ministry of Energy and Mines, starting a new dispute over the indigeneity of the

Andean communities. The members of both teams justified their views by using their expertise

on indigenous issues to determine whether or not the Andean population in mining areas is

indigenous. I argued that, despite their differences, officials from both agencies share an

essentialized idea of indigenous peoples as isolated from the capitalist economy, anchored to

ancestral territory, and predominantly speaking a traditional language. The Law of Prior

Consultation and the methodological tools, approved by the Ministry of Culture, reinforce this

essentialized vision of indigeneity by establishing objective criteria such as territorial connection,

historical continuity, and distinctive institutions. These objective criteria reduce indigenous people to inhabitants of rural areas who maintain their pre-colonial cultural traditions over time. Indigenous umbrella and grassroots organizations, in turn, appropriated and reinvented this essentialized idea of indigeneity, demanding their inclusion in prior consultation processes.

Sociological Contribution

My research contributes by reconciling the historical sociology of race-making with political ethnography to analyze the processes and actors from which official ethnoracial categories emerge. As I have shown in the case of contemporary Peru, there is a permanent reinvention of indigeneity that results from contradictory and conflicting logics of state and nonstate actors. Government officials and indigenous leaders are constantly disputing who should be considered indigenous. Studies in historical sociology and political ethnography address how activists of ethnic minorities can confront states (Loveman 2014) or cooperate with them (Rodríguez-Muñiz 2017, 2021) in the construction of ethnoracial categories. My thesis also adds that these relationships of dispute and cooperation also take place within government agencies and within the indigenous organizations themselves.

Another contribution of this study is to show a negative case of consent building. Ethnographic research in the US indicates that ethnic minorities may cooperate with state institutions such as the Census Bureau for mutual benefit. States learn about their population by collecting data. In turn, ethnic minorities seek to make themselves visible as a social group to gain political representation (Mora 2014; Gómez 2020; Rodríguez-Muñiz 2017, 2021). In Peru and Latin America, however, the situation is different. Extractive companies influence either directly or indirectly the decision-making of politicians and government agencies such as the

Ministry of Energy and Mines (Crabtree and Durand 2017). According to this conception, recognizing the existence of indigenous people is thus an obstacle for private investment as it would delay mining projects with the consultation process. Although I did not interview any extractive company representatives, they were present as implicit actors throughout my narrative. Officials and indigenous leaders constantly mentioned that the mining companies did not want the state to recognize the indigeneity of the Andean populations.

Future Directions

One of the limitations of my research was not being able to do fieldwork with local indigenous communities, due to the global pandemic. Although my study considers the perspective of the indigenous leaders who participated in the negotiations to implement the Law of Prior Consultation, the voice of local grassroots organizations is missing. Nor did I compare what the leaders of the umbrella organizations told me with what the rank-and-file thought. I also did not conduct interviews with representatives of the extractive companies, only limiting myself to using secondary sources to collect their statements on the implementation of the law. Despite not being part of the study sample, extractive companies influenced the stance of government officials. My participants from the Ministry of Energy and Mines mentioned that representatives of these companies tried to influence the results of the reports to identify indigenous populations. Officials from the Ministry of Culture also criticized how extractive companies intervened in the process of identifying indigenous peoples. Future research should address the relationship between local grassroots organizations, indigenous umbrella organizations, and extractive companies in the construction of indigeneity.

While the Law of Prior Consultation standardizes who should be considered indigenous, official indigeneity is in in-betweenness (Menjívar 2023) as government officials and indigenous leaders navigate an ambivalent and ambiguous terrain. Officials rely on their expert judgment to determine the indigeneity of rural communities. Indigenous leaders also have disagreements among themselves about what it means to be indigenous. Future research should re-explore classical debates on the sociology of ambivalence and ambiguity (Merton 1976; Zielyk 1966; Auyero and Sobering 2019) to address the formation of indigeneity in Peru. Among these processes, it is relevant to consider the 2017 National Census, which was the first to introduce the variable of ethnic self-identification.

Finally, one of the questions that arises from this study is how my research can contribute to democratize the work of state agencies in their relationship with indigenous peoples. This democratization comprises two levels. First, state agencies should make their differences explicit before implementing processes involving indigenous peoples. Second, state agencies should include indigenous peoples and their representatives from the design stage of policies, and not just in their implementation. Communicating my research findings in a language accessible to state officials and indigenous leaders is a challenge that leads me to think outside of academia. I do not intend with this final reflection to impose solutions or provide magic recipes to solve the problems of the Peruvian state with its citizens. The solution lies in the ability of indigenous peoples and public officials to build or undo consensus. This open communication would allow the democratization of the processes of recognition of collective rights and the formation of multiple indigenous identities.

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