

INDIGENOUS RIGHTS AT THE CROSSROADS OF DEVELOPMENT AND
ENVIRONMENTAL PROTECTION IN THE TIPNIS, BOLIVIA

by

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ABSTRACT

LEAH WALTON. Indigenous Rights at the Crossroads of Development and Environmental Protection in the TIPNIS, Bolivia, 1990-2018 (Under the direction of DR. CARMEN SOLIZ)

On September 25, 2011, Bolivia garnered international attention when federal police violently attacked the camp of indigenous protestors marching against the construction of a highway through the *Territorio Indígena y Parque Nacional Isiboro Sécuré* (TIPNIS). The international backlash against the violence forced Bolivia's first indigenous president, Evo Morales, to temporarily ban construction of the highway in Law 180. After a counter-march led by *cocaleros* (coca leaf-growing Aymara and Quechua peasant migrants to the region) demanding the highway arrived in La Paz, the government revived the highway project. It conducted a consultation in the TIPNIS in 2012 and began construction in the TIPNIS's southern colonization zone in 2017. Scholars and the media have used the TIPNIS conflict to evaluate Morales's project of social, economic, and political reforms. This focus on Morales has obscured the voices of the TIPNIS communities, who participated in the national debates over indigenous identity, indigenous rights, development, and environmental protection that developed out of the conflict over the highway. This thesis will argue that the TIPNIS communities exploited the window of opportunity opened by the consultation process to press their own visions of indigenous identity, indigenous rights, and environmental protection.

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CHAPTER 1: INDIGENOUS RIGHTS IN THE TIPNIS

Bolivia's *Territorio Indígena y Parque Nacional Isiboro Sécuré* (TIPNIS) captured international media attention on September 25, 2011 when federal police violently raided the camp of indigenous marchers protesting the construction of a highway through the heart of their indigenous territory and national park. The marchers, led by the Subcentral TIPNIS and the *Confederación de Pueblos Indígenas de Bolivia* (CIDOB), arrived in La Paz to an outpouring of support from national and international indigenous rights and environmental movements. The international backlash forced Bolivia's first indigenous president, Evo Morales, to approve the march's proposal for Law 180, which banned construction of the highway, reestablished the integrity of the TIPNIS as an indigenous territory, and introduced the principle of the "intangibility" of the TIPNIS as a national park. Representatives of the TIPNIS's southern colonization zone, the *Consejo Indígena del Sur* (CONISUR), and the *cocaleros* (Aymara and Quechua coca leaf-growing highland peasant migrants to the region), led a counter-march in December 2012 to demand the construction of the highway and the repeal of Law 180. In response, Morales announced the promulgation of Law 222 for a consultation in the TIPNIS. The consultation concluded in December 2013, and the government asserted that the TIPNIS communities had approved the highway project and rejected Law 180 despite accusations from the local, national, and international opposition of manipulation, intimidation, and bribery during the consultation process.¹ Though the national conflict remained dormant for almost five years, the conflict

¹ Asamblea Permanente de Derechos Humanos Bolivia and the Federación Internacional de Derechos Humanos, *Bolivia: Informe de verificación de la consulta realizada en el Territorio Indígena Parque*

between CONISUR and other pro-highway leaders and the anti-highway leaders continued within the territory. The national conflict reignited in 2017, however, when the government, CONISUR, and its allies in the TIPNIS announced Law 969 for the protection and integral and sustainable development of the TIPNIS. Law 969 codified the consultation results, abrogated Law 180, and opened the door for the construction of the Villa Tunari-San Ignacio de Moxos highway through the indigenous territory and national park. Construction on the highway within the TIPNIS's southern colonization zone began in 2017.

Interpretations of the TIPNIS conflict

Scholars have attempted to explain why Morales, Bolivia's first indigenous president, ignored the constitutional provision that ensured the right of indigenous communities to prior consultation over development projects in their territories and how his government could perpetrate violence against indigenous citizens. For Nancy Postero, the TIPNIS conflict represented the encounter between the dominant MAS-driven narrative of indigenous identity and a counter-narrative of indigeneity mobilized by the indigenous communities of the territory as indigenous peoples' territories and bodies continued to suffer economic violence in an eerie repetition of the state sacrifice of indigenous territories in the name of development.² Second, scholars have attempted to reconcile the inconsistencies between Morales's environmentalist discourse on the international stage and his government's continued push to expand infrastructure megaprojects, such as

Nacional Isiboro Sécuré, May 21, 2013, accessed July 12, 2108, <https://www.cedib.org/wp-content/uploads/2013/05/informeFIDHtipnis1.pdf>.

² Nancy Postero, *The Indigenous State: race, politics, and performance in Plurinational Bolivia* (Oakland: University of California Press, 2017), 127-138.

highways, and extractive industries, such as mining, natural gas, and industrialized agriculture. For instance, Ricardo Calla claimed that the TIPNIS conflict called attention to the tension between Morales's pro-environmental politics and his "less green" politics of development inside Bolivia.³ Benjamin Kohl and Linda Farthing, however, have argued that the government's continued reliance on extractive-resource-dependent growth reflected the political necessity to produce distributable income to meet the demands of its electoral base in Bolivia's social movements.⁴ In Jeffrey Webber's Marxist analysis, the TIPNIS conflict represented a systematic expression of class commitments within a stratified indigenous peasantry that were reproduced in the government's development model of "reconstituted neoliberalism," a development model that altered the redistributive patterns of the economy without interfering with its capitalist foundations.⁵ John Crabtree and Ann Chaplin have argued that the conflict in the TIPNIS was a dispute over the nature of landholding, with indigenous territories representing a significant victory for lowland indigenous groups and highland migrants viewing these territories as large, unproductive tracts of land, or the new latifundia.⁶

While these studies have focused on single issues within the TIPNIS conflict, Daniela Sánchez-Lopez claimed that the series of conflicts over territory, models of development, and indigenous rights in the TIPNIS represented a larger struggle over

³ Ricardo Calla, "TIPNIS y Amazonia: contradicciones en la agenda ecológica de Bolivia," *European Review of Latin American and Caribbean Studies* 14, no. 4 (October 2011): 77.

⁴ Benjamin Kohl and Linda Farthing, *Evo's Bolivia: continuity and change* (Austin: University of Texas Press, 2014), 56.

⁵ Jeffrey Webber, "Revolution against 'Progress': the TIPNIS struggle and class contradictions in Bolivia," in *Crisis and Contradiction: Marxist perspectives on Latin America in the Global Political Economy*, edited by Susan Spronck and Jeffrey Webber (Lieden: Koninklijke Brill, 2015), 303; 318-320.

⁶ John Crabtree and Ann Chaplin, *Bolivia: processes of change* (New York: Zed Books, 2013), 6.

different narratives of citizenship.⁷ But the TIPNIS conflict produced more than competing narratives. As the anti-highway leaders of the Subcentral TIPNIS and CIDOB, the government, and the pro-highway leaders of CONISUR participated in the national debates over the highway project, Law 180, Law 222 and the consultation, and Law 969, they struggled to enforce their discourses of indigenous identity and visions of indigenous rights, development, and environmental protection through codifying them into Bolivian law. Thus, as the conflict over the highway in the TIPNIS produced a series of legislation about indigenous identity, indigenous rights, development, and environmental protection, the government, the Subcentral TIPNIS, and CONISUR participated in a negotiation of Bolivia's indigenous rights legal framework. Using media coverage and examining Law 180, Law 222, and Law 969, this thesis will discuss the process by which the government, the Subcentral TIPNIS, and CONISUR negotiated this indigenous rights legal framework during the conflict in the TIPNIS.

As activists, the media, and even scholars have focused their analyses on the dominant discourses of the government, the Subcentral TIPNIS, and CONISUR, they have obscured the role of another influential actor in the conflict over the Villa Tunari-San Ignacio de Moxos highway. During the TIPNIS conflict, the competition between the government's discourse of indigenous identity, indigenous rights, development, and environmental protection and the discourse and demands of the Subcentral TIPNIS and CIDOB occurred, not only within the national debate over the highway project, but also within the TIPNIS communities themselves. In fact, the government provoked a crisis of

⁷ Daniela Sánchez-Lopez, "Reshaping Notions of Citizenship: The TIPNIS indigenous movement in Bolivia," *Development Studies Research* 2, no. 1 (March 2015): 28.

representation in the TIPNIS communities during the conflict by using its interpretation Law 180's principle of "intangibility" to ban all economic development in the territory and introduce the consultation as an opportunity for the TIPNIS communities to repeal Law 180 and access development. Meanwhile, continued pressure from the anti-highway leaders brought international observers, activists, and the media to the TIPNIS to observe the consultation process. The pressure this attention placed on the government transformed the consultation in the TIPNIS into a key participatory space for individuals and communities to articulate their own expressions of indigenous identity and visions of indigenous rights to territory, self-governance, development, and environmental protection. This thesis will analyze the government's official report of the consultation in the TIPNIS communities, media coverage of the consultation in the TIPNIS, and an independent report of the TIPNIS conflict from the Permanent Assembly of Human Rights Bolivia and Catholic Church. Offering the first scholarly analysis of the consultation in the TIPNIS communities, this thesis will demonstrate that the communities not only participated in the consultation process. They also exploited the window of opportunity that the national conflict between the government and anti-highway leaders opened to influence the negotiation of Bolivia's indigenous rights legal framework, asserting their own specific indigenous identity and visions of indigenous rights, development, and environmental protection.

The TIPNIS Case Study

Following the historic First Indigenous March for Land and Dignity in 1990, the TIPNIS became one of Bolivia's first four indigenous territories, and Bolivia became a leader in the introduction of indigenous rights as the fifth signatory of the world's first

international indigenous rights legal framework, the International Labour Organization (ILO) Convention 169. As one of Bolivia's first indigenous territories, the TIPNIS became a focal point for the negotiation and implementation of a new indigenous rights legal framework that included constitutional reforms, a new agrarian reform law, and decentralized participatory development planning. For Patrick Bottazzi and Stephan Rist, the introduction of indigenous collective land titling was a turning point in historic conflicts over access to land in Bolivia: when land issues had clearly entered the political arena; and, where social actors and the state negotiated land redistribution and land tenure based on claims of spatialized political power and ethnicity. Thus, Bottazzi and Rist argued that the introduction of indigenous collective titling accompanied the "segmentation" of different peasant and indigenous organizations based on different discourses of identity and different land tenure categories as indigenous collective titling opened "windows of opportunity" to gain access to land.⁸ In the TIPNIS, the creation of the indigenous territory began a new phase in a historic struggle for access to land in the region that spans the borders of the Moxos province in the Beni department and the Chapare province in the department of Cochabamba. The Chapare became a destination for Aymara and Quechua migrants from the highlands through a government-directed colonization program under the 1953 Agrarian Reform Decree. At the same time, the region of the TIPNIS became a refuge for the lowland Moxeño-Trinitario, Yuracaré, and Chimane indigenous peoples dispossessed of their land by the influx of migrants and the expansion of agribusiness and hydrocarbons

⁸ Patrick Bottazzi and Stephan Rist, "'Changing Land Rights Means Changing Society': the sociopolitical effects of agrarian reform under the government of Evo Morales," *Journal of Agrarian Change* 12, no. 4 (October 2012): 537-540

exploitation in the Bolivian lowlands under the revolutionary national development policy.⁹ In 1965, General René Barrientos declared the region in central Bolivia the *Parque Nacional Isiboro Sécure* (Isiboro Sécure National Park).

In the 1970s, the Chapare's economy shifted to coca leaf-production. Following the implementation of a harsh structural adjustment policy in 1985, thousands of highland migrants moved to the Chapare to join the emerging *cocalero* federation. The migration from the highlands placed increasing pressure on land in the region, and Bolivia's lowland indigenous peoples began to organize to gain recognition of their territories from the national government. With support from international indigenous rights and environmental movements, Bolivia's 34 lowland indigenous peoples formed the *Confederación de Pueblos Indígenas de Bolivia* (CIDOB) in 1982.¹⁰ After recognition of its indigenous territory following the First Indigenous March for Land and Dignity in 1990, the Subcentral TIPNIS participated in the national debate over agrarian reform that culminated in the promulgation of the *Ley del Servicio Nacional de Reforma Agraria* (Ley INRA) in 1996. The Subcentral TIPNIS gained its official title under Ley INRA in 1997.¹¹

During the titling process, the *cocaleros* claimed ownership of the southern portion of park. The 1997 title to the TIPNIS indigenous territory drew a "Red Line" and created the Polygon 7 colonization zone for the *cocalero* unions.¹² Although the drawing of the

⁹ María Virginia Ortiz Echazú and Patricia Costas Monje, "TIPNIS, la coca y una carretera acechan a la Loma Santa: territorio indígena en Cochabamba y Beni," in *Territorios Indígena Originario Campesinos en Bolivia: entre la Loma Santa y la Pachamama*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2011), 265.

¹⁰ Marxa Chávez León, and Patricia Costas Monje, "Confederación de Pueblos Indígenas del Oriente Boliviano," in *Sociología de los movimientos sociales en Bolivia: estructuras de movilización, repertorios culturales y acción política*, edited by Álvaro García Linera (La Paz: Plural Editores, 2010), 217.

¹¹ Ortiz Echazú and Costas Monje, "TIPNIS, la coca y una carretera acechan a la Loma Santa," 269.

¹² Ibid

“Red Line” did not instigate the conflict for access to land in the TIPNIS, the “Red Line” through the TIPNIS has come to represent a striking example of how the introduction of indigenous territorial rights has affected different forms of rural organization, strategies to access land and representation before the government, and discourses of identity in Bolivia. The competing discourses of indigenous identity and visions of indigenous rights, environmental protection, and development in the current conflict in the TIPNIS reveal the legacies of the introduction of indigenous collective territorial titling in Bolivia.

For Lorenza B. Fontana, the introduction of an indigenous rights legal framework in the 1990s led to the “disarticulation” of Bolivia’s two rural identitarian pillars: “peasant,” which corresponded to a class-based identity founded in the corporatist politics of the government following the 1952 National Revolution; and, “indigenous,” which gained political force when the Bolivian government introduced the first legislation guaranteeing indigenous rights to territory, culture, political participation through their own organizations, and indigenous participatory development within their territories.¹³ Fontana rejected constructivist definitions of identity, however, arguing that these fluid and interdependent class and ethnic identities were “mechanisms of collective self-identification” that have been articulated and rearticulated in a cycle of conflict and rapprochement within the space of ideas, ideologies, and discourses and the space of politics, decisions, and state projects.¹⁴ Tracing the history of the “state-mediated” development of rural identity over 60 years of Bolivian history, Fontana asserted that a

¹³ Lorenza B. Fontana, “Indigenous Peasant ‘Otherness’: rural identities and political processes in Bolivia,” *Bulletin of Latin American Research* 33, no. 4 (2014): 436.

¹⁴ *Ibid.*, 437.

rural identity achieved discursive supremacy based on its ability to occupy the symbolic space of idealized “peasant” or “indigenous” identity within the national discourse.¹⁵ Thus, rather than measuring the success of a discourses of identity based on its representation of referents such as language, culture, and traditions, Fontana argued that the success of discourse rested “on its functionality in terms of articulation, i.e. its ability to generate a sense of self-identification shared within a social aggregate.”¹⁶

In the current TIPNIS conflict, the Subcentral TIPNIS and CONISUR have represented Fontana’s identitarian dichotomy, mobilizing fixed discourses of indigenous identity. The indigenous identity that the traditional leadership of CIDOB and the Subcentral TIPNIS employed during the conflict reflected the identity that lowland indigenous groups forced onto the Bolivian national political agenda with the First Indigenous March for Land and Dignity and constructed in negotiation with the state and international actors through Bolivia’s introduction of an indigenous rights legal framework in the 1990s.¹⁷ The intercultural identity CONISUR has expressed during the conflict developed out of the *cocalero* identity the communities in the Chapare have constructed, first, as a reaction to forced eradication programs in the 1990s, and, later, as an attempt to widen the electoral base for the *cocaleros*’ political instrument, the *Movimiento al Socialismo* (MAS), in the early 2000s.¹⁸ Both of these discourses encountered the government’s discourse of indigenous identity as the Subcentral TIPNIS, CONISUR, and the government participated in the conflicts over indigenous rights, development, and

¹⁵ Ibid, 438.

¹⁶ Ibid, 437.

¹⁷ Chávez León and Costas Monje, “Confederación de Pueblos Indigenas del Oriente Boliviano,” 218.

¹⁸ Thomas Grisaffi, *Coca Yes, Cocaine No: how Bolivia’s coca growers reshaped democracy* (Durham: Duke University Press, 2019).

environmental protection and struggled to implement their visions in Law 180, Law 222, and Law 969.

This chapter will continue by discussing the introduction of Bolivia's indigenous rights legal framework beginning in the 1990s. First, it will discuss the incorporation of an indigenous rights legal framework within Bolivia's state project of neoliberal structural adjustment in the 1990s. Next, it will discuss how the implementation of this new indigenous rights legal framework through the titling of the TIPNIS indigenous territory affected the development of the Subcentral TIPNIS, its discourse of identity, and its demands for indigenous rights. Then, it will describe how the *cocalero* federation constructed its collective identity and organizational structures in response to forced eradication in the 1990s and adopted a discourse of indigenous identity to build alliances with other organizations during the popular rejection of neoliberalism in the early-2000s. Finally, this chapter will contextualize the conflict over the highway in the TIPNIS within the modification of Bolivia's indigenous rights legal framework under President Morales.

Introducing Indigenous Rights in Bolivia

Like other countries in Latin America in the 1980s, Bolivia faced a debt crisis. By 1985, the currency had collapsed, coca-cocaine production was the only profitable export sector, and the government faced insolvency.¹⁹ The deep economic crisis in Bolivia and its history of chronic underdevelopment gave neoliberal architects in the World Bank and IMF unusual influence over Bolivia's economic policies, and Bolivia's neoliberal restructuring was the most extreme in the region.²⁰ Under intense pressure from the World Bank and the

¹⁹ Benjamin Kohl, "Challenges to Neoliberal Hegemony in Bolivia," *Antipode* 38, no. 2 (March 2006): 310.

²⁰ *Ibid.*, 305.

International Monetary Fund (IMF), Paz Estenssoro introduced a harsh structural adjustment program, the New Economic Policy (NEP), which called for the closing of state-owned tin mines, floated the Bolivian currency against the U.S. dollar, privatized state-owned industries, increased foreign direct investment, and brought an end to the protectionist and import substitution policies enacted during the 1952 National Revolution.²¹ As the NEP decreased the capacity of the state to supply basic services while it increased unemployment and decreased wages, however, the citizenry began to mobilize against the high social costs of neoliberal adjustment. An enthusiastic neoliberal reformer, President Gonzalo Sánchez de Lozada (1993-1997) oversaw Bolivia's second phase of neoliberal reforms under his *Plan de Todos*. Featuring an innovative privatization scheme, constitutional reforms, political and fiscal decentralization, and an agrarian reform, Sánchez de Lozada's *Plan de Todos* restructured the Bolivian state and transformed Bolivia into a model for neoliberal reform. Combining free-market ideology with neoliberalism's promotion of political decentralization and liberal democracy, the *Plan de Todos* incorporated the new tenets of "social neoliberalism" to provide political stability for Bolivia's economic transformation.²²

Robert Andolina, Nina Laurie, and Sarah Radcliffe have defined "social neoliberalism" a partnership between neoliberalism, environmentalism, multiculturalism, and grassroots democracy that promoted dual discourses: of diversity, inclusion, sustainability, and stakeholders; and, of efficiency, self-management, productivity, and

²¹ Ibid, 310.

²² Ibid, 313-316.

capacity.²³ Within the tension between these discourses, the incorporation of indigenous rights within development policy became a key strategy of neoliberal reformers, while applying the concept of social capital to indigenous culture became another. International indigenous rights legal frameworks, therefore, have imagined indigenous peoples as homogenous, poor, spatially circumscribed, and vulnerable, marking them as racially distinct and materially poor but also rich in social capital and possessing “endogenous forms of development potential.”²⁴

Kent H. Redford has defined this development potential as the “image of the ecologically noble savage,” an essentialized indigenous identity that presented indigenous knowledge as the accumulated wisdom of unique cultures and hypothesized that indigenous peoples have developed ecological management practices with value to the global conservation effort.²⁵ Through mobilizing this identity, indigenous groups have gained rights to territory on the assumption that they will sustainably use and therefore preserve biodiversity.²⁶ Penelope Anthias and Sarah Radcliffe asserted that, from the beginning, support for indigenous land rights was linked to indigenous peoples’ perceived role as environmental conservationists. In the 1980s and 1990s, indigenous development strategies became compatible with sustainable development strategies in a new discourse which conceptualized indigenous land rights as a prerequisite for realizing indigenous

²³ Robert Andolina, Nina Laurie, and Sarah Radcliffe, *Indigenous Development in the Andes: culture, power, and transnationalism* (Durham: Duke University Press, 2009): 10.

²⁴ Ibid, 58.

²⁵ Kent H. Redford, “The Ecologically Noble Savage,” *Cultural Survival Quarterly Magazine*, March 1991, accessed February 13, 2019, <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/ecologically-noble-savage>.

²⁶ Ibid

peoples' potential as natural resource managers. Rather than viewing indigenous cultures, structures, and practices as existing, this discourse framed these cultures, structures, and practices as in need of promotion, strengthening, and development through the presence of conservationists, scientists, anthropologists, cartographers, NGOs, and state agencies.²⁷

The incorporation of indigenous rights within the *Plan de Todos* reflected the cultural assumptions and strategies of the international indigenous rights legal framework. The 1994 constitutional reforms recast Bolivia as a multiethnic society, recognizing indigenous languages and cultures and legitimizing the political participation of indigenous peoples through their traditional organizations.²⁸ Next, the Law of Popular Participation encouraged local participation in development planning by devolving 20 percent of the national budget to Bolivia's municipalities and increasing the opportunity of social organizations, such as indigenous organizations, to participate in municipal politics and development planning. The Law of Popular Participation combined ideas of participatory democracy and the belief that decentralized management would increase efficiency and aid poverty relief in rural areas by ending the historic imbalance in resource allocation between urban and rural areas. For Kohl, the Law of Popular Participation was the creation of Bolivian lawmakers and paid for by international financial institutions to fit within the broader ideological vision of neoliberalism.²⁹ According to Willem Assies, the Law of Popular Participation's primary goal was administrative decentralization, while the

²⁷ Penelope Anthias and Sarah Radcliffe, "The Ethno-Environmental Fix and Its Limits: indigenous land titling and the production of not-quite-neoliberal natures in Bolivia," *Geoforum* 64 (August 2015): 260-261.

²⁸ Robert Albrow, "Confounding Cultural Citizenship and Constitutional Reform in Bolivia" *Latin American Perspectives* 37, no. 3 (May 2010): 75.

²⁹ Kohl, "Challenges to Neoliberal Hegemony in Bolivia," 316.

recognition of indigenous organizations and their political rights was a secondary consideration. Indigenous organizations had to mobilize to pressure the government for participation in the drafting of the 1990s forestry and agrarian reform laws, and the implementation of this indigenous rights legal framework was uneven and slow, often conflicting with business interests.³⁰ For Postero, the Law of Popular Participation fulfilled the policy recognition of indigenous organizations but did not adequately address resource redistribution to enable indigenous peoples to effectively express their political rights. In fact, decentralization consolidated the government's power by shifting the focus of indigenous organizations away from the destruction of power structures and toward local struggles for power and funding for practical projects.³¹

Finally, the 1996 *Ley del Servicio Nacional de Reforma Agraria* (Ley INRA) legalized the indigenous rights to territory through the introduction of collective indigenous land titles under the designation *Tierra Comunitaria de Origen* (TCO). The process of the drafting of Ley INRA contrasted with the introduction of the 1994 constitutional reforms and the Law of Popular Participation, however, because Ley INRA was the result of the competing pressures. For the government, the principal objectives in the drafting of Ley INRA were to regularize the process of titling, the expropriation and reversion of unproductive lands to the state, and the eventual redistribution of land. Moreover, the government intended to increase agricultural productivity in both the business and the

³⁰ Willem Assies, "Neoliberalism and the Re-emergence of Ethnopolitics in Bolivia," in *Multiculturalism and the Welfare State: recognition and redistribution in contemporary democracies*, edited by Will Kymlicka and Keith G. Banting (New York: Oxford University Press, 2006), 314.

³¹ Nancy Postero, *Now We Are Citizens: indigenous politics in postmulticultural Bolivia* (Stanford: Stanford University Press, 2007), 124-161.

peasant sectors.³² The World Bank and agribusiness interests pressured the administration of Sánchez de Lozada to draft a law to create a free market for land in Bolivia, while development actors equated the high rates of poverty in the Bolivian countryside with low agricultural production, limited infrastructure, restricted demand, the lack of investment and agricultural inputs, and an underqualified workforce. Thus, the World Bank and the government sought to increase agricultural production through the clarification of land titles and increased investment in agriculture, largely ignoring the structural inequalities in land distribution and access to credit which continued to characterize rural development in Bolivia.³³

Highland peasants, peasant migrants in the lowlands, and an emerging landless movement demanded a range of tenure options, including mixed communal and individual titles, the redistribution of unproductive large estates to land-poor and landless peasants, and the reorientation of rural development policy toward investment in small-scale peasant farming and away from industrialized agriculture.³⁴ Lowland indigenous organizations demanded the legalization of titles of indigenous collective territories. While the World Bank pressured the government to create a land market, its development planners also recognized the need to respond to demands for access to land from an increasingly militant indigenous and peasant population. They backed the collective titling of TCOs for indigenous peoples, drawing on an international indigenous rights paradigm that asserted,

³² Jane Benton, *Agrarian Reform in Theory and in Practice: a case study of the Lake Titicaca region of Bolivia*, (London: Routledge, 1999), 78.

³³ Cristóbal Kay, "Rural Poverty Reduction in Honduras, Nicaragua, and Bolivia: lessons from a comparative analysis," *European Journal of Development Research* 23, no. 2 (April 2011): 258-259.

³⁴ Patrick Bottazzi and Stephan Rist, "'Changing Land Rights Means Changing Society'" 535.

on the one hand, the rights of indigenous peoples to their territories and, on the other hand, the utility of indigenous lifeways in managing conservation in regions of high biodiversity.³⁵

Ley INRA adopted TCOs based on this “image of the ecologically noble savage.” For Fontana, this conceptualization of indigenous identity and indigenous territorial rights forged “a link between ethnic belonging and systems of resource allocation that favored the instrumentalization of indigenous identities.”³⁶ As indigenous movements in the lowlands, like the Subcentral TIPNIS, based their land claims on these essentialized indigenous identities, other groups, including *cocaleros* and other highland peasant migrants to the lowlands maintained their unionized organizational structures and preferred individual land titles, leading to inter-ethnic conflicts between divergent rural movements making different claims about their indigeneity and land rights.³⁷ Moreover, the exclusivity of private and communitarian titles established under Ley INRA misunderstood alternative systems of land tenure that recognized individual property rights alongside communal land management practices.³⁸

But, as Penelope Anthias has pointed out, Ley INRA’s conceptualization of indigenous territories as “bounded spaces of environmental difference” was unrealistic for indigenous peoples who lived in environmentally precarious conditions alongside settler

³⁵ Penelope Anthias, *The Limits of Decolonization: indigeneity, territory, and hydrocarbon politics in the Bolivian Chaco* (Ithaca: Cornell University Press, 2018), 40.

³⁶ Lorenza B. Fontana, “Indigenous Peoples vs Peasant Unions: land conflicts and rural movements in plurinational Bolivia,” *Journal of Peasant Studies* 41, no. 3 (2014): 304.

³⁷ Ibid

³⁸ Gonzalo Colque, “La propiedad colectiva o comunitaria: recientes enfoques y dilemas en la legislación agraria,” in *Reconfigurando territorios: reforma agraria, control territorial y gobiernos indígenas en Bolivia*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2009), 43.

populations and competed within the unequal power relations created by the expansion of the capitalist political economy. Indigenous peoples seeking TCO titles, then, had to adjust their demands to fit within Ley INRA's imaginary of indigenous territories while continuing to negotiate access to land and resources with third parties, multinational corporations, and the government.³⁹ Anthias and Radcliffe have noted that Bolivia's Ley INRA provided for third-party claims within TCOs based on the demonstration of productive land use, prioritizing productive over protected land and private ownership over collective management. Under these conditions, indigenous territorial titling became a patchwork of collective, private, and undefined property rights, with land titled to indigenous communities often representing the least productive land in a territory and policymakers imaging limitations on the livelihoods of indigenous peoples.⁴⁰ Despite these compromises on the part of lowland indigenous organizations, these same organizations would build on the concept of the TCO to voice future demands. According to Anthias, the TCO became a guiding imaginary for a decolonial struggle that has fundamentally transformed indigenous relations with local landowners, state institutions, and transnational companies.⁴¹

The Subcentral TIPNIS

The Moxeño-Trinitario, Yuracaré, and Chimane peoples formed the Subcentral TIPNIS in 1988 and developed their land claim on the Isiboro Sécore National Park with the assistance of international indigenous rights and environmental activists. After

³⁹ Anthias, *Limits to Decolonization*, 36-55; 178.

⁴⁰ Penelope Anthias and Sarah Radcliffe, "The Ethno-Environmental Fix and Its Limits," 267.

⁴¹ Anthias, *The Limits of Decolonization*, 242.

founding their organization, the leaders of the Subcentral TIPNIS were active in the process of organizing the lowland indigenous peoples under CIDOB and helped lead the historic 1990 March for Land and Dignity.⁴² The marchers of CIDOB promoted the preservation of natural resources to press the government for the recognition of their territorial rights against the incursion of loggers, cattle ranchers, agribusiness, and highland peasant migrants.⁴³ Like other lowland indigenous groups under CIDOB, the Subcentral TIPNIS adopted the “image of the ecologically noble savage” to press its claim on the Isiboro Sécure National Park.⁴⁴

Marxa Chávez León, and Patricia Costas Monje asserted the significance of the promotion of indigenous territorialities for the organization of the lowland indigenous peoples and their struggle to gain recognition before the state, identifying territory as a place of collective historical significance and a site of inheritance to sustain future generations for lowland peoples.⁴⁵ In the TIPNIS, the communities have developed a vision of the territory as the *Loma Santa*, or “Sacred Hill,” where their ancestors settled to raise their families after decades of territorial dispossession.⁴⁶ The base organizations of the lowland indigenous movement became the communities themselves, who shared a common territory, common ancestors, and a common authority for regulating daily life. These communities organized into centrals, like the Subcentral TIPNIS, which promoted ethnic self-identification to press territorial demands and unite communities. These centrals

⁴² Chávez León and Costas Monje, “Confederación de Pueblos Indígenas del Oriente Boliviano,” 218.

⁴³ Andrew Canessa, “Todos somos indígenas: towards a new language of national political identity,” *Bulletin of Latin American Research* 25, no. 2 (April 2006): 246-247.

⁴⁴ Ortiz Echazú and Costas Monje, “TIPNIS, la coca y una carretera acechan a la Loma Santa,” 268.

⁴⁵ Chávez León and Costas Monje, “Confederación de Pueblos Indígenas del Oriente Boliviano,” 240.

⁴⁶ *Ibid.*, 265.

formed affiliations with regional organizations, the national organization CIDOB, and transnational organizations, such as the *Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica* (COICA), an organization that represents indigenous peoples in the Amazon. Lowland indigenous peoples' primary demand has traditionally been land rights. Since its first meeting in 1986, however, CIDOB has developed demands for rights to territorial control, protection of the environment, and rights over the soil and subsoil, asserting demands for control over resources as well as territory. After the First March for Land and Dignity, CIDOB has expanded its demands to include demands for health services, bilingual education, the strengthening of traditional indigenous practices, and the formulation of productive projects.⁴⁷ In the 2000s, CIDOB began to demand the recognition of indigenous autonomies with self-determination by the state and the strengthening of indigenous organizations through gaining TCO titles.⁴⁸

The organization of 34 distinct indigenous peoples across five departments under CIDOB as well as the opportunity for negotiation that opened to the lowland indigenous organizations after the 1990 March for Land and Dignity have affected the structure of CIDOB and the organization's mobilization strategies. Indeed, the loose organization of communities into centrals and centrals into CIDOB has meant that the resources and capacity for mobilization have rested in the communities, rather than in the national organization. Thus, communities have decided whether to answer calls for mobilization.⁴⁹ Indeed, as Nancy Postero argued, the "self-styled" indigenous groups of the lowlands that

⁴⁷ Ibid, 240.

⁴⁸ Jorge Manuel Salgado M, "La Gestión Territorial Indígena en tierras bajas: ¿autonomías indígenas?," in *Reconfigurando territorios: reforma agraria, control territorial y gobiernos indígenas en Bolivia*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2009), 209.

⁴⁹ Chávez León and Costas Monje, "Confederación de Pueblos Indígenas del Oriente Boliviano," 219.

organized under CIDOB diverged in terms of contact with national society, relations to the state, connections to the market, education, language, and political experience, and the leaders within CIDOB who led the First March for Land and Dignity on behalf of these extremely heterogeneous groups were “members of certain tribes, with certain interests, who used the discourse of indigenous unity strategically to accomplish their ends.”⁵⁰ In addition to lacking the capacity to mobilize itself, CIDOB’s national organization has not practiced the systems of turn-taking to sustain collective action that highland indigenous organizations have utilized, and this has contributed to the selectivity of mobilization among the lowland indigenous groups. Instead, lowland indigenous organizations have relied on strategies of negotiating legal frameworks and using legal mechanisms to ensure the enforcement of these frameworks.⁵¹ For instance, though participating with the *cocalero* and peasant federations in the 1996 march to demand agrarian reform, the marchers from CIDOB quit the march to negotiate the introduction of indigenous collective land titles with the government under Ley INRA.⁵²

The process of negotiating its title to the TIPNIS indigenous territory under Ley INRA was representative of the titling of TCOs and involved the negotiation of the title with the government and a third-party claimant, the *cocaleros*. The Subcentral TIPNIS’s land claim on the basis of the “image of the ecologically noble savage” represented a common strategy for indigenous communities and their allies in the international

⁵⁰ Nancy Postero, “Bolivia’s Indígena Citizen: Multiculturalism in a Neoliberal Age,” (paper presented at the 22nd International Congress of the Latin American Studies Association, Miami, Florida, March 16-18, 2000), accessed November 22, 2016, <http://lasa.international.pitt.edu/Lasa2000/GreyPostero.PDF>, 5.

⁵¹ Chávez León and Costas Monje, “Confederación de Pueblos Indígenas del Oriente Boliviano,” 229.

⁵² *Ibid*, 233.

community, adopting the state and international development planners' logic of what Anthias has called "indigenous spatial needs" by portraying their demand for a TCO title as a basis for preserving traditional, sustainable livelihoods.⁵³ The official demarcation of the "Red Line" in 1997 did not cleanly divide the indigenous territory from the individually-titled colonization zone. Instead, communities in Polygon 7 made the decision to join the indigenous territory on an individual basis. 14 communities chose to claim their membership in the TCO and found themselves surrounded by communities that had chosen to pursue individual property rights.⁵⁴

Since 1997, communities in Polygon 7 have renounced their membership in the TCO to join the *cocalero* unions and gain the right to cultivate coca leaf.⁵⁵ This defection from the TCO to access the opportunity to pursue an alternative livelihood was representative of the limits that the "image of the ecologically noble savage" have placed on lowland indigenous communities living in protected areas. Moreover, it alluded to a hierarchy within rural identities that Chuck Sturtevant has recognized in the relationship between Mostene lowland indigenous peoples and Andean peasant migrants based on economic practices and social relationships. For Sturtevant, the unequal distribution of property rights following the establishment of the Mosetene TCO led many of the Aymara colonists to join Mosetene communities without adopting a rights-bearing Mosetene identity. Instead, Aymara peasant migrants have gained access to TCO lands and resources through becoming legal members of Mosetene communities, and the Mosetene have

⁵³ Anthias, *The Limits of Decolonization*, 61.

⁵⁴ Ortiz Echazú and Costas Monje, "TIPNIS, la coca y una carretera acechan a la Loma Santa," 271

⁵⁵ Ibid

shifted their practices away from their rights-bearing identity toward an Aymara identity. Ironically, then, the very claims to ethnic difference the Masetene and NGOs working in Masetene communities promoted to legitimize Masetene claims for TCO titling also led to their political and economic marginalization within their territory by Aymara peasant migrants.⁵⁶

The creation of the TIPNIS's two other representative organizations, CONISUR and the Subcentral Sécure, was representative of Sturtevant's theory of marginalization, as the Subcentral TIPNIS has slowly ceded authority within the territory to the TIPNIS's other two organizations. But it was also representative of what Helen Gambon and Stephan Rist highlighted in their study of the Pilon Lajas Biosphere and Indigenous Territory. Following decentralization under the Law of Popular Participation, municipalities became key participants in the administration of the territory to meet communities' demands for basic services, interfering with the co-management agreement between the indigenous peoples and the national park service.⁵⁷ The TIPNIS spans the borders of four municipalities, and the creation of the Subcentral Sécure has reflected the participation of these communities in the municipal politics of San Ignacio de Moxos, while the Subcentral TIPNIS has maintained its focus on Trinidad and CONISUR has participated with the *cocalero* federation in the municipal politics of the Chapare in Cochabamba. Within Polygon 7, however, the *cocalero* unions and the indigenous organizations have maintained a

⁵⁶ Chuck Sturtevant, "'Some Time From Now They'll be Good Farmers': rethinking perceptions of social evolution in an area of interethnic contact in lowland Bolivia," *Latin American and Caribbean Ethnic Studies* 10, no. 2 (June 2015), 187.

⁵⁷ Helen Gambon and Stephan Rist, "Moving Territories: strategic selection of boundary concepts by indigenous people in the Bolivian Amazon – an element of constitutionality?" *Human Ecology* 46, no. 1 (February 2018): 27-40.

cooperative relationship except in times of dramatic conflict, such as the conflict over the Villa Tunari-San Ignacio de Moxos highway.⁵⁸

The co-management plan that the Subcentral TIPNIS and the national park service established upon the creation of the TIPNIS indigenous territory has had profound effects of the organizational structure, demands, and strategies of the Subcentral TIPNIS. The management plan defined three zones: the preservation zone; the zone of traditional management, where indigenous communities participate in traditional economic activities such as hunting, fishing, and gathering; and, the zone of natural resource use, which contains the highest population density, infrastructure such as roads, health centers, and schools and all forms of traditional resource use and minimal productive development are permitted.⁵⁹ The Subcentral TIPNIS has worked with the park service and NGOs to implement limited development projects in the TIPNIS, such as caiman hunting, tourism projects, and cacao production.⁶⁰ Like other lowland organizations, the Subcentral TIPNIS's participation in the co-management plan and its opportunity to participate in the construction and enforcement of indigenous rights legal frameworks has led the organization to become professionalized. The organization has its offices in Trinidad, where the leadership of the Subcentral TIPNIS features professional indigenous activists who execute management of the territory and work with other lowland indigenous activists to elaborate legislative proposals for the expansion of their indigenous rights.⁶¹

⁵⁸ Ortiz Echazú and Costas Monje, "TIPNIS, la coca y una carretera acechan a la Loma Santa," 272.

⁵⁹ *Ibid*, 274-278.

⁶⁰ *Ibid*

⁶¹ *Ibid*, 272.

The *Cocaleros*

In contrast to the Subcentral TIPNIS, the *cocalero* federation developed its discourse of indigenous identity as a strategy to defend its territory and livelihood from the increasingly repressive forced coca eradication policy the U.S. sponsored in the Chapare. In 1986, the government announced the Triennial Plan, which established an interdiction program that turned the Chapare into a military zone.⁶² In July 1988, the government passed the *Ley del Régimen de la Coca y Sustancias Controladas* (Law 1008). The U.S. government under Bill Clinton began to pressure the Sánchez de Lozada administration to adopt a policy of complete eradication, and in 1997, President Hugo Bánzer initiated *Plan Dignidad*, which intensified forced eradication in the Chapare while promises of investment in alternative development in the region failed to materialize.⁶³ As the threat against the *cocaleros*' territory and livelihood increased, the *cocaleros* began to develop their federation's organization structure, its mobilization strategies, and vision of territoriality.

The *cocalero* federation developed out of the state-sponsored agrarian unions of highland peasant migrants created under the 1953 Agrarian Reform Decree. According to Chávez León, and Costas Monje, the developing agrarian unions faced the task of building communities out of the diverse highland migrants who arrived in the Chapare and reinvented forms of coordination, regulation, and protection of their property and common interests. Through this process, the unions developed a new form of territoriality, where

⁶² Marxa Chávez León and Patricia Costas Monje, "La Coordinadora de las seis federaciones del Trópico de Cochabamba," in *Sociología de los movimientos sociales en Bolivia: estructuras de movilización, repertorios culturales y acción política*, edited by Álvaro García Linera (La Paz: Plural Editores, 2010), 388.

⁶³ Ibid.

members owned individual plots and had the right to buy and sell land, but all transactions came under the purview of the union. The union has required landowners to fulfill the functions of the land, which extended beyond the productive function of the land to include the fulfillment of political responsibilities to the union and consolidated a “dense space of obligations and collective rights through the union structure.”⁶⁴ Thomas Grisaffi has described these unions as “self-governing units,” who, in the absence of the state, adopted a remit beyond its intended facilitation of land distribution to include state-like functions such as regulating daily coexistence and interaction between members, establishing private land boundaries, managing and taxing coca markets, and investing in and building small-scale public works projects.⁶⁵ In the 1960s, individual unions began to organize into regional centrals. As agricultural production in the region shifted toward coca leaf production in the 1970s, the agrarian unions began to identify as producers of coca leaf, or *cocaleros*. Rather than the mono-production of coca leaf, small farmers in the Chapare combined subsistence farming with coca leaf production to maximize profits.⁶⁶ The early *cocalero* unions had ties to the labor movement in the 1970s and the peasant movement in the 1980s, but high coca prices and limited government intervention in the Chapare made the *cocaleros* passive members of Bolivia’s labor movement.⁶⁷

In the 1980s, the massive influx of unemployed miners following the implementation of the NEP, a fall in the price of coca, and the impending promulgation of

⁶⁴ Chávez León and Costas Monje, “La Coordinadora de las seis federaciones del Trópico de Cochabamba,” 394-5.

⁶⁵ Grisaffi, *Coca Yes, Cocaine No*, 36-37.

⁶⁶ Chávez León and Costas Monje, “La Coordinadora de las seis federaciones del Trópico de Cochabamba,” 385.

⁶⁷ Grisaffi, *Coca Yes, Coca No*, 36-37.

Law 1008 initiated a new phase of identity articulation among the *cocalero* unions in the Chapare. The miners, whose militancy had made Bolivia's labor movement among the most powerful in the world until the NEP, brought their traditions of class solidarity, organizational skill, and revolutionary consciousness, infusing the *cocalero* unions with new leadership. In June 1988, the union organized a large-scale protest against the impending approval of Law 1008. The state responded with force, killing twelve *cocaleros*. According to Grisaffi, as the intensity of forced eradication in the Chapare increased, the defense of coca became the common cause within the unions and the measure by which the unions defined their enemies.⁶⁸ Chávez León and Costas Monje argued that the unions became a structure for social mobilization against the state, or at least specific state policies, in defense of the freedom to produce coca.⁶⁹

The *cocalero* federation has developed a hierarchical structure that joined community-level unions into regional centrals and regional centrals under the *cocalero* federation.⁷⁰ At the local level, control over land gave the unions a powerful mechanism with which to sanction members who did not participate in the struggle to defend coca, and the *cocalero* federation rejected the government's attempts to legalize individual titles in the Chapare in the 1990s to preserve the authority of the unions.⁷¹ At the level of the *cocalero* federation, decisions to mobilize were brought to consensus among the centrals and then coordinated by the leadership of the *cocalero* federation, giving the organization a cohesive, compact structure and increasing the impact of its collective mobilizations. The

⁶⁸ Ibid

⁶⁹ Chávez León and Costas Monje, "La Coordinadora de las seis federaciones del Trópico de Cochabamba," 396.

⁷⁰ Grisaffi, *Coca Yes, Cocaine No*, 35.

⁷¹ Ibid, 145.

cocaleros also formed “Self-Defense Committees,” which patrolled union territory and provoked almost daily confrontations with military troops. In the 1990s, then, the Chapare became the epicenter of social mobilization in Bolivia, and the *cocaleros* became the most visible symbol of a rising anti-imperialist, anti-United States, anti-neoliberal sentiment among Bolivia’s popular classes.⁷²

But the *cocaleros* also developed another strategy in response to new political spaces that opened under the Law of Popular Participation. The *cocaleros* joined with the national peasant federation and formed their “political instrument,” the *Asamblea por la Soberanía de los Pueblos – Izquierda Unida* (ASP-IU) in 1995. In 1998, the *cocaleros* split from the ASP-IU to form their own political instrument, the *Movimiento al Socialismo* (MAS). The development of MAS has served two purposes for the *cocaleros*: to project their demands into the national arena and to get movement leaders elected to positions of state power.⁷³ These dual strategies of militant resistance to forced eradication programs and the quest to take state power with MAS have had a profound impact on the *cocaleros*’ discourse of identity. According to Grissafi, the *cocaleros* turned culture into a powerful political tool, claiming their identity as *originarios*, or “first peoples,” to assert their right to cultivate coca.⁷⁴ Andrew Canessa has argued that the emphasis on the *originario* identity placed emphasis on the legitimacy of the *cocaleros*’ political claims, rather than a claim of ethnicity.⁷⁵ For Grissafi, the symbol of the coca leaf became an empty signifier for the

⁷² Chávez León and Costas Monje, “La Coordinadora de las seis federaciones del Trópico de Cochabamba,” 398.

⁷³ Grisaffi, *Coca Yes, Cocaine No*, 46.

⁷⁴ *Ibid*, 113.

⁷⁵ Canessa, “Todos somos indígenas,” 243.

cocaleros, who used association with the traditional plant as a stand-in for the *cocaleros*' indigenous identity. The *cocaleros* made a concerted effort to build a discourse of indigenous identity, and Morales built connections with the transnational indigenous rights movement in Latin America in the 1990s.⁷⁶ Indeed, Grisaffi argued that the *cocaleros* have developed a discourse of indigenous identity even as they refused to identify as indigenous themselves.⁷⁷ Instead, mobilizing indigenous identity under the banner of coca has allowed the *cocaleros* and MAS to construct a flexible version of indigenous identity and allowed the *cocaleros* to express their own struggle against forced eradication within the broader context of the growing popular discontent with the neoliberal economic model in Bolivia.⁷⁸

In the early-2000s, forced eradication in the Chapare intensified, and Bolivia entered what Kohl has called the third phase of neoliberal restructuring in Bolivia: the popular rejection of the neoliberal model through a period of massive social mobilizations that began with the Water War in 2000 and culminated with the election of Evo Morales in 2005.⁷⁹ From September 2001 to February 2002, the Chapare erupted in violence. This led to Morales's expulsion from the National Congress and raised the political profile of Morales, MAS, and the struggle to defend coca. MAS used its position as the most visible symbol of U.S. imperialism to become outspokenly anti-neoliberal, developing links to diverse social movements through agreements, alliances, and transactions, such as forming blockades during the Water War, or offering social movements the opportunity to use the

⁷⁶ Grisaffi, *Coca Yes, Coca No*, 119.

⁷⁷ Ibid, 113.

⁷⁸ Ibid, 122.

⁷⁹ Kohl, *Challenges to Neoliberal Hegemony in Bolivia*," 316-320.

MAS party ticket to run their own candidates for local and national office.⁸⁰ One of the most important alliances MAS formed during this period was with lowland indigenous organization and peasant and migrant organizations under the Unity Pact in 2004. The Unity Pact supported Morales in the election in 2005, and Morales promised to fulfill the demands of the Unity Pact for a Constituent Assembly to rewrite the Bolivian constitution, and a new agrarian reform.⁸¹

The TIPNIS and MAS's Indigenous Rights Legal Framework

The Morales government moved immediately to fulfill the demands of the Unity Pact, convoking a Constituent Assembly and introducing a new agrarian reform law in 2006. By redefining indigenous identity and introducing new indigenous rights to autonomy and consultation, the 2009 Constitution modified Bolivia's indigenous rights legal framework. Moreover, Morales's *Ley de Reconducción Comunitaria* (Ley 3545) altered indigenous territorial rights by introducing a new collective land tenure category. This section will contextualize the conflict in the TIPNIS within the process of modifying Bolivia's indigenous rights legal framework under Morales.

First, the 2009 Constitution introduced a new category of Bolivian citizen: the “*indígena originario campesino*” (indigenous “first peoples” peasant) which Fontana described as a discursive tool to “prove a shared narrative and symbolic space for different actors in the coalition” of the Unity Pact: lowland indigenous groups, peasant, migrant, and

⁸⁰ Fernando Garces, “The Domestication of Indigenous Autonomies in Bolivia,” in *Remapping Bolivia: resources, territory, and indigeneity in a Plurinational State*, edited by Nicole Fabricant and Bret Gustafson (Santa Fe: School for Advanced Research Press, 2011), 47-49.

⁸¹ Ibid

cocalero organizations, and highland indigenous organizations.⁸² Fontana argued, however, that rather than bridging the gap, discourses of indigenous identity have been radicalized, while peasant identities have shifted towards narratives of ethnicity, linking peasant identities to origins, blood, and surnames.⁸³ Ethnographers studying Bolivia have contextualized the struggle to define indigenous identity under Morales within the context of Morales's new state project. For Postero, indigeneity has become a site of liberal nation-building, and Morales's performances of indigeneity have invoked a state-controlled version that legitimized state power and increasingly represented indigenous rights as "economic liberation," appealing to a growing middle class that has benefitted from Morales's redistribution programs.⁸⁴ Canessa argued that, as Morales has placed the idea of indigenous citizenship at the center of how membership in the Bolivian nation is understood, Morales has espoused an indigenous citizenship that is progressive, modern, and part of a globalized discourse of indigenous rights and indigenous identities that is often far removed from indigenous communities themselves.⁸⁵ Thus, Morales continues to assert indigeneity as "a homogenous national culture for the majority...returning to a pattern of ethnic relations where Indians were believed to occupy a structurally distinct position, be they as the defeated at conquest, a fiscal category, a racial group, or social class."⁸⁶ For Canessa, this homogenous view of indigenous groups on the part of Morales

⁸² Fontana, "Indigenous Peasant 'Otherness,'" 444.

⁸³ Ibid, 445.

⁸⁴ Nancy Postero, *The Indigenous State*, 3-5.

⁸⁵ Andrew Canessa, *Intimate Indigeneities: race, sex, and history in the small spaces of Andean life* (Durham: Duke University Press, 2012), 214

⁸⁶ Andrew Canessa, "Conflict, Claim, and Contradiction in the New 'Indigenous' State of Bolivia," *Critique of Anthropology* 34, no. 2 (2014): 158.

and MAS fails to recognize the hierarchy of power between indigenous cultures and exacerbates it.⁸⁷

For Anna F. Laing, Morales has utilized the notion of a “united indigenous peoples” and an anti-neoliberal agenda to create a coalition of supporters that combined unionist politics with discourses of indigenous rights.⁸⁸ The government promoted development, using a discourse that constructed binaries of “‘civilization’/‘savagery’ and ‘modernity’/‘tradition’” to distinguish forward-thinking highland peasant farmers from backward-thinking lowland indigenous peoples.⁸⁹ Laing has cautioned, however, against the essentializing of lowland indigenous identities within the narrative of the “ecologically noble savage.” For Laing, this narrative has been more useful as an articulation of demands than as a reflection of lowland indigenous lifeways. In fact, Laing claimed that both the government and the lowland indigenous opposition have used this narrative to further their own agendas and form alliances during the TIPNIS conflict. On the one hand, Morales and MAS have presented an essentialized Aymara and Quechua identity based on the concepts of *vivir bien* (living well) and *Pachamama* (Mother Earth) to justify their state-led model of resource nationalism. On the other hand, lowland indigenous groups have asserted demands for territoriality on the premise of ecological sustainability.⁹⁰

For Cecilie Hirsch, the framing of lowland indigenous communities as protectors of the environment in the TIPNIS conflict has obscured indigenous economic enterprise in

⁸⁷ Ibid, 162.

⁸⁸ Anna F. Laing, “Beyond the Zeitgeist of ‘Post-neoliberal’ Theory in Latin America: the politics of anti-colonial struggles in Bolivia,” *Antipode* 44, no. 3 (2012): 1051-1053.

⁸⁹ Ibid

⁹⁰ Anna F. Laing, “Resource Sovereignties in Bolivia: re-conceptualising the relationship between indigenous identities and the environment during the TIPNIS conflict,” *Bulletin of Latin American Research* 34, no. 2 (2015): 149-155.

the TIPNIS, where communities have engaged with commercial activities such as logging, cattle ranching, caiman hunting, and tourism, and limited the space within which they could negotiate their opposition to the highway project. During the consultation process in the TIPNIS, the Morales government used this framing to build support for the highway project, utilizing terms such as “intangibility” (the territory’s status as a protected area) and the “ecological road.” This tactic brought some lowland groups into negotiation with the government, slowing the momentum of the anti-highway movement, dividing the communities of the TIPNIS, and offering lowland groups the opportunity to press other local and regional demands. Ultimately, Hirsch argued that the TIPNIS conflict represented how local communities and indigenous organizations were subject to a range of different pressures which led them to pursue different strategies of resistance, contestation, negotiation, and agreement.⁹¹

The 2009 Constitution introduced the concept of indigenous autonomies that was later enacted in the *Ley Marco de Autonomías*. The law determined that indigenous territories could form the basis of an indigenous autonomous area, offering indigenous organizations the opportunity to acquire a new political-administrative jurisdiction with the right to self-government.⁹² According to Wilfredo Plata, there have been obstacles for indigenous organizations attempting to apply for an autonomous area. Out of all of Bolivia’s indigenous territories, only 18 were eligible because the statute restricted claims

⁹¹ Cecilie Hirsch, “Between Resistance and Negotiation: indigenous organizations and the Bolivian state in the case of TIPNIS.” *The Journal of Peasant Studies* 4, no. 3 (2017): 8-16.

⁹² Juan Pablo Chumacero Ruiz, “Trece años de reforma agraria en Bolivia: avances, dificultades y perspectivas,” in *Reconfigurando territorios: reforma agraria, control territorial y gobiernos indígenas en Bolivia*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2009), 35-6.

for autonomy across departmental lines or in noncontiguous territories and prioritized the transition between municipality to autonomous area while lowland indigenous organizations were waiting for their new land titles under Morales's agrarian reform.⁹³ Fernando Garces has argued that indigenous autonomies were formed as part of an agreement in Congress, rather than the Constituent Assembly. By submitting indigenous autonomies to departmental autonomies and imposing state supervision of indigenous judiciaries across departmental borders, the law transformed the introduction of autonomies into a process of increasing participation through subordinating indigenous organizations to the state without changing the structure of the state itself.⁹⁴ The TIPNIS's location on the borders of the Beni and Cochabamba departments has prevented the Subcentral TIPNIS from seeking the creation of an autonomous area in the TIPNIS. In 2010, as the TIPNIS conflict was beginning, the CIDOB and Subcentral TIPNIS were in negotiations with the government to modify the *Ley Marco de Autonomías* to eliminate restrictions on indigenous autonomous areas in territories that crossed departmental boundaries and in territories divided by third-party claimants.⁹⁵ As the government's conduct during the TIPNIS conflict challenged the territorial autonomy of the Subcentral TIPNIS, the conflict over the highway became a negotiation of the indigenous right to autonomy.

The 2009 Constitution also introduced the indigenous right to consultation. Although the Constitution established the indigenous right to consultation over legislation

⁹³ Wilfredo Plata, "De Municipio a Autonomía Indígena: los once municipios que transitan a la Autonomía Indígena Originaria Campesina," in *Reconfigurando territorios: reforma agraria, control territorial y gobiernos indígenas en Bolivia*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2009), 249-50.

⁹⁴ Garces, "The Domestication of Indigenous Autonomies in Bolivia," 60-61.

⁹⁵ Ortiz Echazú and Costas Monje, "TIPNIS, la coca y una carretera acechan a la Loma Santa," 286.

and development projects which affected their territories, the only prior consultations Bolivia had conducted before the consultation in the TIPNIS concerned mining and hydrocarbon projects. In fact, the only pieces of legislation to implement the indigenous right to consultation were the hydrocarbon law and the mining law.⁹⁶ Costas Monje has argued that, instead of being an advancement in democracy, the consultation process has become a source of conflict between the government and indigenous communities over territorial control.⁹⁷ For Lorenzo Pellegrini and Marco Octavio Ribera Arismendi, the consultation process has been marginalized and weakened as the government has offered employment and compensation to indigenous communities participating in consultations over hydrocarbons exploration.⁹⁸ For Thomas Perrault, participation in consultations over mining projects has involved the “pro forma” participation of affected community residents. Because of the consultation’s unbinding network, the process has become “a kind of political performance” intended to depoliticize extractive activities, defuse tensions, and gain approval from community residents.⁹⁹ Perrault asserted that consultation mechanisms have channeled discontent through acceptable forms of political participation and provided the appearance of participatory governance to legitimize resource extraction.¹⁰⁰

⁹⁶ Lorenza B. Fontana and Jean Grugel, “The Politics of Indigenous Participation through ‘Free Prior Informed Consent’: reflections from the Bolivian case,” *World Development* 77 (2016), 253.

⁹⁷ Patricia Costas Monje, “La pluriterritorialidad en el Norte de La Paz: dos estudios de caso sobre la defensa del territorio,” in *Reconfigurando territorios: reforma agraria, control territorial y gobiernos indígenas en Bolivia*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2009), 159-60.

⁹⁸ Lorenzo Pellegrini and Marco Octavio Ribera Arismendi, “Consultation, Compensation, and Extraction in Bolivia after the ‘Left Turn’: the case of oil exploration in the north of La Paz Department,” *Journal of Latin American Geography* 11, no. 2 (2012): 114.

⁹⁹ Thomas Perrault, “Performing Participation: mining, power, and the limits of consultation in Bolivia,” *Journal of Latin American and Caribbean Anthropology* 20, no. 3 (November 2015): 434-5.

¹⁰⁰ Ibid.

During the Eighth March, the Subcentral TIPNIS and CIDOB demanded the government draft a law to ensure the indigenous right to consultation over all legislative and development projects to codify the right to consultation that the government established in the constitution.¹⁰¹ As Fontana and Jean Grugel argued, the national debate over the consultation process opened a negotiation between local, national, and international actors over the indigenous right to consultation.¹⁰² Although it was the first consultation in Bolivia over an infrastructure project, the government's offer of development for approval of the highway project and its use of the consultation process to weaken the anti-highway movement represented the government's attempt to use the consultation process to legitimize development by channeling discontent through political channels and offering compensation to the communities.

Morales began his "Agrarian Revolution" in 2006, when the legislature enacted the *Ley de Reconducción Comunitaria de la Reforma Agraria* (Law 3545) after lowland indigenous organizations, highland indigenous organizations, and peasants supported MAS against the intense opposition of the lowland agribusiness elite.¹⁰³ Lee Mackey argued that Ley 3545 sought to prioritize the role of the state in the clarification of land titles, explicitly establishing procedures for expropriation and stressing the role of productive use, labor

¹⁰¹ Confederación de Pueblos Indígenas de Bolivia, *Plataforma de demandas de la VIII Gran Marcha Indígena por la Defensa del Territorio Indígena Parque Nacional Isiboro Sécuré TIPNIS, por los Territorios, la Vida, Dignidad y los Derechos de los Pueblos Indígenas del Oriente, Chaco y Amazonia Boliviana*, in *Marcha indígena por el TIPNIS: la lucha en defensa de los territorios*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2011), 228.

¹⁰² Fontana and Grugel, "The Politics of Indigenous Participation Through 'Free Prior Informed Consent,'" 253.

¹⁰³ Bottazzi and Rist, "'Changing Land Rights Means Changing Society,'" 540.

laws, and sustainability in fulfilling the social-economic function of land.¹⁰⁴ Bottazzi and Rist have argued that MAS enacted Law 3545 to cause a shift in agrarian paradigms and to enforce the land distribution and land policies established in Ley INRA that the neoliberal government has failed to implement. For Bottazzi and Rist, a main feature of the law was its application of the “economic and social function” of the land, which led to the redistribution of more than 15 million hectares of fiscal land that the government expropriated as “latifundia” and redistributed to highland Aymara and Quechua populations and new peasant migrant settlements in the lowlands or set aside for urgent public matters, such as public investment, and pending indigenous land claims.¹⁰⁵

On the one hand, the government has used this power to carry out high-profile expropriations and redistribute them to peasant and migrant communities to demonstrate its commitment to carrying out an “Agrarian Revolution.” One example was the expropriation of two estates in Santa Cruz to create the first officially titled community-owned land in the department in 2006.¹⁰⁶ But the government has also used its expanded powers to alter indigenous land titles and the borders of national parks to implement infrastructure projects. One example was the decision to extend the boundaries of the Tunari National Park to gain access to water resources for the rapidly growing city of Cochabamba despite opposition from peasant migrants and the Ayopaya indigenous

¹⁰⁴ Lee Mackey, “Legitimizing Foreignization in Bolivia: Brazilian agriculture and the relations of conflict and assent in Santa Cruz, Bolivia,” (paper presented at the International Conference on Land Grabbing, Sussex, United Kingdom, April 6-8, 2011), accessed April, 2017, <https://www.future-agricultures.org/wp-content/uploads/pdf-archive/Lee%20Mackey.pdf>, 8.

¹⁰⁵ Bottazzi and Rist, ““Changing Land Rights Means Changing Society,”” 541.

¹⁰⁶ Nicole Fabricant, *Mobilizing Bolivia's Displaced: Indigenous Politics and the Struggle over Land* (Chapel Hill: University of North Carolina Press, 2012), 74.

territory on its borders.¹⁰⁷ Another was the expropriation of land from the TIPNIS indigenous territory for the Villa Tunari-San Ignacio de Moxos highway.¹⁰⁸

Scholars have noted that the process of land redistribution and titling of indigenous territories under Morales have caused ongoing conflicts between peasant organizations and indigenous organizations over access to land. Carlos Sotomayor Cuéllar claimed that the government's inability to address land-scarcity in the highlands has led to Aymara and Quechua peasants to perceive the titling of so many TCOs as introducing a new form of "latifundia" in the country.¹⁰⁹ Bottazzi and Rist have noted the role of the national peasant federation, the *Confederación Sindical Única de Trabajadores Campesinos de Bolivia* (CSUTCB), in pressing the government for a new agrarian reform law. In August 2011, as the Subcentral TIPNIS and CIDOB prepared for the Eighth March in defense of the TIPNIS, the government asked the CSUTCB to draft a proposal for a new agrarian reform. The CSUTCB released this proposal in October 2011, as the Eighth March negotiated Law 180 with the government. The proposal called for the regularization of titles for migrants in Bolivia's national parks and indigenous territories and the exclusive distribution of land to peasants. Moreover, the proposal called for the distribution of "unproductive" indigenous territories to migrant communities.¹¹⁰ By releasing this proposal during the

¹⁰⁷ Pablo Regalsky, "El Proyecto Misicuni y la territorialidad originario (TCO) de Ayopaya: agua para Cochabamba...¿y quién tiene el agua?," in *La problemática de la tierra a 18 años de la Ley INRA: territorios, minifundio e individualización*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2015), 9-49.

¹⁰⁸ Ortiz Echazú and Costas Monje, "TIPNIS, la coca y una carretera acechan a la Loma Santa," 282.

¹⁰⁹ Carlos Sotomayor Cuéllar, "Apolo, un conflicto entre iguales," in *Reconfigurando territorios: reforma agraria, control territorial y gobiernos indígenas en Bolivia*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2010), 140.

¹¹⁰ "La futura ley de tierras divide más a indígenas y campesinos," *Página Siete*, October 24, 2011, accessed July 20, 2018, https://cedib.org/post_type_titulares/la-futura-ley-de-tierras-divide-mas-a-indigenas-y-campesinos-pagina-siete-24102011/.

Eighth March, the CSUTCB openly challenged the Subcentral TIPNIS and CIDOB's demands for indigenous territorial rights, illustrating the significance of the TIPNIS conflict within the context of Bolivia's contemporary conflicts over access to land.

Bottazzi and Rist have noted that, as the Morales government has continued to title indigenous territories as TIOCs, peasant and migrant communities have radicalized their discourses of identity: (1) to claim land, (2) to open territories to migrants living in them, (3) to create TIOCs and new autonomous areas out of areas previously titled under individual property rights regimes, and, (4) allow landowners the ability to sell land and gain access to credit and markets within these territories. As peasants and migrants have begun to use the TIOC to assert territorial rights, indigenous organizations like CIDOB have argued that indigenous rights to territory were developed to protect indigenous peoples' territorial sovereignty.¹¹¹ In the TIPNIS, the Subcentral TIPNIS opposed the government's re-designation of the territory as a TIOC, citing the threat that *cocaleros* posed to the environment and the Moxeño-Trinitario, Yuracaré, and Chimane peoples.¹¹² Although Polygon 7 has remained outside of the TIOC, CONISUR has used the TIPNIS conflict to challenge its exclusion from territorial rights in the TIPNIS.

But Morales's "Agrarian Revolution" has extended beyond land tenure and land distribution and focused on an effort to shift the priorities of rural development away from industrial agriculture and toward individual small-producing peasants. In Diana Córdoba and Kees Jansen's study of the *Empresa de Apoyo a la Producción de Alimentos* (EMAPA) in Santa Cruz, they discussed how the government has attempted to redirect rural

¹¹¹ Bottazzi and Rist, "Changing Land Rights Means Changing Society," 545-6

¹¹² Ortiz Echazú and Costas Monje, "TIPNIS, la coca y una carretera acechan a la Loma Santa," 280.

investment from industrial agriculture to peasant communities while adopting a modernist vision of agriculture. They argued that the adoption of this vision of agricultural development arose out of a desire to make peasant producers competitive with agribusiness. Moreover, although the project has provided credit in areas where the state had previously been absent, EMAPA's success has been limited by a lack of capacity to provide technical assistance or break the monopoly of the agribusiness elite over the supply of agricultural inputs.¹¹³

In 2006, the government declared the Chapare one of Bolivia's five new "special economic zones," introducing a system of lower taxes, prioritizing public investment and offering the *cocaleros* access to cheap loans, housing projects, and scholarships for young people to attend university. The government has implemented productive projects, such as fish farming and juice processing. For Grisaffi, the government's investment in development in the Chapare arose from the tension between the *cocaleros* and MAS as the government has faced international opposition to its attempts to legalize coca production.¹¹⁴ Although the government did gain approval for the legalization of coca leaf production in Bolivia, continuing opposition from the United States threatens this gain. While the government argued for the use of "social control" to maintain coca production within a one-cato limit per *cocalero*, MAS has instituted the world's most advanced drug-tracking systems and continues to carry out military patrols and eradicate illegal coca plantations. Moreover, MAS has increased its control over the *cocalero* federation,

¹¹³ Diana Cordoba and Kees Jansen, "The Return of the State: Neocollectivism, Agrarian Politics, and Images of Technological Progress in the MAS Era in Bolivia," *Journal of Agrarian Change* 14, no. 4 (September 2013): 480-500.

¹¹⁴ Grisaffi, *Coca Yes, Cocaine No*, 140.

dictating candidates for municipal elections and taking over the radio station that was essential to disseminating information and a collective *cocalero* identity during the 1990s.¹¹⁵ The development plan in the Chapare, then, has been the government's attempt to meet demands for alternative development to make up for the economic loss the one-cato policy has imposed upon the *cocaleros*. Members of the *cocalero* unions in Polygon 7 have complained that government investment in agricultural production could not benefit them because of the conditions in the TIPNIS. They have demanded special permission to produce two catos of coca, confronted military patrols, and discussed separating from the *cocalero* federation.¹¹⁶

Structure of the Thesis

The thesis will proceed with three chapters describing three phases in the TIPNIS conflict. Chapter 1 will discuss how the Subcentral TIPNIS and CIDOB mobilized the “image of the ecologically noble savage” and transformed the conflict over the highway through the TIPNIS into a national debate over indigenous identity and Bolivia's indigenous rights legal framework. During the Eighth March, the Subcentral TIPNIS and CIDOB presented demands for indigenous rights to territory, territorial autonomy, consultation, and development and attempted to use Law 180 to construct indigenous rights to territory and autonomy that reflected the assumptions of the international indigenous rights framework about indigenous identity and the relationship between indigenous peoples and the environment. The government responded by challenging the “image of the ecologically noble savage,” introducing CONISUR and its discourse of intercultural

¹¹⁵ Ibid, 128-139; 173-190.

¹¹⁶ Ibid, 144.

indigenous identity, banning all development in the TIPNIS under its implementation of Law 180's principle of "intangibility," and adopting the indigenous demand for a consultation. As the Subcentral TIPNIS and CIDOB's continued opposition maintained national and international pressure on the Morales administration, however, the anti-highway movement forced the government to legitimize the consultation process. The government's attempts to legitimize the consultation process introduced a new actor into the national debate over indigenous identity and Bolivia's indigenous rights legal framework: the indigenous communities of the TIPNIS.

Chapter 2 will discuss how, despite the government's attempts to manipulate the consultation process, communities in the TIPNIS utilized the consultation process to negotiate the highway project, "intangibility," development, territorial rights, and environmental protection. Analyzing the consultation's community-level results, Chapter 2 will discuss how the participants' responses during the conflict in the TIPNIS represented both the government's attempt to use the consultation to approve construction of the highway and the strategies of the Subcentral Sécure, CONISUR, and the Subcentral TIPNIS to promote their own agendas during the conflict. The consultations in the Subcentral Sécure revealed the struggle of the communities to negotiate "intangibility" with the government. While small, isolated communities struggled to represent themselves before the consultation brigades, the community of Oromomo used its inaugural consultation to construct a comprehensive vision of productive development, territorial protection, and autonomy rights, Santo Domingo questioned its "indigenous identity" while constructing a vision of territorial protection against migrants to the territory, and Puerto Totora participated after initially rejecting the consultation to critique the TIPNIS's

co-management plan and the anti-highway movement while also rejecting the highway project and denouncing the government's tactics during the conflict over the highway. The communities in Polygon 7 benefitted from CONISUR's alliance with the government, utilizing the protocol that CONISUR negotiated to construct an alternative to the "image of the ecologically noble savage": an intercultural indigenous identity that combined demands for productive development, environmental protection, and indigenous territorial and autonomy rights. Finally, the Subcentral TIPNIS communities struggled against the government's efforts to foment division among its communities. While some communities rejected the consultation process, others used the consultation process to reject the highway, and those facing the direct effects of the resistance to the consultation renounced the anti-highway movement. This chapter will argue that the communities demonstrated agency during the consultation process, using the consultation process to enter the debate over the highway, Law 180, indigenous identity, and Bolivia's indigenous rights legal framework even as the government enforced a vision of indigenous identity and indigenous rights through its implementation of "intangibility," its promises of development, and the consultation process.

Chapter 3 will discuss how ongoing opposition to the highway project from the Subcentral TIPNIS and the international community has allowed the communities to remain influential actors in the TIPNIS conflict after the conclusion of the consultation process. First, the communities defended their right to self-governance through their representative organizations when they rejected the government's attempt to establish a parallel leadership over the Subcentral TIPNIS in 2013 even as the government succeeded in dividing the Subcentral TIPNIS's allies in the highland and lowland indigenous

movements. In 2017, however, the communities supported the pro-highway leaders and their proposal for Law 969, abandoning the anti-highway leadership as they attempted to protest the law. While the government has interpreted Law 969 as approval for the highway project, the law did not explicitly name the Villa Tunari-San Ignacio de Moxos highway. Instead, Law 969 reflected the communities' demands during the consultation process, preserving the status of the TIPNIS as an indigenous territory and national park, but altering the framework established in Law 180 by presenting an alternative vision of indigenous identity and rights to territory and autonomy and promoting a balance between environmental protection and development in the TIPNIS. As construction on the highway began in Polygon 7, the pro-highway leaders have adopted the communities' vision of indigenous identity and indigenous rights to territory, autonomy, and development in response to the top-down pressure from the government's attempts to enforce its vision of indigenous identity and indigenous rights and the ongoing opposition from the anti-highway movement and its allies in the international indigenous rights and environmental movements.

As the government, the anti-highway leaders, and the pro-highway leaders debated indigenous identity, indigenous rights, development, and environmental protection, they debated the components of Bolivia's new indigenous rights legal framework under President Morales. The Subcentral TIPNIS and CIDOB would revive the strategy of the First Indigenous March for Land and Dignity, mobilizing the "image of the ecologically noble savage" to claim their indigenous right to the TIPNIS based on their role as guardians of the national park. In response, the government would attempt to enforce its own discourse, defending CONISUR's indigenous identity and challenging the discourse of the

“ecologically noble savage” through its implementation of “intangibility” and its adoption of the indigenous demand for a consultation. As the anti-highway opposition maintained pressure on the government, the consultation became a key participatory space for the TIPNIS communities to express their own visions of indigenous identity, indigenous rights, development, and environmental protection. This thesis will demonstrate that the communities exploited the window of opportunity the consultation process opened to become influential actors in the national debate over Bolivia’s indigenous rights legal framework.

CHAPTER 2: THE NATIONAL CONFLICT OVER INDIGENOUS RIGHTS

With the Morales government unwilling to negotiate with the Subcentral TIPNIS over the Villa Tunari-San Ignacio de Moxos highway project, Bolivia's lowland and highland indigenous movements mobilized their full force to defend the indigenous rights to territory and self-governance they had gained in the 1990s through the Eighth March in Defense of the TIPNIS. First, this chapter will describe how the leaders of the Subcentral TIPNIS and CIDOB promoted the "image of the ecologically noble savage" during the Eighth March in Defense of the TIPNIS to transform the conflict over the construction of the highway into a national debate about indigenous identity, indigenous rights, and environmental protection. Then, this chapter will describe how the national and international pressure on Morales following the violence in 2011 forced the government to accept the Eighth March's proposal for Law 180. While Law 180 banned construction of the Villa Tuanri-San Ignacio de Moxos highway, it also reflected an attempt by the anti-highway leadership to codify the "image of the ecologically noble savage" by constructing a relationship between the Moxeño-Trinitario, Yuracaré, and Chimane peoples and the "intangible" TIPNIS national park.

Next, this chapter will explain how the Morales government mobilized CONISUR and Morales's political base among Bolivia's *cocalero*, peasant, and intercultural communities and banned all development in the TIPNIS under its strict implementation of "intangibility" to justify its adoption of the Eighth March's demand for a consultation in the TIPNIS. Although the government accepted the right of the TIPNIS indigenous communities to participate in the decision over the highway project, the government

challenged the anti-highway movement's discourse of the "ecologically noble savage" by presenting the CONISUR communities in Polygon 7 as indigenous stakeholders in the development of the TIPNIS. Finally, this chapter will illustrate how the ongoing opposition from the anti-highway indigenous leadership pressured the Morales government to legitimize the consultation process in the TIPNIS. This chapter will argue that the Subcentral TIPNIS and CIDOB's mobilization of the "ecologically noble savage" discourse impacted the national conflict over the highway project in four ways. By using this discourse, the anti-highway leaders (1), transformed the conflict over the highway into a national debate over indigenous identity and indigenous rights, (2) forced the government to accept the participation of the TIPNIS indigenous communities in the decision over the highway project (3), influenced CONISUR's discourse of indigenous identity to access the right to participate in the consultation, and (4), limited the government's ability to legitimize the consultation process.

Convoing the Eighth Indigenous March in Defense of the TIPNIS

This section will describe how the Subcentral TIPNIS and CIDOB mobilized the "image of the ecologically noble savage" during the Eighth March to transform the conflict over the highway in the TIPNIS into a national conflict over indigenous rights and environmental protection. First, it will describe how the Subcentral TIPNIS and CIDOB's framed indigenous identity and indigenous rights. Then, it will examine how the 16-point platform of demands from the Eighth March reinforced the principles of environmental protection, indigenous territorial rights, indigenous rights to self-governance and self-development, and the indigenous right to consultation and transformed the TIPNIS into a national symbol of environmental conservation and indigenous rights.

On June 26, 2011, lowland indigenous representatives at the III National Commission of CIDOB issued six resolutions regarding “the violation of the rights of the indigenous peoples with the construction of the Villa Tunari-San Ignacio de Moxos highway.”¹¹⁷ The first resolution asserted that the construction of a highway through the territory would bring high social and environmental costs, increasing the colonization, deforestation, and contamination of the national park and putting “the Mojeño, Tsimane, and Yuracaré peoples, the flora, the fauna, the biodiversity, and the TIPNIS itself, at risk of extinction.”¹¹⁸ The second resolution condemned the government for declaring the highway a national priority without the informed consent of the indigenous peoples of the territory, violating both Bolivian and international indigenous rights and environmental conservation legal frameworks. Third, CIDOB’s National Commission resolved to publicly denounce the government “before national and international human rights and indigenous rights organizations, before the United Nations and the Organization of American States, for the breach and violation of the rights of the indigenous peoples of Bolivia.”¹¹⁹ The fourth, fifth, and sixth resolutions convoked the Eighth March, asserted the authority of the Subcentral TIPNIS and Subcentral Sécure over the TIPNIS by banning the government from the territory, and issued orders to prepare the communities to mobilize.¹²⁰ By linking the indigenous right to consultation with the protection of the natural world, the resolutions reaffirmed the image of indigenous peoples as guardians of

¹¹⁷ Central de Pueblos Indígenas de Bolivia, *Resolución de la III Comisión Nacional 2011*, in *Marcha Indígena por el TIPNIS: la lucha en defensa de los territorios*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2011), 216.

¹¹⁸ Ibid

¹¹⁹ Ibid, 218.

¹²⁰ Ibid, 218.

the environment. The National Commission convoked the Eighth March to bring national and international attention to the government's decision to endanger one of the world's most biodiverse regions and the indigenous peoples that protected it by constructing a highway through the TIPNIS national park and indigenous territory without respecting the right of the communities to participate in the implementation of legislation and development projects that affected their territory.

The Eighth March departed from Trinidad in the Beni department for La Paz on August 15, 2011. On September 15, 2011, the Political Committee of the Eighth March sent its platform of demands to the government.¹²¹ The platform addressed hydrocarbons exploitation in the Aguarague National Park, demanded greater control over climate change funding, and asserted the indigenous right to participate in debates over a new national forestry law and a law to conserve the country's national parks and protected areas.¹²² These demands elevated the TIPNIS conflict from a local conflict over a highway to a national conflict between alternative visions of development: the government's continuing reliance on extractive industries and megaprojects and the indigenous vision of ecologically sustainable participatory development. Platform 3, on land and territory, demanded that the government respect indigenous territories in all future agrarian legislation, evict illegal settlements from their territories, continue to prioritize indigenous communities in the redistribution of fiscal lands, guarantee financial support to complete

¹²¹ Central de Pueblos Indígenas de Bolivia, *Plataforma de demandas de la VIII Gran Marcha Indígena por la Defensa del Territorio Indígena y Parque Nacional Isiboro Sécore TIPNIS, por los Territorios, la Vida, Dignidad y los Derechos de los Pueblos Indígenas del Oriente, Chaco y Amazonia Boliviana*, in *Marcha Indígena por el TIPNIS: la lucha en defensa de los territorios*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2011), 227-229.

¹²² Ibid

the titling of indigenous territories, and end the exploitation of indigenous peoples and their territories by peasant migrants, cattle ranchers, and agribusiness.¹²³ Furthermore, the leaders of the Eighth March demanded that the government conduct a census of the population and housing in indigenous territories “that will ensure the implementation of specific politics for indigenous peoples, such as access to indigenous autonomies.”¹²⁴ These platforms reinforced the “image of the ecologically noble savage,” consolidated the territorial and autonomy demands of the lowland indigenous peoples since the First March in 1990, and placed the TIPNIS at the center of the ongoing conflict between indigenous peoples and peasants over land and territory in Morales’s Bolivia.

The Eighth March demanded access to government development projects, such as housing, while also pushing for expanded rights to autonomous development within their territory. For example, the marchers demanded the decentralization of the Development Fund for Indigenous and Originary Peoples and Peasant Communities (FDPPIOYCC) to the thirty-four lowland indigenous nations and the implementation of participatory indigenous development in all of Bolivia’s indigenous territories. They demanded greater access to education and health services while also asserting their right to participate in the creation and the execution of laws projects regarding health and education. Finally, the fifth platform implored the government to respect the indigenous right to consultation over any hydrocarbon, mining, or other megaprojects, including highways and dams, that could affect indigenous peoples.¹²⁵ Within the context of the platform’s presentation of

¹²³ Ibid

¹²⁴ Ibid, 230-231.

¹²⁵ Ibid, 227-231.

indigenous peoples as protectors of the environment, these demands for increased autonomy over development within their territories and greater respect for the indigenous right to consultation further asserted the “image of the ecologically noble savage” by implying that securing indigenous rights to territory, autonomous development, and consultation would ensure the protection of the biodiverse TIPNIS region.

Mobilizing Popular Support for the Highway Project

The government responded to the platform by suggesting a consultation over the highway project involving “the indigenous communities of the TIPNIS involved in Tramo II,” excluding the communities of the Subcentral TIPNIS, located far from the highway’s proposed route.¹²⁶ This response reflected continuity in the government’s strategy to exclude the TIPNIS communities from the decision over the Villa Tunari-San Ignacio de Moxos highway project. More importantly, the government’s response challenged the vision of the right of the “ecologically noble savage” to consultation by asserting the potential of indigenous consultation to impede the “construction of road infrastructure strategic for the development and integration of the country.”¹²⁷ In response to the national and international media backlash against the violent repression of the Eighth March, however, President Morales adopted a new strategy in pursuit of the construction of the highway through the TIPNIS. This section will illuminate how Morales began to challenge the discourse of the “ecologically noble savage” by rallying support for the highway project

¹²⁶ Carlos Romero, Letter to the Political Committee of the Indigenous March, September 15, 2011, in *Marcha Indígena por el TIPNIS: la lucha en defensa de los territorios*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2011), 236.

¹²⁷ Ibid, 241.

among his base in the *cocalero* federation in the Chapare and introducing the CONISUR communities in Polygon 7 as pro-highway, indigenous communities from the TIPNIS.

On October 1, Morales addressed a crowd in Polygon 7 carrying signs with slogans such as, “Onward, the construction of the Villa Tunari-San Ignacio de Moxos Highway. Down with the latest howl of the corrupt opposition,” and, “Highways are the paths to development for the whole country.”¹²⁸ In his speech, Morales thanked the peasant movement in Cochabamba and throughout Bolivia for their support of his process of change, his democratic and cultural revolution, and the grand projects he hoped to accomplish as president. He introduced the communities of Polygon 7 to the crowd, describing the poverty he encountered upon visiting them. Morales then asserted that the Villa Tunari-San Ignacio de Moxos highway was an example of his determination to both integrate the country and increase the standard of living for the marginalized communities of the TIPNIS. Finally, Morales reasserted that the communities who stood to benefit from the highway, the CONISUR communities and the communities near San Ignacio de Moxos, should be the ones to decide the fate of their communities and the highway project.¹²⁹

As the Eighth March neared La Paz, Morales declared a new national holiday. October 12, formerly considered the Day of the Race in celebration of the discovery of America, became the Day of Decolonization in celebration of the government’s process of

¹²⁸ Ministerio de Comunicación, Estado Plurinacional de Bolivia, *Discurso del Presidente Evo Morales en la concentración en apoyo a la Carretera Villa Tunari San Ignacio de Moxos*, October 1, 2011, Pueblos Indígenas 2011, Centro de Documentación e Información Bolivia.

¹²⁹ Ibid

social, economic, and political reforms, or “process of change.”¹³⁰ Across the country, peasant and intercultural organizations mobilized in support of the government.¹³¹ In an emotional speech in La Paz’s Plaza Villarroel, CONISUR’s president Gumerindo Pradel attributed the anti-highway opposition to a lack of knowledge about the quality of life in the communities he represented. He said, “Many people do not know where I live, how I suffer, and how I live. We do not want to be tucked deeper into the forest; we, too, want to move forward, to be equal to you, Bolivians.”¹³² In an interview with the radio station *Patria Nueva*, Moxeño-Trinitario Corregidor Nemesio Yuco lamented, “We are those that suffer, the failures without [education], those that do not have good health because there are not free means of transportation because there is not a road.”¹³³ By mobilizing support for the Villa Tunari-San Ignacio de Moxos highway among the *cocalero*, peasant, and intercultural communities and introducing the CONISUR communities as impoverished, indigenous communities from the TIPNIS, Morales began to challenge the “image of the ecologically noble savage” that the Subcentral TIPNIS and CIDOB had constructed during the Eighth March. In so doing, Morales shifted the debate away from indigenous rights to territory and environmental protection and toward issues of poverty alleviation in the TIPNIS indigenous communities.

¹³⁰ Redacción Central, “12 de Octubre: Día de la ‘Raza’ o Día de la ‘Descolonización,’” *Los Tiempos*, October 12, 2014, accessed November 5, 2018, <https://www.descolonizacion.gob.bo/index.php/78-articulos-de-interes/505-12-de-octubre-dia-de-la-raza-o-dia-de-la-descolonizacion>.

¹³¹ Redacción Central, “Sectores sociales se movilizan por el proceso de cambio,” *Cambio*, October 12, 2011, Pueblos Indígenas 2011 Centro de Documentación e Información Bolivia.

¹³² “Indígenas pidieron carretera para el Tipnis,” *Cambio*, October 13, 2011, TIPNIS 2011, Centro de Documentación e Información Bolivia.

¹³³ *Ibid*

Law 180 and the “Ecologically Noble Savage”

The Eighth March in Defense of the TIPNIS arrived in La Paz on October 19, 2011 to an outpouring of support from the city’s residents. As the marchers passed down Avenida Busch, they saw a sign that read, “Thank you, Evo, you have united all the Bolivians.”¹³⁴ As onlookers saw the column approaching, they began chanting, “Listen, Evo, one doesn’t touch the TIPNIS. TIPNIS, yes! Evo, no!”¹³⁵ The marchers continued to the Plaza Murillo where they slept for a week, refusing to leave until Morales approved their proposal for Law 180 in defense of the TIPNIS. Facing overwhelming pressure both domestically and internationally, Morales finally agreed to the anti-highway leadership’s proposal for Law 180 to ban construction of the highway through the TIPNIS on October 24.¹³⁶ This section will continue by analyzing how Law 180’s definition of territorial rights in the TIPNIS reflected the “image of the ecologically noble savage” that the anti-highway leadership constructed during the Eighth March.

In Article 1, Law 180 declared the TIPNIS “sociocultural and natural patrimony, a zone of ecological preservation, historical reproduction, and habitat of the Chimán, Yuracaré, and Mojeño-Trinitario indigenous peoples, whose protection and conservation are the primordial interest of the Plurinational State of Bolivia.”¹³⁷ Moreover, Article 1 established the exclusive rights of the indigenous peoples of the TIPNIS and the

¹³⁴ Fundación TIERRA, *Marcha Indígena por el TIPNIS: la lucha en defensa de los territorios* (La Paz: Fundación TIERRA, 2011), 175-6.

¹³⁵ Ibid

¹³⁶ Ibid, 177.

¹³⁷ Asamblea Legislativa Plurinacional de Bolivia, *Ley de Protección del Territorio Indígena y Parque Nacional Isiboro Sécuré – TIPNIS*, October 24, 2011, in *Marcha Indígena por el TIPNIS: la lucha en defensa de los territorios*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2011), 294.

government's responsibility to secure their territorial rights and preserve the their natural environment.¹³⁸ The codification of the status of the TIPNIS indigenous territory and national park in Article 2 further affirmed the "image of the ecologically noble savage." It defined the TIPNIS's "dual status" as an indigenous territory and protected area and established the connection between the conservation of the territory's biodiversity and the reproduction of indigenous lifeways and communities within the TIPNIS.¹³⁹ Finally, Article 5 introduced the principle of the "intangibility" of the TIPNIS territory as protected area.¹⁴⁰

Challenging Law 180

Because Law 180 did not define the principle of "intangibility," the government would use it as a tool to challenge the "image of the ecologically noble savage." This section will discuss how the government implemented "intangibility" within the TIPNIS territory by banning all development projects. This implementation of "intangibility" represented a challenge to Law 180's construction of "ecologically noble savage" by creating the demand for development and the repeal of Law 180 from within the TIPNIS communities. Moreover, the government would capitalize on CONISUR's counter-march to justify its calls for a consultation in the TIPNIS over the highway project and Law 180. Finally, this section will demonstrate how the government's proposal for a consultation in the TIPNIS sparked a conflict between CONISUR and the Subcentral TIPNIS over

¹³⁸ Ibid

¹³⁹ Ibid

¹⁴⁰ Ibid

discourses of indigenous identity as CONISUR defended its right to participate in the consultation process.

Even as the Political Committee of the Eighth March continued negotiations with President Morales to define “intangibility,” Vice President Álvaro García Linera began to publicly challenge its constitutionality. He reasoned that because there were already logging companies, five-star hotels, and airplane landing strips in park, the TIPNIS was not, in fact, a virgin territory. Moreover, he claimed that the implementation of “intangibility” in the territory would negatively impact the lives of the indigenous peoples of the TIPNIS.¹⁴¹ Adolfo Chávez, president of CIDOB, responded that the TIPNIS’s “intangibility” only banned the construction of megaprojects in the park. He called on the government ministers “to work in good faith with President Morales” to respect lowland indigenous territories.¹⁴²

On November 9, 2011, MAS Senator Adolfo Mendoza made the government’s first proposal for a “prior and informed” consultation in the TIPNIS communities over “intangibility” and Law 180. He proposed that the regulation of “intangibility” should be “*consensuada*” (brought to a consensus agreement) between all the TIPNIS communities.¹⁴³ In an interview with Erbol, the Vice Minister of Coordination with the Social Movements explained that Law 180 excluded interests within the TIPNIS that demanded construction of the highway. He said, “...if some [TIPNIS communities] do not

¹⁴¹ “Evo promulga ley que protege el TIPNIS; intangibilidad en debate,” *La Razón*, October 25, 2011, TIPNIS derechos indígenas, Centro de Documentación e Información Bolivia.

¹⁴² Ibid

¹⁴³ Pavel Alarcón, “El Gobierno analiza cambiar la Ley del TIPNIS,” *La Prensa*, November 9, 2011, Centro de Documentación e Información Bolivia.

renounce the defense of the TIPNIS, others do not renounce the construction of the highway either, and no more than five communities of the 64 that live in the area arrived at La Paz.”¹⁴⁴ On November 11, the government suspended the licenses of logging and tourism companies operating in the TIPNIS, transforming the conflict over the construction of the highway within the territory into a debate about “intangibility.”¹⁴⁵ In an interview with *Página Siete*, the Minister of the Presidency rejected the accusation that the government had agreed to Law 180 only to immediately seek to reverse it. He claimed, “Now the law is [being applied]. The Government reluctantly accepts that there is no highway with the law; the indigenous communities do not accept the intangibility established in the law. And this raises a big debate.”¹⁴⁶

While MAS delegates promoted the idea of a consultation in the TIPNIS, the Morales administration negotiated with the leaders of CIDOB and the Subcentral TIPNIS to define “intangibility” and develop a plan for the sustainable use of the TIPNIS’s resources by its indigenous communities in the *Reglamento de la Ley 180 del Protección del TIPNIS*. On November 27, an anti-highway spokesperson told *La Razón* that the indigenous representatives and the government had reached agreements concerning territorial protection, conservation, sustainable development, “intangibility,” and illegal settlements in the TIPNIS.¹⁴⁷ Then, on December 1, just as the government and the indigenous leaders sought to reach a final agreement on the *Reglamento*, the government

¹⁴⁴ Ibid.

¹⁴⁵ Iván Paredes, “Gobierno e indígenas acuerdan aplicación de la intangibilidad,” *La Razón*, November 27, 2011, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

¹⁴⁶ “El Gobierno aceptó a regañadientes que no haya camino por el TIPNIS,” *Página Siete*, November 27, 2011, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

¹⁴⁷ Iván Paredes, “El Gobierno e indígenas acuerdan aplicación de la intangibilidad,” *La Razón*, November 27, 2011, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

broke the negotiations. Instead, MAS deputies continued to call for a prior consultation in the TIPNIS over the highway project and Law 180. Senator David Sánchez argued, “There are new movements in the TIPNIS that [support the highway]. I imagine that with them it will have to be seen to what extent the regulation can be modified or amended.” He continued, claiming that the government could only solve the conflict in the TIPNIS through informing all the communities of Law 180 and the highway project.¹⁴⁸

On December 17, 2011, a column of marchers left the community of Isinuta in Polygon 7 for La Paz to demand access to education and health services, the abrogation of the “Law of ‘Intangibility,’” and the construction of the Villa Tunari-San Ignacio de Moxos highway. For more than a week after their January 30, 2012 arrival at the Plaza Murillo in La Paz, the counter-marchers awaited the results of their leadership’s dialogue with the government. Journalist Boris Miranda reported that tensions had developed between the leadership of CONISUR and the government over the best way to meet CONISUR’s demands for the annulment of Law 180 and the resumption of construction on the highway. MAS deputies spent five days convincing the leadership of CONISUR to abandon its banner of “Repeal or death,” arguing that the best strategy to repeal Law 180 and approve the construction of the highway was to conduct a consultation in the TIPNIS. Finally, CONISUR accepted the consultation, on the condition that they would be considered “*originarios*” (“first peoples”) and able to participate in the consultation over the highway project and “intangibility.”¹⁴⁹

¹⁴⁸ “El Gobierno rompe el acuerdo y demanda ajustes al reglamento,” *Página Siete*, December 1, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

¹⁴⁹ Boris Miranda, “Derogación o muerte,” *Página Siete*, February 12, 2012, TIPNIS 2012, Centro de Documentación e Información Bolivia.

In an interview for *BoliviaDiary* on February 5, CONISUR president Gumerindo Pradel told Dario Kenner that CONISUR demanded the consultation because it did not want to receive the bad image that anti-highway leaders had developed during the conflict.

He explained:

There are other people who still live in the jungle and they need to be consulted. Because those who speak are the owners of the territory. Those who live in the territory suffer. I want to go forward so that my poor brothers can progress, so that, in the future, the next generations can be professionals and have good education and health services. We want good infrastructure. We want to have a good house like those leaders who have betrayed us and de-recognized us.¹⁵⁰

Pradel asserted that a community's indigenous identity did not depend on its location in the TIPNIS because "[w]herever those leaders are from or wherever they are, they are always Yuracarés. No one can de-recognize me, wherever I am I speak my language, no one can de-recognize me like [the leader of the Subcentral TIPNIS] has done."¹⁵¹ But the Secretary of Land and Territory for CIDOB told Kenner that CONISUR was a *cocalero* organization, allied with the government, which abused the rights of indigenous peoples. He charged, "Indigenous peoples demand collective land titles. Our work and way of life are collective. We defend collective rights. So CONISUR is not part of the structure of indigenous peoples. It's worse, they go against the interests of indigenous peoples and do not defend their rights. So we de-recognize that this organization says it is indigenous."¹⁵² Thus, CONISUR began to challenge the anti-highway movement's discourse of the

¹⁵⁰ Dario Kenner, "Interviews: Bolivian Indigenous Leaders from CONISUR and CIDOB on TIPNIS Conflict," *BoliviaDiary* (blog), February 6, 2012, accessed February 8, 2018, <https://boliviadiary.wordpress.com/2012/02/06/interviews-bolivian-indigenous-leaders-from-conisur-and-cidob-on-tipnis-conflict/>.

¹⁵¹ Ibid

¹⁵² Ibid

“ecologically noble savage” to access the right to participate in the government’s proposed consultation process.

Law 222 and the Right to Consultation

President Morales announced the promulgation of Law 222 for a consultation in the TIPNIS on February 10, 2012. This section will illustrate how the visions of indigenous identity, territorial rights, and right to consultation presented in Law 222 reflected the intense pressure the Morales administration faced after the repression of the Eighth March. These visions also foreshadowed the challenge that the traditional indigenous leadership and its allies in the domestic political opposition and international community would present as the government sought to claim legitimacy for its consultation in the TIPNIS. On the other hand, this section will also discuss how Law 222 challenged the exclusive rights to territory for the TIPNIS’s indigenous peoples by replacing Law 180’s “image of the ecologically noble savage” indigenous stakeholder in the TIPNIS with the “indigenous ‘first peoples’ peasant” stakeholder imagined in the 2009 Constitution and opening the consultation process to the CONISUR communities.

Law 222 acknowledged the indigenous ownership of the TIPNIS territory, its status as a protected area, and the indigenous right to be consulted about projects and means to safeguard their territories. Law 222 established the subjects of the consultation as “the indigenous ‘first peoples’ peasant Moxeño-Trinitario, Chimane, and Yuracaré communities that inhabit the Territorio Indígena y Parque Nacional Isiboro Sécuré – TIPNIS, in its double category of Indigenous Territory and Protected Area, respecting their

own norms and procedures.”¹⁵³ By reinforcing the TIPNIS’s dual status as a protected area and an indigenous territory that belonged to the Moxeño-Trinitario, Chimane, and Yuracaré peoples, MAS adopted some of the initial platforms of the Eighth March. By using the term “indigenous ‘first peoples’ peasant,” however, MAS sought to open space for the communities in Polygon 7 to claim the right to participate in the consultation and challenge Law 180’s reservation of the right to consultation for the “ecologically noble savage” inhabitants of the TIPNIS. In Article 9, Law 222 defined the process for the installation and development of the consultation. Finally, Article 10 determined that “the agreements achieved in the process of the Consultation are of compulsory compliance for the Plurinational State and the indigenous ‘first peoples’ peasant Moxeño-Trinitario, Chimane, and Yuracaré peoples,” supplanting the Subcentral TIPNIS’s historical role as the representative of the TIPNIS communities before the government and offering the *cocalero* and other agrarian unions in the TIPNIS the opportunity to participate in the consultation.¹⁵⁴ The law acknowledged the constitutional articles and international conventions that guaranteed the TIPNIS’s indigenous communities the right to a consultation and invited international observers to participate in the consultation process in the TIPNIS, demonstrating the scrutiny with which national and international journalists and indigenous rights and environmental activities were monitoring the conflict over the highway in the TIPNIS.¹⁵⁵

¹⁵³ Asamblea Legislativa Plurinacional de Bolivia, *Ley de Consulta a los Pueblos Indígenas del Territorio Indígena y Parque Nacional Isiboro Sécore – TIPNIS*, CEDIB Online Library, February 7, 2012, accessed November 21, 2018, https://cedib.org/post_type_leyes/ley-222-de-consulta-de-los-pueblos-indigenas-del-tipni-07-02-12/.

¹⁵⁴ Ibid

¹⁵⁵ Ibid

Opposing Law 222 in the Defense of the TIPNIS

On February 24, 2012, President Morales announced a Supreme Decree which outlined the *Reglamento* for Law 180. By then, two weeks had passed since the promulgation of Law 222 for a consultation in the TIPNIS, and the national debate had shifted, once again, from definitions of “intangibility” to defining the consultation, how to conduct it, and who should participate. This section will describe how, after finding the pathways to dialogue with the government closed, the leadership of the Subcentral TIPNIS and CIDOB contested the government’s proposed consultation process by continuing to protest the construction of the highway and by projecting the “image of the ecologically noble savage” to maintain national and international pressure on the Morales government. This continuing opposition to the highway project influenced the government’s decision to attempt to consult all the TIPNIS communities and how the government reported its official results. Meanwhile, CONISUR used the debate over the consultation in the TIPNIS to assert the indigenous identity of the communities in Polygon 7 to expand its influence in the TIPNIS and access the right to participate in the consultation.

The leaders of the Subcentral TIPNIS, who were involved in a campaign to inform its communities about Law 180 and dissuade them from joining CONISUR and the pro-highway movement, responded immediately to the government’s announcement of Law 222 by declaring a state of emergency and convoking the Ninth March in defense of the TIPNIS.¹⁵⁶ In an interview with Santa Cruz’s *La Estrella del Oriente*, the vice president of CIDOB charged the government with attempting to use the consultation to increase the

¹⁵⁶ “Conisur no define argumentos para construcción de carretera,” *El Diario*, February 2, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

conflict in the TIPNIS, to annul Law 180, and to promote the highway project. Furthermore, she maintained that the government should respect Law 180, which Bolivia's lowland indigenous peoples had won after suffering violence at the hands of the police. She said that having overcome the government's use of force once "gives us strength to continue struggling against this government that does not want to listen to the indigenous peoples."¹⁵⁷ A spokesperson for the Subcentral TIPNIS asserted that participation in the consultation would be like accepting the abrogation of Law 180 and allowing the ongoing colonization of the TIPNIS by *cocaleros* who wanted to expand the production of coca leaf.¹⁵⁸ With this statement, the spokesperson drew a clear line between "us," the traditional representatives and indigenous communities of the TIPNIS, and "them," the *cocalero* communities in Polygon 7, and established a clear motive for the government with the consultation process: approval of the highway project. But the Eighth March had taken many of the resources of the TIPNIS communities and the communities of their indigenous allies in the highlands and lowlands, and the leaders announced that participants in the Ninth March for the TIPNIS would depart from their own communities rather than gather together in Trinidad.¹⁵⁹

The representative of the United Nations in Bolivia cautioned the government to ensure that it carried out the consultation in the TIPNIS so that "all the actors will have confidence that, first, it will be the right path, and, second, that it will go well, in a

¹⁵⁷ "Indígenas rechazan consulta a comunidades del Tipnis," *La Estrella del Oriente*, February 7, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

¹⁵⁸ Ibid

¹⁵⁹ "La novena marcha por el TIPNIS comenzará en las comunidades," *Página Siete*, February 8, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

transparent manner, in a manner in which the results truly reflect the feelings of the indigenous communities that have the right to participate in this decision.”¹⁶⁰ Other such calls came from the Defender of the People and the Permanent Assembly on Human Rights in Bolivia.¹⁶¹ Opposition party *Movimiento Sin Miedo* (MSM) also moved to prevent the consultation in the TIPNIS. Two of its deputies submitted an “abstract demand of unconstitutionality” before the Constitutional Tribunal on February 28, 2012. They said, “We hope that [the Constitutional Tribunal] declares the unconstitutionality of the Law [222] for the blatant, unconstitutional flaws because it is all a farce, a sham.”¹⁶² MAS responded to the filing, claiming that the demand of unconstitutionality appeared “a desperate measure” to prevent the consultation.¹⁶³

While one national debate raged about the indigenous right to consultation, another debate concerning the right of the Polygon 7 communities to participate in that process took place. In an article in *Página Siete* on March 23, 2012, Miguel A. Melendres summarized the two positions. The Minister of Public Works stated, “We have no right to discriminate against [communities in Polygon 7]. The organizations have distinct levels of affiliation. They can be affiliated with one or another central or federation.”¹⁶⁴ He argued, “Based on the supreme resolution (230992) of the year 2009 (titling of the TIPNIS

¹⁶⁰ ONU pide que la consulta en el TIPNIS sea transparente,” *Página Siete*, February 16, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

¹⁶¹ Ibid

¹⁶² “MSM presenta recurso por Ley de Consulta,” *Los Tiempos*, February 28, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

¹⁶³ Ibid

¹⁶⁴ Miguel A. Melendres, “Admiten que los sindicatos participarán de la consulta,” *Página Siete*, March 23, 2012, accessed July 15, 2018, Centro de Documentación e Información Bolivia, https://cedib.org/post_type_titulares/admiten-que-los-sindicatos-participaran-de-la-consulta-pagina-7-23-03-12/.

indigenous territory), within Polygon 7, within the [*cocalero*] unions, there exist 14 communities that fulfill elements of the demand of Law 222...[T]hey have a social property and are part of the indigenous peoples of the area. This is the information that we have, and we have verified it with the *corregidores* (indigenous communal leaders).”¹⁶⁵ But the ex-Vice Minister of Land and critic of the government’s conduct during the TIPNIS conflict, Alejandro Almaraz, indicated that the populations living within Polygon 7 were dedicated to the cultivation of surplus coca and on the margin of development in the TIPNIS. Likewise, the ex-Vice Minister of the Interior reasoned that the communities in Polygon 7 had chosen to pursue individual property ownership of land instead of communal property rights. “[I]n that moment,” he declared, “[Polygon 7] was excluded from what the TIPNIS is and stands for.”¹⁶⁶ Melendres, for his part, cited an October 2011 report from the La Paz-based NGO Fundación TIERRA, which insisted that the 2009 Supreme Decree had listed only nine indigenous communities in Polygon 7 and that Fundación TIERRA had found that only one community, Santísima Trinidad, retained its indigenous identity.¹⁶⁷ Thus, while CONISUR defended its indigeneity based on the themes of culture, ethnicity, and social exclusion, the opposition denied CONSIUR’s indigeneity based on its system of individual land ownership, its use of the land for the production of coca leaf, and its connections to the *cocalero* unions.

Law 222 proscribed a 120-day period for the completion of the consultation, and while the traditional indigenous leaders of the Subcentral TIPNIS and its allies worked

¹⁶⁵ Ibid

¹⁶⁶ Ibid

¹⁶⁷ Ibid

toward organizing their bases and obtaining the resources they needed for the Ninth March, the government and its allies among the CONISUR leadership moved quickly to implement the consultation in the TIPNIS. In March, *El Deber* reported that CONISUR was planning a campaign to provide the communities with information about Law 180 and Law 222 and reported that 44 of the TIPNIS communities were in favor of the highway project.¹⁶⁸ In early April, the government's technical teams began to meet with leaders from CONIUSR and the Subcentral Sécore to negotiate the protocol for the consultation in the TIPNIS. These meetings continued into June, with the teams travelling throughout the territory to inform the most remote communities about the impending consultation process.¹⁶⁹ In March, a leader of the Subcentral Sécore, Carlos Fabricano, declared that his communities would not march. Then, On April 23, two days before the start of the Ninth March, eight of the thirteen regional presidents of CIDOB announced that they would not participate in the protest. Among them was the *Central de Pueblos Indígenas del Beni* (CPIB), the regional organization through which the Subcentral Sécore and Subcentral TIPNIS associated with CIDOB. Seven other organizations that had participated in the Eighth March also announced that they would not participate. A spokesperson for the Ninth March told Ruy G. D'Alencar Delgado that the government had been working for four months in the TIPNIS, negotiating and making deals with indigenous leaders and communities. He

¹⁶⁸ D. Morena and M. Chiquima, "La Cidob está movilizaday el Conisur no acepta marcha," *El Deber*, March 13, 2012, TIPNIS Consultation, Centro de Documentación e Información.

¹⁶⁹ Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Media Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécore (TIPNIS)*, May 21, 2013, accessed July 18, 2018, https://cedib.org/post_type_documentos/consulta-tipnis-compendio-de-informes/, 73-78.

told the reporter, “We have advised the comrades to sign the agreements, receive the benefits, well, this is the obligation of the State. Later, they will come to the march.”¹⁷⁰ Despite the assertion, however, the spokesperson conceded that the Ninth March would not mobilize as many indigenous communities as the Eighth March had.¹⁷¹

Lacking the capacity to defend the TIPNIS from the government’s technical teams and consultation brigades, the Subcentral TIPNIS focused its remaining resources on trying to force a dialogue with the government. The leadership of the Ninth March submitted its platform of demands on April 27 but reported in May that the government and the indigenous leaders had not come any closer to an agreement over the consultation. Again, the leaders invited Morales to dialogue with the Political Committee in Yucomo on May 25, but the Minister of Communication claimed that the march did not have a legitimate representative because CIDOB’s president had “abandoned” the march to travel to Ecuador to denounce the highway project and the government’s treatment of Bolivia’s indigenous peoples before its allies in the *Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica* (COICA), a transnational indigenous rights movements for indigenous peoples in the Amazon.¹⁷² On June 19, as the Ninth March approached La Paz, the Constitutional Tribunal ordered the government to halt the consultation process until it could reach some consensus with the indigenous communities in the TIPNIS. The president of the Tribunal

¹⁷⁰ Ruy G. D’Alencar Delgado, “Ocho directorios de Cidob no van a la marcha,” *Centro de Documentación e Información Bolivia*, April 24, 2012, accessed September 14, 2018, https://cedib.org/post_type_titulares/ocho-directorios-de-cidob-no-van-a-la-marcha-23042012/.

¹⁷¹ Ibid

¹⁷² “El Gobierno descarta como interlocutor a Adolfo Chávez para iniciar diálogo con indígenas del TIPNIS,” *Los Tiempos*, May 22, 2012, accessed June 23, 2018, https://cedib.org/post_type_documentos/el-gobierno-descarta-como-interlocutor-a-adolfo-chavez-para-iniciar-dialogo-con-indigenas-del-tipnis-los-tiempos-22-05-12/.

declared, “the State cannot continue as it has been doing [since it began] to develop the consultation...it must enter into a process of dialogue and concertation with the indigenous peoples.”¹⁷³ The ruling stated that the implementation of the consultation must be “in agreement with the juridical constitutional framework and developed based in the principles of equality, of good faith, concertation, transparency, and flexibility that must begin in the horizontal relationship between the State and the indigenous ‘first peoples’ peasant nations and peoples.”¹⁷⁴ Moreover, the ruling asserted that the consultation must be conducted in cooperation with the representative institutions of the indigenous peoples of the TIPNIS.¹⁷⁵ The ongoing display of protest from the traditional leadership had caused the president of the Tribunal to publicly admonish the government to take a more conciliatory stance toward the Subcentral TIPNIS and CIDOB. Moreover, although the ruling affirmed the “conditional constitutionality” of Law 222, the ruling also upheld the right of indigenous peoples to consultation following their “uses and customs” and put pressure on the government to produce evidence that it conducted the consultation “in good faith,” in a transparent manner, and respecting the representative institutions of the indigenous communities. Thus, the “conditional constitutionality” established concrete standards for the consultation process in the TIPNIS which the opposition could exploit to challenge the government’s attempts to legitimize the process.

¹⁷³ “Tribunal suspende la consulta hasta que se logren acuerdos,” *Página Siete*, June 20, 2012, accessed July 1, 2018, https://www.cedib.org/post_type_documentos/tribunal-suspende-la-consulta-hasta-que-se-logren-acuerdos-20-06-18/.

¹⁷⁴ Redacción Central, “El TCP ‘condiciona’ la ‘constitucionalidad’ de la Ley 222,” *Bolpress*, June 20, 2012, accessed January 13, 2019, https://cedib.org/post_type_titulares/el-tcp-condiciona-la-constitucionalidad-de-la-ley-222-bolpress-20-6-2012/.

¹⁷⁵ Ibid

Participants in the Ninth March, who arrived in La Paz on June 27, waited almost two weeks to speak with Morales before deciding to return to the TIPNIS to defend the territory against the government's consultation brigades.¹⁷⁶ As the traditional leadership of the Subcentral TIPNIS and its allies prepared to abandon the Ninth March, indigenous communities in the TIPNIS organized to defend their territory against the government's consultation. Erbol's Agency of Indigenous News reported that the members of the community of Santa María, located at the entrance of the park nearest to Trinidad, had decided to blockade the Isiboro River to prevent the government from "lying to people" and "entering and leaving the Park," while the leaders were in La Paz.¹⁷⁷ The leader of San Antonio de Imose, who was in La Paz with the Ninth March, told Erbol, "They are waiting for us in our communities and this is the decision we will make in an assembly, that to return because they need us."¹⁷⁸ He continued, challenging the government's claims to be negotiating a protocol with the communities. He said that in the TIPNIS, the government "does not say that it is the protocol or anything, it just comes with the intention to help the communities with some provisions, and the leaders are not in the communities to reject the situation, and the community members receive these provisions that have an intention [to persuade communities to support the consultation]."¹⁷⁹ As the indigenous marchers left La Paz, anti-highway leader Bertha Bejarano proclaimed, "The fight is not over. The struggle

¹⁷⁶ "Indígenas preparan 'retiro táctico' de La Paz para impedir consulta en el Tipnis, *Los Tiempos*, July 6, 2102, accessed July 5, 2018, https://cedib.org/post_type_titulares/indigenas-preparan-retiro-tactico-de-la-paz-para-impedir-consulta-en-el-tipnis-los-tiempos-6-7-2012/.

¹⁷⁷ "Comienza defensa contra la 'post consulta' en el Tipnis, indígenas instalan una trance," *Erbol*, July 9, 2012, accessed February 1, 2019, https://cedib.org/post_type_titulares/comienza-defensa-contra-la-post-consulta-en-el-tipnis-indigenas-instalan-una-tranca-erbol-9-7-20120/.

¹⁷⁸ Ibid

¹⁷⁹ Ibid

has moved to the TIPNIS.” Likewise, President of the Subcentral TIPNIS Fernando Vargas announced, “We move the struggle to our territory, and we are not going defeated.”¹⁸⁰

CONISUR and the Subcentral Sécore signed the final acts invoking the consultation in the TIPNIS on July 25 and 27, respectively, and the consultation began in the communities of Oromomo and San Miguelito on July 29.¹⁸¹ The next day, the anti-highway traditional leadership met in the community of San Lorenzo to define their strategy. Bejarano told a reporter from *El Deber* that the leaders could not know the individual positions of the communities because of the difficulty of communicating with them, but she claimed that they were aware of intimidation and manipulation in the territory.¹⁸² Later that day, *La Razón* reported that the opposition had blocked two military ships that were trying to advance along the River Sécore to assist in the consultation process with a blockade near the community of Gundonovia.¹⁸³ As the anti-highway leaders of the Subcentral TIPNIS and CIDOB resisted the consultation process, their performance of vulnerability before the invasion of the consultation brigades and their military support compelled human rights organizations, such as the United Nations, to scrutinize the consultation process. On August 10, the representative of the United Nations in Bolivia

¹⁸⁰ Paulo Cuiza, “La IX marcha se va; tratará de impedir la consulta en el TIPNIS,” *La Razón*, July 11, 2012, accessed August 23, 2018, https://cedib.org/post_type_titulares/la-ix-marcha-se-va-tratara-de-impedir-la-consulta-en-el-tipnis-la-razon-11-7-2012/.

¹⁸¹ Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Media Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécore (TIPNIS)*, 77-78.

¹⁸² Carlos Corz, “Reportan que indígenas ‘bloquean’ río para resistir consulta en el TIPNIS,” *La Razón*, July 30, 2012, accessed August 22, 2018, https://cedib.org/post_type_titulares/reportan-que-indigenas-bloquean-rio-para-resistir-consulta-en-el-tipnis-la-razon-30-07-12/.

¹⁸³ “Advierten que resistencia a la consulta en el Tipnis no será pacífica,” *El Deber*, July 30, 2012, accessed August 15, 2018, https://cedib.org/post_type_titulares/advierten-que-resistencia-a-la-consulta-en-el-tipnis-no-sera-pacifica-el-deber-30-07-12/.

expressed concern after the government issued arrest warrants for four anti-highway leaders in the TIPNIS for obstructing the consultation. He said, “A process that should be dialogue, in search of agreements, is rather generating controversy and conflicts.”¹⁸⁴ Likewise, the Defender of the People implored the government to find a path to dialogue with the TIPNIS communities.¹⁸⁵ The opposition continued to challenge the government’s claims concerning the consultation process, announcing on August 30 that at least twenty communities were in favor of continuing the peaceful resistance against the consultation and rejecting the “military intervention” that had been taking place in the TIPNIS since CONISUR’s counter-march.¹⁸⁶

This opposition within the TIPNIS and scrutiny from international observers increased the pressure on the government to legitimize the consultation process. On August 27, *El Deber* reported that after 27 days of the consultation, the brigades had not left the zones in the TIPNIS that supported the government. The Ministry of Public Works confirmed that the consultation had concluded in 20 communities in Polygon 7 and 12 communities along the Sécure River, where the pro-government faction of the Subcentral Sécure exerted its influence. The brigades had not, however, entered the 34 communities the Subcentral TIPNIS represented or the communities located along the lower Sécure River, which still affiliated themselves with anti-highway leader Emilio Noza. A brigade

¹⁸⁴ “Naciones Unidas preocupa porque la consulta esté generando conflictos,” *Los Tiempos*, August 10, 2012, accessed August 17, 2018, https://cedib.org/post_type_titulares/naciones-unidas-preocupada-porque-la-consulta-este-generando-conflictos-los-tiempos-10-8-2012/.

¹⁸⁵ Ibid

¹⁸⁶ “Al menos 20 comunidades se organizan para resistir consulta,” *Página Siete*, August 30, 2012, accessed January 10, 2019, https://cedib.org/post_type_titulares/al-menos-20-comunidades-se-organizan-para-resistir-consulta-pagina-siete-20-8-2012/.

leader clarified that the consultation needed to pause while the Ministries of Public Works and the Environment evaluated the process and prepared a request for a time extension.¹⁸⁷ When the MAS-controlled legislature approved the extension on September 7, the government explained that the brigades needed more time to traverse the difficult terrain of the TIPNIS to reach the remote communities.¹⁸⁸ Moreover, the government claimed that the opposition was isolated to the community of Gundonovia and that the other remaining communities had requested a consultation.¹⁸⁹

Although the government denied that the opposition had delayed the consultation, the request for the extension was, in fact, an attempt by the government to claim successful consultations in the majority of the TIPNIS communities. On October 10, the Minister of Public Works confirmed that the government would consult 100% of the TIPNIS communities despite President Morales's assertion that the two-thirds approval for the highway that the government had already achieved during the process was sufficient to consider the highway project approved and "intangibility" rejected.¹⁹⁰ The director of the Supreme Electoral Tribunal's Intercultural Service for the Strengthening of Democracy (TSE-SIFDE), the agency tasked with the consultation process, described the measures the

¹⁸⁷ "La consulta no sale de la zona del Tipnis que apoya al Gobierno," *El Deber*, August 27, 2012, accessed July 31, 2018, https://cedib.org/post_type_titulares/la-consulta-no-sale-de-la-zona-del-tipnis-que-apoya-al-gobierno-el-deber-27-08-12/.

¹⁸⁸ "Legislativo aprueba ampliación de la consulta en el Tipnis," *El Deber*, September 7, 2012, accessed July 28, 2018, https://cedib.org/post_type_titulares/legislativo-aprueba-ampliacion-de-la-consulta-en-el-tipnis-el-deber-7-9-12/.

¹⁸⁹ "Consulta no avanza pese que existe ley," *La Razón*, September 11, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

¹⁹⁰ Luis Mealla, "Ministro ratifica consulta al 100% del TIPNIS," *La Razón*, October 10, 2012, accessed January 12, 2019, https://cedib.org/post_type_titulares/ministro-ratifica-consulta-al-100-del-tipnis-la-razon-10-10-12/.

brigades took to overcome the opposition in the TIPNIS and ensure the constitutional right of the communities to participate in the consultation. He told *La Razón*, “They have done the consultation...between 10:00 PM and 4:00 AM, at the request of these same communities and their leaders, to preserve not only the security of the functionaries but also of the same inhabitants that look intimidated by some leaders that have threatened them so that they would not participate in the process.”¹⁹¹ As the consultation progressed, however, anti-highway leaders refuted the government’s claims that it was successfully conducting consultations in the remaining communities. Anti-highway leader Emilio Noza told *Erbol* that, of the twelve communities along the Sécure River for which the government had reported a consultation, two communities did not exist.¹⁹² The vice president of the Women of the Subcentral TIPNIS said that in the communities her organization represented, the consultation process took place with the community leader and a few families and excluded most of the members of these communities. She charged, “This is not part of our uses and customs. There must exist a majority participation of our brothers for the assemblies, the communal meetings, and they must be convoked by *cabildos* (communal assemblies), but that is not done.”¹⁹³

The consultation concluded on December 7, 2012, and the government organized a closing ceremony in Trinidad to celebrate what the Minister of Public Works called a

¹⁹¹ Williams Farfán, “Consulta en el TIPNIS se realiza en las madrugadas,” *La Razón*, October 13, 2012, accessed September 15, 2018, https://cedib.org/post_type_titulares/consulta-en-el-tipnis-se-realiza-en-las-madrugadas-la-razon-13-10-12/.

¹⁹² “Indígenas: consultados por el Gobierno el Tipnis incluye a comunidades ‘fantasmas,’” *Erbol*, September 26, 2012, accessed January 15, 2019, https://cedib.org/post_type_titulares/indigenas-consultados-por-el-gobierno-en-tipnis-incluye-a-comunidades-fantasmas-erbol-26-9-12/.

¹⁹³ *Ibid*

“triumph of representative, participatory, communal democracy.”¹⁹⁴ He announced that the details of the consultation results would be published in a public report but asserted that 80% of the TIPNIS communities had accepted construction of the Villa Tunari-San Ignacio de Moxos highway and rejected the “intangibility” of the TIPNIS territory.¹⁹⁵ A commission comprised of the Catholic Church and the Permanent Assembly of Human Rights Bolivia (APDHB), however, denounced irregularities in the process when it released the preliminary findings of its independent report on December 17.¹⁹⁶ According to the report, the consultation brigades had been insistent with some communities, visiting them two or three times until they agreed to participate in the consultation. Furthermore, the report stated, “The collected testimonies give account that all the meetings promoted by the government, denominated as ‘consultation,’ were motivated by the delivery of gifts to the community, the offer of development projects, improvements in health and education, pressure and conditioning that resulted in intimidations and, in some cases, reprisals.”¹⁹⁷ In other cases, the report continued, the leaders of the communities obligated their members to participate. The report criticized the government for its failure to provide adequate or accurate information about the purpose of the consultation, the highway project, and Law 180.¹⁹⁸ In March, the president of APDHB announced that it would

¹⁹⁴“Concluye hoy la consulta en el TIPNIS con cuestionamientos,” *Página Siete*, December 7, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

¹⁹⁵ Ibid

¹⁹⁶ Ibid

¹⁹⁷ “La Iglesia y la Asamblea de Derecho Humanos revelan que la consulta se hizo bajo presión y con prebendas,” *Los Tiempos*, December 18, 2012, accessed February 2, 2019, https://cedib.org/post_type_documentos/la-iglesia-y-la-asamblea-de-derecho-humano-revelan-que-la-consulta-se-hizo-bajo-presion-y-con-prebendas-18-12-12/.

¹⁹⁸ Ibid

submit its complete report on the consultation process in the TIPNIS to the Bolivian government through international organizations. In April, the International Federation of Human Rights (FIDH) submitted the official report to the government.¹⁹⁹

When the government introduced its final report on the consultation in the TIPNIS later that month, it sought to address the accusations of anti-highway opposition in the TIPNIS and its allies among the national and international human rights movements. The *Informe Final del proceso de consulta previa, libre e informada a los pueblos Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécuré (TIPNIS)* opened by attacking the anti-highway leaders in the TIPNIS. The report claimed that, after demanding the consultation, the opposition had responded to the government's insistence that it construct the highway by adopting the "outrageous" demand for "intangibility."²⁰⁰ The document asserted that the government had achieved the consultation despite opposition on six fronts: (1), the leaders and ex-leaders of CIDOB and the Subcentral TIPNIS, who had benefitted from the illegal exploitation of natural resources in the absence of the state and who did not live in the TIPNIS; (2), national and international environmental activists with ties to NGOs in Europe and the United States which reduced indigenous communities to mere park guards with the unspoken objective of privatizing the exploitation of natural resources in the park; (3), the logging, tourism,

¹⁹⁹ "Piden a OIT pronunciarse sobre consulta en TIPNIS," *La Razón*, March 27, 2013, https://cedib.org/post_type_titulares/pidenn-a-oit-pronunciarse-sobre-consulta-en-tipnis-la-razon-27-03-13/.

²⁰⁰ Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Media Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécuré (TIPNIS)*, 11.

and other private interests that sought to continue to pursue “forms of extreme capitalist accumulation” through the exploitation of the indigenous communities and their resources; (4), opposition parties; (5), the press; and, (6), the Catholic Church, which hoped to prolong its history of colonialism with the indigenous communities.²⁰¹

The report characterized the consultation as “an aspect that is central to the construction of the Plurinational State” and “an important part of the effective expression of the right to free determination.”²⁰² The report claimed that the government had invited the Subcentral TIPNIS and CIDOB to participate, but they had chosen to oppose the process. Thus, because the communities had made their own decisions regarding “intangibility” and the highway project, the government had not violated the “uses and customs” of the indigenous peoples of the TIPNIS by conducting the consultation without the Subcentral TIPNIS.²⁰³ Having discredited the opposition to the consultation, the report then listed aspects of the communities and their representative organizations, the consultation protocols, a general summary of the combined consultation results, and individual community-level result summaries. The report also explained how the government had sought to ensure that the communities would receive all the necessary information, describing the processes of finding indigenous interpreters to facilitate the consultation and creating informational materials with which to provide the communities.²⁰⁴ Perhaps as a means to lend more credibility to the community-level summary results, these included descriptions from the consultation brigades about the

²⁰¹ Ibid, 24-26.

²⁰² Ibid, 29.

²⁰³ Ibid, 73.

²⁰⁴ Ibid

consultation in the community, quotes from participants, pictures of the consultations as they took place, and an outline of each community's demands organized into sections, including visions of development, safeguards for the territory, Law 180, and the highway project.²⁰⁵

Conclusions

The national conflict over the highway project and the consultation revealed the success of the anti-highway opposition at using the “image of the ecologically noble savage” to generate national and international interest in the TIPNIS conflict. This interest constrained the government, which temporarily suspended the highway project following the repression of the Eighth March, did not act on arrest warrants for the leaders participating in the resistance to the consultation, sent the military to the TIPNIS to ensure the consultation took place but did not commit acts of violence against the participants in the blockade at Gundonovia, worked to include opposition communities in the consultation process, and provided an official report to legitimize the consultation. Moreover, the national and international scrutiny of the consultation process encouraged the government to open the consultation to discussions of development, territorial protection, and conservation, allowing participants to express demands for indigenous rights during the process. Finally, the continuing rejection of the consultation by the traditional leadership, the FIDH independent report, and media representations of the consultation in the TIPNIS offered a counter-narrative to the government's claims to have approval of the highway project from the TIPNIS communities and put pressure on the government to meet the

²⁰⁵ Ibid

demands the communities articulated during the consultation process to ensure construction of the Villa Tunari-San Ignacio de Moxos highway.

CHAPTER 3: THE CONSULTATION IN THE TIPNIS

While the national debate about the highway project and the consultation raged, another local debate occurred within the TIPNIS as the government's consultation brigades began the process of consulting the TIPNIS communities. This local conflict introduced a new actor into the debate: the communities themselves. This chapter will analyze the community-level consultation results in the government's official report to illustrate how the communities experienced the conflict in the TIPNIS. It will demonstrate how participants exhibited agency by using the consultation process as an alternative mechanism for the representation of their demands by entering direct negotiations with the government. The series of community-by-community negotiations that occurred during the consultation process, however, happened within the context of the national conflict between the government and the anti-highway movement. Thus, community-level responses also reflected the influences of the actors in this national conflict: the government of President Morales and the TIPNIS representative organizations. On the one hand, the government's push to use the consultation process to gain approval for the highway project attempted to influence the communities' interpretations of Law 180 and understanding of the highway project. On the other hand, the strategies of the Subcentral Sécure, CONISUR, and the Subcentral TIPNIS affected communities' decisions to participate and their abilities to express visions of development, indigenous territorial rights, rights to self-governance, and environmental protection through the consultation process.

This chapter will begin by discussing how the government and pro-highway leaders worked together to garner a high level of participation to legitimize the process and

manipulated the information the brigades presented to the communities about the highway project, Law 180, and the consultation itself to elicit even conditional approval for construction of the Villa Tunari-San Ignacio de Moxos highway. Rather than offering another critique of the government's conduct during the consultation in the TIPNIS, however, this chapter will then analyze the community-level consultation results to evaluate the strategies of the Subcentral Sécure, CONISUR, and the Subcentral TIPNIS during the conflict over the highway. First, the chapter will discuss how the communities affiliated with the Subcentral Sécure experienced the consultation in the TIPNIS, where the largest communities and a small number of leaders dominated the representation of visions of development, indigenous territorial rights, rights to self-governance, and environmental protection. Next, this chapter will examine the consultation process in the CONISUR communities in Polygon 7. Here, the influence of the *cocalero* unions silenced opposition to the highway and CONISUR's active participation in the construction of the consultation protocol allowed the communities in Polygon 7 to exploit the consultation process to construct a vision of intercultural indigenous identity and gain access to indigenous rights to territory and self-governance. Finally, this chapter will examine the consultation process in the communities represented by the Subcentral TIPNIS. Here, the organization's rejection of the consultation process forced communities to choose between continuing to support its strategy of confrontation with the government or accepting the government's offer to negotiate the highway project through participation in the consultation. This chapter will argue that an analysis of the community-level consultation results in the TIPNIS revealed agency on the part of the participants, whose responses both challenged the government's highway project and consultation process and revealed the

limits of the anti-highway movement's promotion of the "image of the ecologically noble savage" and continuing strategy of confrontation with the government.

Influencing the Consultation

After the announcement of Law 222 on February 10, 2012, the government began to negotiate with pro-highway leaders to establish the protocol for the consultation process. These leaders and the government's technical teams worked together to control the presentation of information on the Villa Tunari-San Ignacio de Moxos highway project, Law 180, and safeguards for the TIPNIS national park. Additionally, the government attempted to influence the participants' interpretations of the terms of the consultation itself. Thus, even though the Protocol determined that "the methodology should not, at any moment...obligate a forced response," the Protocol also developed informational materials for the communities that presented the "ecological highway" project as well as the "Law of 'Intangibility'" to elicit approval, even conditional approval, for the highway project and the rejection of Law 180.²⁰⁶ In total, nine communities used the phrase "ecological highway" to approve construction of the Villa Tunari-San Ignacio de Moxos highway, while 41 communities that approved construction of highway included conditions to their approval such as the protection of the TIPNIS, an environmental impact study, neighborhood roads, improved river transportation systems, and another consultation to determine the final route of the highway.²⁰⁷ Likewise, throughout the community-level

²⁰⁶ Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Media Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécuré (TIPNIS)*, 58.

²⁰⁷ Ibid

results, the reports demonstrated the effects of the government's application of Law 180 and "intangibility," and many communities referred to Law 180 as "the theme of 'intangibility'" or "the Law of 'Intangibility.'"²⁰⁸

The report from the community of San Benito illuminated how the presentation of the consultation influenced participants' responses. As in most other communities, the consultation began with a discussion of San Benito's vision of development. The consultation brigade informed the community that their demands would be attended to over the short-, medium-, and long-terms in coordination with the municipal, departmental, and national governments, placing primary importance on the community's demands for development and obscuring the government's intention with the consultation process: to approve construction of the Villa Tunari-San Ignacio de Moxos highway.²⁰⁹ The lead indigenous facilitator explained the environmental benefits alongside the economic limitations of Law 180 and contrasted the government's implementation of "intangibility" to the territory's previous management plans, which defined zones of conservation, sustainable development, colonization, and resource extraction. Likewise, the brigade characterized the Villa Tunari-San Ignacio de Moxos highway as an "ecological highway" for which the government would conduct another consultation in the TIPNIS to determine its final route and characteristics.²¹⁰ In San Benito as in the other consulted communities, the information the brigades presented to the communities influenced the decision to participate in the consultation and the community's approval of the highway project and

²⁰⁸ Ibid

²⁰⁹ Ibid, 152-154.

²¹⁰ Ibid

rejection of Law 180. But San Benito also constructed a comprehensive vision for development within the community, demonstrating that the information the consultation brigades presented also caused participants to view the consultation as an opportunity for the TIPNIS communities to negotiate their rights to territory and self-governance, express their visions of development and environmental protection, and even reject the highway project and accept Law 180.

While many of the communities in the TIPNIS lacked the organizational capacity to express comprehensive visions of development, territorial rights, rights to self-governance and culture, and environmental protection, the community case studies revealed that the government was not the only actor influencing the results of the consultation in the TIPNIS. By organizing these case studies within their zones of influence, this chapter will demonstrate how the strategies of the Subcentral Sécure, CONISUR, and Subcentral TIPNIS influenced the consultation process within individual communities. Second, by examining the consultation process at the level of the community, this chapter will illuminate how the participants utilized the consultation process to express their own demands for indigenous rights to territory and self-governance and visions of development and environmental protection.

Consulting the Communities in the Subcentral Sécure

This section will discuss how the consultation in the Subcentral Sécure communities revealed the heterogeneity of the TIPNIS communities and the effects of the TIPNIS conflict on its communities. This section will continue by describing how the consultation in Oromomo became a model for the government of its respect for the indigenous right to consultation. Next, this section will demonstrate how the government's

attacks on the “image of the ecologically noble savage” prompted a member of the community of Santo Domingo to reject indigenous identity despite the community’s demands for indigenous territorial rights against the invasion of migrants. Third, this section will discuss how the consultation process in the semi-isolated Chimane communities of the Subcentral Sécure reflected the uneven penetration of the TIPNIS organizations into the territory’s communities and the vulnerability of these underrepresented communities to manipulation by the government’s consultation brigades. Finally, this section will discuss the consultation in the community of Puerto Totorá, which participated in the consultation process despite strong ties to the opposition. Rejecting the highway project and asserting a detailed vision of indigenous territorial rights and development, the community of Puerto Totorá exhibited the influence of the government’s implementation of “intangibility” and shortcomings of the TIPNIS’s co-management plans at promoting development in the TIPNIS on the community’s decision to participate.

As one of the two inaugural sites of the consultation, representatives from national and international media and observers from the Organization of American States joined the consultation brigade and the community for the inaugural ceremony in Oromomo on July 29, 2012.²¹¹ Iván Paredes of *La Razón* reported that the members of the community, “dressed in typical suits and with speeches in the Yuracaré language, they appeared happy because they would be able to participate in the decision over the future of the highway project that had represented one of the major national conflicts of the regime of President

²¹¹ Ibid, 190.

Evo Morales.”²¹² Subcentral Sécure leader Carlos Fabricano also attended the consultation’s inauguration in Oromomo. He said, “We have marched for this Prior Consultation...We, as inhabitants of the TIPNIS, want to participate in the Consultation because we want water, we want productive development and to exercise our rights as the Political Constitution of the State protects us.”²¹³ As the consultation began, the community members and their leaders demonstrated their indigeneity, speaking in their indigenous languages and dressing in their traditional clothing to legitimize the government’s claim to be conducting a consultation with the TIPNIS indigenous communities. Moreover, they expressed the desire to end their historic marginalization as indigenous peoples by participating in the consultation and approving construction of the highway with strategic national importance.²¹⁴ Oromomo was the first community in the TIPNIS to accept construction of the highway through the territory. The leader of the community told a reporter from *La Razón* that the community needed the highway. “We do not know anything of the news, we cannot leave to the capital (Trinidad) and if we do it is because of strong motives, like grave health problems.”²¹⁵

Oromomo, home to more than 70 families, was one of the largest communities in the TIPNIS, and the brigade reported that more than 100 men, women, and children participated in the two-day consultation process.²¹⁶ The independent observers in

²¹² Iván Paredes, “Apertura de la consulta liga la carretera a desarrollo en TIPNIS,” *La Razón*, TIPNIS Consult Previa, Centro de Documentación e Información Bolivia.

²¹³ Joel Vera, “Consulta comienza en dos asambleas indígenas del TIPNIS,” *Opinión*, July 30, 2012, TIPNIS Consult Previa, Centro de Documentación e Información Bolivia.

²¹⁴ Ibid

²¹⁵ “Apertura de la consulta liga la carretera a desarrollo en TIPNIS,” *La Razón*.

²¹⁶ Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Media Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos*

Oromomo likely influenced the brigade to present more information in this community than in other later communities. Moreover, the participation of organizational leadership and the lack of opposition during the process enhanced the ability of the community to express its visions of development and indigenous rights through the consultation process. First, the community listed demands for productive priorities, including the diversification of agricultural production, requests for seeds at specific acreages of production, equipment to process products such as rice and sugar, the creation of an investment fund for productive development that would offer no-interest, collateral-free loans to community members, the generation of products with value-added, and access to markets.²¹⁷ Through requesting the government help instigate productive development, the community of Oromomo challenged the assumption of the “image of the ecologically noble savage” that indigenous peoples were unproductive, passive guardians of the environment.

Oromomo’s demands, however, also reflected its experience with indigenous participatory development under the territory’s co-management plan. The community demanded that the government help strengthen its ties with the indigenous communitarian tourism association Sécure Alto to introduce catch and release fishing in the community and requested funding to produce traditional crafts and construct a market in which to sell them.²¹⁸ In fact, the desire to revive tourism projects in the community after the government’s suspension of tourism licenses in the park was, perhaps, the main impetus of Oromomo’s support for the consultation and the highway project. In a special report by *La*

indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécure (TIPNIS), 190.

²¹⁷ Ibid, 190-192.

²¹⁸ Ibid

Razón from November 2011, the newspaper reported that the communities of Oromomo, Asunta, and Totorá had relied on ecotourism projects, and community members worked either directly with hotels, resorts, and ecotourism companies or producing crafts to sell to tourists.²¹⁹ Thus, while Oromomo, like other communities in the TIPNIS, demanded the diversification of their economies toward agricultural production and access to basic services, Oromomo participated in the consultation, not only to gain access to new development, but also to revive the traditional economic activities the government had suspended under its implementation of “intangibility.”

Likewise, the community expressed a desire to preserve indigenous culture, protect the indigenous territory and conserve its resources, practice autonomy, and gain access to rights as full citizens of the Bolivian nation, echoing the platform of the 2011 Eighth Indigenous March in Defense of the TIPNIS. In addition to requesting access to education and health services, the community demanded these projects incorporate indigenous language and culture. Specifically, the community members requested the creation of an autonomous Chimane university in the TIPNIS. This request reflected a central platform of the lowland indigenous movement: that semi-isolated peoples, such as the Chimane, required legislation and development projects that addressed their unique needs.²²⁰

Oromomo’s community members demanded better safeguards for the TIPNIS and

²¹⁹ Jorge Quispe, “Una tipeña ganaba hasta Bs 2.400 gracias al turismo,” *La Razón*, November 28, 2012, Pueblos Indígenas 2011, Centro de Documentación e Información Bolivia.

²²⁰ Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Medio Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécuré (TIPNIS)*, 190-192.

the installation of four military posts placed strategically around the territory. Rather than contradicting the rejection of military intervention in the territory by the traditional anti-highway leadership, however, the community members of Oromomo envisioned these posts as an opportunity for TIPNIS residents to complete their compulsory military service in the park, defending their territory.²²¹ Likewise, despite the connections between Fabricano and the pro-government leadership of CONISUR, the community of Oromomo repeated the demands of the lowland indigenous groups: that the government immediately provide funding to mark the boundaries of the territory, expel illegal settlements from the park, and punish offenders with 30 years in prison.²²² Oromomo requested access to radio communications and the construction of a community center, demands that reflected its desire to increase its capacity to represent itself, defend the territory, and communicate with surrounding communities. Finally, the community members of Oromomo requested that the government extend its social welfare programs, including conditional cash transfers for expectant mothers and families with children in school, into the territory and include the community in the census, repeating the platform of the Eighth March and demanding access to representation and government services equal to that of the urban indigenous and peasant populations.²²³

On the one hand, the consultation in the community of Oromomo was exceptional because in other communities of the Subcentral Sécure and Subcentral TIPNIS, the consultation took place amid conflict, without the presence of organizational leadership,

²²¹ Ibid

²²² Ibid

²²³ Ibid

and without the presence of independent observers. On the other hand, the consultation in the community of Oromomo was representative of the consultation process throughout the TIPNIS. First, the brigade presented the community of Oromomo with information about the highway project and Law 180 and its provision of “intangibility” that led other communities to participate in the consultation process. Second, other participants in the consultation listed some, if not all, of the same demands, even if they were unable to express them as effectively as the community of Oromomo. Thus, while the consultation in Oromomo became an example for the government of the plurinational democratic process that it claimed the consultation to have been and gave MAS its first approval for the highway project, the community also challenged the government to accept demands for indigenous rights to development, territory, and self-governance in exchange for their support of the Villa Tunari-San Ignacio de Moxos highway.

In the communities that recognized the pro-highway faction of the Subcentral Sécure, opposition to the consultation was limited. Many of these communities had participated in meetings to determine the consultation protocol in La Paz and had already made agreements with the government to participate. In fact, in the small community of Santo Domingo, the brigade reported that most of the community participated actively in the consultation process and had prepared a list of demands for access to basic services.²²⁴ The community’s Corregidor, Mario Rocha Noza, had attended the inauguration in Oromomo and told a reporter from *La Razón*, “We know that, if the highway is constructed, development will arrive.”²²⁵ Though the report identified the community as Yuracaré, the

²²⁴ Ibid, 207.

²²⁵ “Apertura de la consulta liga la carretera a desarrollo en TIPNIS,” *La Razón*.

summary report quoted one member who justified his rejection of Law 180, saying, “We do not want this law because we are peasants, and it does not let us work and produce more.”²²⁶ Of course, representing the community as Yuracaré in the consultation protocol could have been an attempt to legitimize the community’s participation in the consultation process.

Located on the park’s northern boundary, however, the community characterized protection of the park as “an important preoccupation for Santo Domingo,” presenting a vision for the safeguarding of the TIPNIS territory against “people foreign to the TIPNIS.”²²⁷ The community demanded the creation of military posts, the demarcation of the boundaries of the territory, the prosecution of illegal settlers in the park, and the reinforcement of the park’s guards with members of the TIPNIS communities who had the capacity to be “entrusted” to manage the protection of the national park.²²⁸ This vision of territorial protection reflected the community’s recognition of an “us,” those who belonged to the TIPNIS communities, and a “them,” the highland migrants who infringed on the boundaries of the territory and national park. The community member’s self-identification as “peasant,” then, could be understood, not as a rejection of an ethnic indigenous identity or a rejection of the territorial rights national and international legal frameworks have reserved for traditional indigenous peoples. Rather, if the community did not express specific demands for conservation or culture, it did envision continuity in the co-

²²⁶ Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Media Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécuré (TIPNIS)*, 207.

²²⁷ Ibid, 208.

²²⁸ Ibid

management plan between the indigenous organizations and the national park service, while also demanding greater autonomy in protecting their territory for the TIPNIS peoples. Thus, the quote from this community member perhaps reflected his perception of the hierarchy of rural identity in the Bolivian national discourse, reaffirmed through the TIPNIS conflict, that valued peasants as productive citizens and devalued indigenous peoples as “backward” and unproductive. Therefore, the consultation in the community of Santo Domingo revealed that the government’s interpretation of “intangibility” and attacks on the anti-highway leadership in the territory had diminished the perceived value within the community of “the image of the ecologically noble savage” in defense of the TIPNIS when it limited the community’s access to development.

In contrast to the consultations in Oromomo and Santo Domingo, in the Chimane communities along the lower-Sécure River, the influence of the consultation brigades and their indigenous facilitators became clear, as these semi-isolated, impoverished communities participated in the consultation process. In the community of Ushve, the brigade developed the consultation alongside observers from the OAS and national and international media.²²⁹ The summary report from the community, however, reflected the inexperience of the community, and its vague demands for agricultural development projects and access to basic health, sanitation, and education services may have arisen from the suggestions of the brigade and its indigenous facilitators. The consultation lasted only two hours, and the community did not make any demands for rights to self-governance, cultural preservation, or environmental conservation. In fact, the report did not mention

²²⁹ Ibid, 195.

any conditions to the community's approval to the highway project or any reason behind its rejection of Law 180, and the only demand for territorial protection the community made was to request the government install military posts to protect the TIPNIS.²³⁰ Likewise, in the Chimane community of Areruta, the consultation process only lasted two-and-a-half hours, and the community summary report did not mention any conditions on the community's approval for the highway project or its rejection of Law 180. Furthermore, the community made the basic demands for military posts and the punishment of illegal settlements in the TIPNIS, likely at the suggestion of the brigade, and listed almost identical demands for development as the community of Ushve.²³¹ The failure of these communities to self-articulate demands for indigenous rights to territory, culture, and self-governance or express visions of development and environmental protection, however, reflected the government's manipulation of the consultation process and the absence of the TIPNIS representative organizations in the communities, not a failure by the communities to self-identify as indigenous or hold indigenous conceptions of territory, conservation, and self-governance.

Many communities in the Subcentral Sécure maintained their connections with the anti-highway leadership, and the consultation brigades faced varying degrees of resistance from individuals or whole communities as they attempted to conduct the consultation in these communities. The case of consultation in Puerto Totorá demonstrated the crisis of representation the government's implementation of "intangibility" and consultation process provoked within the TIPNIS communities. Although the community had initially

²³⁰ Ibid, 194-195.

²³¹ Ibid, 198-199.

rejected the consultation, when the brigade returned to Puerto Totorá on November 12, the *corregidor* (leader) Macario Noza requested the creation of a consultation protocol for the community, despite its strong ties to the opposition through its former *corregidor*.²³² The brigade reported that the community did not trust the NGOs that operated in the TIPNIS or others who had lied to them with promises of productive projects that never materialized and offered a critique of the territory's co-management plan. In the community's vision of development, Puerto Totorá demanded the completion of a dairy project, for which an NGO had constructed infrastructure without providing machinery or the cattle itself.²³³ Moreover, Puerto Totorá's tourism and logging activities suffered under the government's implementation of "intangibility," and this dissatisfaction with the representation of the traditional leadership and its cooperation with NGOs in instigating indigenous participatory development in the community were the main factors in the community's decision to participate in the consultation.²³⁴ The community complained that the leadership of the Eighth March had not sufficiently explained Law 180 and accepted the brigade's explanation of "intangibility." Community member Juan Noza said that Law 180 was too strict if it prevented the community from using the territory's resources and meant the end of tourism in the community. He preferred the territory revert to its previous zoning plan, which defined "intangible" zones, zones of traditional resource use, and zones of resource extraction.²³⁵ Given the community's close ties to the anti-highway movement, however, it is unlikely that the community was unaware of the details of the traditional

²³² Ibid, 217.

²³³ Ibid, 218.

²³⁴ Ibid

²³⁵ Ibid

leadership's proposal for "intangibility" in the TIPNIS. Rather, the community recognized the authority of the government to implement "intangibility" and accepted that rejection of Law 180 was the only means to restore the tourism and logging projects in the community that had stalled during the conflict.

If the government's implementation of "intangibility" influenced the community to participate and express frustration at the failure of the traditional co-management system to bring development to the community, the community of Puerto Totora also exhibited skepticism at the government's promises of development and rejected the highway project. In the signed acts, the community declared, "We do not want the highway because the law and agreements are not met, and later the highway will serve so that illegal settlements enter [the TIPNIS]."²³⁶ They wanted the highway to pass outside of the territory, claiming, "Our territory is sacred and must be respected."²³⁷ The act continued, "The President should apologize because he wanted to make the highway without a consultation. If the government had done things another way, the situation would be different. Until there is a Meeting of Corregidores that President Morales attends, with the 69 communities of the TIPNIS, the highway cannot be constructed."²³⁸ The community of Puerto Totora used the official consultation process to reject the highway project. Moreover, the community expressed an understanding of the consequences of the highway's construction for the TIPNIS indigenous communities, which would face the increased encroachment on their territory by highland peasant migrants.²³⁹ Finally, the community of Puerto Totora used

²³⁶ Ibid, 219.

²³⁷ Ibid

²³⁸ Ibid

²³⁹ Ibid

the consultation process to rebuke President Morales's violation of the indigenous right to consultation through their own "uses and customs," asserting the idea of indigenous self-governance, through which leaders and their community members worked to form consensus about legislation and development projects which affected their peoples or territories.

In fact, Puerto Totorá exhibited a high level of capacity to articulate its demands before the government's consultation brigade, and it expressed a detailed vision for the protection of the TIPNIS that reflected traditional indigenous visions of territory, conservation, and self-governance. The community asserted that the park's current 11 park rangers were insufficient to protect the TIPNIS against the influx of migrants and defined the communities of Asunta, Santo Domingo, and Cachuela as the most vulnerable points of entry.²⁴⁰ Unlike the anti-highway movement, which rejected military presence of any kind in the territory, the community of Puerto Totorá envisioned the creation of an ecological barracks in the park, where only TIPNIS residents would serve and where the children of the TIPNIS could go to learn about conservation. They demanded the titling and demarcation of the territory and the boundaries of Polygon 7 and asserted the right of *corregidores* to accompany government patrols inspecting the territory to apply communitarian justice to illegal settlements. Moreover, the community demanded that Morales himself negotiate an agreement between the TIPNIS and the *cocalero* federation.²⁴¹ Thus, if the community of Puerto Totorá saw the consultation process as an opportunity to access development that NGOs had promised but failed to deliver or that

²⁴⁰ Ibid, 218.

²⁴¹ Ibid

the government had suspended under its application of “intangibility,” the community also demonstrated its connection to the traditional indigenous organizations of the TIPNIS. Puerto Totora clearly articulated demands for indigenous autonomous territorial protection and promoted the indigenous peoples of the TIPNIS as effective guardians of the national park. While the community expressed frustration at the effects of the anti-highway leadership’s confrontational strategy, it also used the consultation process to reaffirm its commitment to protecting indigenous rights to territory and self-governance within the TIPNIS. Thus, the consultation in Puerto Totora demonstrated how TIPNIS communities used the consultation process as an alternative form of representation than the anti-highway leadership to express demands for indigenous rights to territory and self-governance.

Consulting the Communities in Polygon 7

This section will discuss the consultation process in the CONISUR communities in Polygon 7. Unlike the consultations in the Subcentral Sécure communities, where divisions amongst some communities and the relative underdevelopment of others prevented the pro-highway leadership from constructing a uniform consultation protocol to use in all the communities, however, the CONISUR communities benefitted from their leadership’s participation in the drafting of Law 222 and the negotiation of the consultation protocols that began in April 2012. As the report from the CONISUR community of San Benito demonstrated, the framing of the consultation process, the highway project, and Law 180 limited the space of acceptable debate within the consultation process. The consultation protocols, however, also helped frame communities’ discussions of their visions of development.

In the CONISUR communities, the protocol divided the visions of development into specific categories, including services such as health, education, water and sanitation, and access to electricity, eliciting more detailed demands in these areas than in the Subcentral Sécure communities, where the protocol did not define a common procedure, or the Subcentral TIPNIS communities, where the consultation took place without a set protocol.²⁴² The CONISUR protocol included demands for “food sovereignty,” where CONISUR communities listed demands for inputs and equipment to increase and diversify agricultural production.²⁴³ This framing asserted the potential of these communities to fulfill the productive capacity of the land in contrast to a common peasant critique of large, sparsely-populated, underutilized indigenous territories in the lowlands. Finally, the CONISUR protocol included a section entitled “Sustainable resource use,” which encouraged these communities to express more specific demands for conservation and projects that reflected traditional economies, such as fishing, hunting, crafts, and tourism.²⁴⁴ Because there were almost no reports of opposition to the consultation in the CONISUR communities, the protocol had the greatest impact on the consultation results in these communities. Likewise, reports that the brigades offered gifts to participants were less significant in the CONISUR communities than the implication from the brigades of the connection between participation and future development, which appeared more attractive to the communities than a one-time gift of seeds or outboard motors.²⁴⁵

²⁴² Ibid, 57-72.

²⁴³ Ibid

²⁴⁴ Ibid

²⁴⁵ Asamblea Permanente de Derechos Humanos Bolivia and the Federación Internacional de Derechos Humanos, *Bolivia: Informe de verificación de la consulta realizada en el Territorio Indígena Parque Nacional Isiboro-Sécure*, May 21, 2013, access July 12, 2108, <https://www.cedib.org/wp-content/uploads/2013/05/informeFIDHtipnis1.pdf>.

Participants from Polygon 7 used the consultation to openly express visions of development, territory, identity, and self-governance. For instance, while the conditional approval of the highway project reflected the information the brigades presented to communities, it also represented an attempt by the communities to assert their right to participate in all stages of the project and to ensure that the communities would benefit from the Villa Tunari-San Ignacio de Moxos highway, whatever its final route, by placing the improvement of river transport and neighborhood roads as conditions to their approval of the project. Thus, the consultation process in Polygon 7 demonstrated the tension Thomas Grisaffi has noted between the authoritarianism of the *cocalero* unions' organizational structure and the radical participatory democracy the unions practiced at the level of the assembly.²⁴⁶ In the case of the consultation in the TIPNIS, this tension developed between the government's attempts to use CONISUR and the consultation to influence the communities to annul Law 180 and approve construction of the highway and the participatory space the consultation assemblies represented, where communities self-articulated visions of indigenous rights to territory, self-government, and culture and demands for development and environmental conservation within their communities.

The consultation in Santísima Trinidad, the last indigenous community in Polygon 7 with affiliations to the Subcentral TIPNIS, was representative of the tension between the discipline of CONISUR and misrepresentation of information to communities and the participatory space CONISUR's consultation protocol encouraged. The influence of the *cocalero* unions within the community and within CONISUR gave the organization the

²⁴⁶ Grisaffi, *Coca yes, Cocaine no*, 194.

ability to discipline its members and discourage opposition to the consultation, the highway project, and the repeal of Law 180. It was a highly organized process that involved community members, the First Consultation Brigade, and representatives from the *Servicio Intercultural de Fortalecimiento Democrático del Tribunal Supremo Electoral* (Supreme Electoral Tribunal's Intercultural Service for the Strengthening of Democracy, TSE-SIFDE), even though Santísima Trinidad had not officially established a consultation protocol.²⁴⁷ The program began with a display of intercultural unity from the Yuracaré *corregidor*, the Moxeño-Trinitario *Capitán Grande*, and the president of the women's organization.²⁴⁸ Three other communities in Polygon 7 also displayed intercultural leadership during the consultation, with multiple leaders participating in the process in Secejsama, Fátima de Moletto, and San José de la Angosta.²⁴⁹ Santísima Trinidad was the only community from the Subcentral TIPNIS or the Subcentral Sécore to specifically demand the creation of an Indigenous Autonomous Area within the TIPNIS, while six CONISUR communities made this demand.²⁵⁰ Likewise, Santísima Trinidad was the only community from the Subcentral TIPNIS to make cultural demands, such as the demand for the practice of communitarian justice, a trilingual law, an indigenous university, and support for traditional medicine within the TIPNIS. Five other CONISUR communities also made such cultural demands.²⁵¹

²⁴⁷ Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Media Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécore (TIPNIS)*, 118.

²⁴⁸ Ibid

²⁴⁹ Ibid, 103-111.

²⁵⁰ Ibid, 100-145.

²⁵¹ Ibid

The limited frequency of these demands for self-governance and cultural rights among the 69 communities of the TIPNIS, their dispersion across consultation brigades, and their concentration among the communities in Polygon 7 suggested that the small number of communities pressing these demands did so because of the characteristics of the communities themselves. The communities within Polygon 7 that made these demands were located along existing roads and faced the most intense effects of colonization in the park. Thus, they reacted by asserting demands for the preservation of their culture and the autonomy of the TIPNIS. While almost every community that participated in the consultation process demanded that the government punish, expel, and prevent illegal settlements in the TIPNIS, Santísima Trinidad was the only Subcentral TIPNIS community to demand a direct agreement with the *cocaleros*. In contrast, five CONISUR communities demanded such an agreement.²⁵² Likewise, only a few communities in Polygon 7 made specific demands concerning deforestation, the conservation of biodiversity, or the preservation of water sources.²⁵³ The overlap between communities demanding an agreement with the *cocaleros* and the communities that requested specific efforts toward conservation alluded to the perception of the communities that colonization in their territory contributed to the rate of environmental degradation in the TIPNIS. Furthermore, the correlation between communities pressing cultural demands, demands for autonomy, and specific demands for conservation within Polygon 7 suggested that these communities used the consultation process to construct their own intercultural indigenous identity. On the one hand, these communities pressed against the encroachment of the *cocaleros* by

²⁵² Ibid

²⁵³ Ibid

demanding the preservation of indigenous cultures, self-government, and the environment, internationally-recognized hallmarks of indigeneity. On the other hand, the CONISUR communities also made demands for state-supported development and access to the market, demands associated with peasant identity.

Of these communities, Fátima de Moleto clearly demonstrated how CONISUR communities self-articulated an intercultural indigenous identity during the consultation in the TIPNIS. Fátima de Moleto exhibited the cooperation of two communal authorities, the Corregidor Erik Silvestre, and the cacique Edwin Sanjinés, alongside representatives of the *cocalero* union and the women's union.²⁵⁴ In the community's vision of development, Fátima de Moleto reflected a desire for projects to increase or initiate agricultural production, access to the market, and the integration of the territory through the Villa Tunari-San Ignacio de Moxos highway and other neighborhood roads.²⁵⁵ But Fátima de Moleto's vision of development also reflected demands for autonomy, cultural rights, and environmental conservation. The community requested an indigenous municipality and autonomous area with control of its own funds and representation at the national, departmental, and municipal levels for the Chimane, Yuracaré, and Moxeño-Trinitario peoples of the TIPNIS, reflecting the sense of exclusion these communities have felt within the *cocalero*-controlled Chapare province and Morales's Bolivia. Moreover, the community made cultural demands, such as the promotion of traditional medicine. Finally, Fátima de Moleto demanded the sustainable reforestation of the territory and capacity-

²⁵⁴ Ibid, 108.

²⁵⁵ Ibid, 109.

building for the community in sustainable development.²⁵⁶ This combination of demands from a multicultural community reflected an intercultural consciousness, which promoted production for market and state-supported development alongside demands for indigenous rights to territory and autonomy and efforts to maintain the balance of the environment. Furthermore, the demands that Fátima de Moleto and other Polygon 7 communities expressed during the consultation process demonstrated how the combination of influence from the government and CONISUR interacted with self-articulation of demands from the communities themselves to transform the consultation process into a negotiation between three actors: the government, the TIPNIS representative organizations, and the communities themselves.

The ability to self-articulate these demands for indigenous territorial, representative and cultural rights, development, and environmental protection within the CONISUR communities also represented the advantage in self-articulation that communities gained through the CONISUR consultation protocol. The consultation process in the Subcentral TIPNIS community of Limoncito perhaps most fully demonstrated both the influence of CONISUR within the TIPNIS indigenous territory and the participatory advantage the CONISUR consultation protocol offered communities. The authority who represented the community in the consultation process, Juan Yubánure Guardián, claimed representation under CONISUR, not the Subcentral TIPNIS.²⁵⁷ Yubánure Guardián's affiliation with CONISUR perhaps indicated the multiple organizational affiliations many people in the TIPNIS claimed and reflected the government's utilization of CONISUR and its contacts

²⁵⁶ Ibid

²⁵⁷ Ibid, 172.

to forge agreements with members of the TIPNIS communities to elicit approval for the highway project through participation in the consultation. Members from the community of Limoncito had travelled to Villa Tunari on June 8 to participate in CONISUR's negotiation of the consultation protocol. Later, at a meeting of representatives from the TIPNIS and the government on July 9 in La Paz, representatives from Limoncito joined the communities aligned with the pro-highway leaders in discussing the consultation protocol with the Morales administration.²⁵⁸ The community approved the highway project, on the condition "that it not affect nature and the animals," reflecting the participants' understanding that the community could use the consultation to influence the final design of the highway to minimize its environmental impact.²⁵⁹ Claiming CONISUR's representation, however, allowed Limoncito access to the consultation protocol CONISUR's representatives had approved in late-July. The community's vision of development framed demands for agricultural development projects as "food security" projects, a feature of CONISUR's consultation protocol. Moreover, the community made sophisticated demands for the mechanization of agriculture and access to credit that were common among the CONISUR communities and likely part of CONISUR's consultation protocol.²⁶⁰ Thus, access to CONISUR's protocol assisted participants from Limoncito in constructing a comprehensive vision of development.

Furthermore, access to CONISUR's protocol perhaps contributed to the ability of the community members who participated in the consultation to articulate demands that

²⁵⁸ Ibid, 73-78.

²⁵⁹ Ibid, 173.

²⁶⁰ Ibid

expressed traditional indigenous visions of territory, self-governance, and development. Alongside the standard demands for basic services common throughout the consultation results, the community envisioned its active participation in the implementation of future development projects in the TIPNIS. The participants requested the government provide the community with equipment and tools to carry out communal projects, such as the construction of community roads and housing. They demanded the government assist in strengthening the capacity of the community to practice traditional medicine in the territory, representing an ongoing connection with indigenous culture as well as a continuing reliance on the territory to provide for the community.²⁶¹ While they demanded the creation of equipped military installations to guard the boundaries of the TIPNIS, the participants asserted that the leaders of the TIPNIS communities should have control over the territory's internal affairs and that the national park service should employ TIPNIS residents to guard the territory.²⁶² Thus, the community upheld the vision of indigenous territory and self-governance that the traditional leaders of the Subcentral TIPNIS, Subcentral Sécure, and CIDOB had expressed throughout the conflict: that the government had the responsibility to protect the integrity of the indigenous territory but that the indigenous peoples of the TIPNIS had the right to practice self-governance within their territory. The participants' association with CONISUR during the consultation process allowed the community members to use the process to press demands for development alongside indigenous rights to territory and self-governance.

²⁶¹ Ibid

²⁶² Ibid

Consulting Communities in the Subcentral TIPNIS

This section will discuss the consultation process in the communities affiliated with the Subcentral TIPNIS, which maintained its rejection of the process throughout the consultation in the TIPNIS. As the anti-highway leadership continued to publicly reject the consultation process, the government chose to pursue the consultation in these communities to legitimize the consultation process. First, this section will discuss the consultation in the second inaugural community of San Miguelito. Then, this section will describe the consultation in Concepción de Ichoa, the only community to participate in the consultation process to reject the highway and approve Law 180. Next, this section will discuss the communities of the Subcentral TIPNIS that refused to participate in the consultation process. Finally, this section will examine the consultation process in the communities of Gundonovia, the seat of the resistance to the consultation process, and San Pablo, which would become the center of the TIPNIS conflict after the consultation concluded. The case studies in this section will serve to evaluate the Subcentral TIPNIS's choice to maintain its rejection of the consultation process rather than participate in negotiations with the government.

In contrast to the summary report from the consultation in Oromomo, the brigade's report for the community of San Miguelito did not mention its role as an inaugural community. The only indication of this role in the community's report was a picture of a simple banner with two, green, hand-painted words: "Consultation Inauguration."²⁶³ The lack of fanfare that accompanied the inauguration of the consultation reflected the effects

²⁶³ Ibid, 146.

of the Subcentral TIPNIS's decision to reject the consultation: the consultation took place without prior coordination between the community, the Subcentral TIPNIS, and the government, and the community faced an internal struggle over the decision to participate in the consultation.²⁶⁴ MAS likely chose San Miguelito as an inaugural community because its affiliation with the Subcentral TIPNIS and location within the indigenous territory could help legitimize the government's claims to be conducting the consultation with the TIPNIS indigenous communities. Moreover, San Miguelito's proximity to the colonization zone has made it a destination for migrants, and, like other communities in the TIPNIS, its members often claimed association with the *cocalero* unions and had connections with CONISUR that would create support for the consultation process, the highway, and the abrogation of Law 180 within the community.²⁶⁵

In an article for *Los Tiempos*, however, July Rojas M. reported that members of the community of San Miguelito had not yet decided whether to participate in the consultation when the brigade arrived on July 29. A teacher, Ramón Moye, told Rojas that the community lacked information over what the consultation was, how it would be conducted, and why the government was conducting a consultation.²⁶⁶ Another teacher, Eriberto Guajica Yuja, discussed the community's limitations in accessing information. He said, "Very little has been reported to the people because almost nothing comes to us easily. The

²⁶⁴ July Rojas M., "Oromomo acepta vía y San Miguelito decide hoy," *Los Tiempos*, July 30, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

²⁶⁵ Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Media Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécuré (TIPNIS)*, 146.

²⁶⁶ Rojas M. "Oromomo acepta vía y San Miguelito decide hoy," *Los Tiempos*.

people are beginning to know some aspects, but not one detail.”²⁶⁷ For one indigenous resident of the community, the preoccupation arose from a desire to protect the territory from migrants, whom she feared supported construction of the highway to gain access to the territory.²⁶⁸ 65-year-old Francisca Mosua explained the importance of the territory to a reporter from *Opinión*, saying that the community considered the river its “fountain of life.” She said, “We live from the river. We eat fish and drink water from the river...we boil the water, and we cook with it.”²⁶⁹ Moreover, Don Fernando Camiña, a migrant who had lived in San Miguelito almost twenty years, said that the highway was not a necessity for the community, but the community did need access to health and education services. He commented, “We do not know where the road will pass, as if maybe for us it will be the same, and we are going to have to continue without services.”²⁷⁰ Thus, despite its location on the border of Polygon 7 and multicultural demographics, the community expressed suspicion at the government’s promises of development and representation of the highway project.

The community did decide to participate, according to Rojas, by asserting their own “uses and customs,”²⁷¹ a testament to the strength of the community’s representative organizations and the cooperative relationship between the communities’ indigenous and peasant leaders. Its vision of development was less detailed and less comprehensive than the demands put forth in the consultation in Oromomo, however, despite the participation

²⁶⁷ “San Miguelito devela la pobreza en la que viven los indígenas,” *Opinión*, July 30, 2012, TIPNIS Consulta Previa, Centro de Documentación e Información Bolivia.

²⁶⁸ Rojas M., “Oromomo acepta vía y San Miguelito decide hoy,” *Los Tiempos*.

²⁶⁹ “San Miguelito devela la pobreza que viven los indígenas,” *Opinión*.

²⁷⁰ Ibid

²⁷¹ Rojas M., “Oromomo acepta vía y San Miguelito decide hoy,” *Los Tiempos*.

of observers from the OAS and UNASUR, highlighting the importance of organizational leaders in helping their communities elaborate development plans and the limitations the consultation protocols placed on these demands.²⁷² The community members voiced their opposition to the construction of the highway through the territory, however, and suggested that the government should find another route around the TIPNIS. They argued that their community would benefit from the construction of neighborhood roads and improvement in river transport instead of the construction of a highway a two-day canoe ride from the community.²⁷³ Likewise, San Miguelito argued, not for the repeal of Law 180, but for a modification of “intangibility” and the creation of a new law which combined Law 180 and Law 222.²⁷⁴ Thus, although the community could not produce the same comprehensive, detailed demands the community of Oromomo asserted, San Miguelito did exhibit an understanding of the government’s intention with the consultation and the proposed highway project. If the community seemed to accept the government’s interpretation of “intangibility,” the multicultural community also exhibited a desire to forge a sense of cooperation between the pro-highway and anti-highway leaderships, the communities in Polygon 7, and the traditional indigenous organizations of the TIPNIS territory, asserting the indigenous right to participate in legislative and development projects which affect indigenous peoples and their territories and equal access to that right

²⁷² Estado Plurinacional de Bolivia, Ministerio de Obras Públicas, Servicios y Vivienda, and Ministerio de Media Ambiente y Agua, *Informe Final del proceso de consulta previa, libre e informada a los pueblos indígenas Moxeño-Trinitario, Yuracaré y Chimane del Territorio Indígena y Parque Nacional Isiboro Sécuré (TIPNIS)*, 146-148

²⁷³ Ibid

²⁷⁴ Ibid

for the indigenous communities of the TIPNIS and the intercultural communities in Polygon 7.

The communities in the opposition zone pursued a variety of strategies to ensure the government could not reach agreements with members of their communities. In Concepción de Ichoa, the Moxeño-Trinitario *corregidor* Carlos Cayuba Curva greeted the brigade, called an emergency assembly, and convoked the consultation on November 14, 2012 at 9:00 P.M. During the approximately three-hour process, the community refused to discuss development or safeguards for the TIPNIS with the brigade. Instead, they used their time to explain their support for Law 180 and rejection of the highway project.²⁷⁵ The report quoted the acts of the consultation: “Law 180 does not affect us, rather it protects us, protects our territory. [For this reason], we want to continue to be ‘intangible.’”²⁷⁶ In terms of the highway project, the community asserted, “We do not want the highway because it does not benefit us...That they build the highway but that it does not cross the TIPNIS.”²⁷⁷ The community of Concepción de Ichoa chose to participate in the consultation and sign an act with the government rejecting the highway and affirming Law 180, exercising agency in using the consultation to express its opposition to the government’s plans and preventing individual community members from signing an act in the name of the community without their knowledge or consent. Other communities maintained their opposition to the process through the rejection of the consultation brigades before they reached their communities or before they could begin the consultation process.

²⁷⁵ Ibid, 187-188.

²⁷⁶ Ibid

²⁷⁷ Ibid

According to the report, the brigades failed to reach six of these eleven communities. The report explained that, after being detained at numerous points along the river, the brigade had abandoned their attempt to visit them.²⁷⁸ In yet other communities, the leaders welcomed the brigades into the communities but refused to participate in the consultation process. In San Ramoncito on November 28, the *corregidor* Paulino Moye Noza told the brigade that he did not trust the government and that the community had decided to continue to live as they had, with the TIPNIS an “intangible” zone and with a ban on the construction of the highway through the TIPNIS.²⁷⁹

Several trends in these communities stand out. First, these communities exhibited organizational discipline, refusing to abandon the platform of the anti-highway opposition. Second, the affirmation of the TIPNIS’s “intangibility” represented an understanding of the legal framework that defined “intangibility,” their satisfaction with the strategy of the anti-highway leadership of the Subcentral TIPNIS and CIDOB during the conflict, and their decision to continue to support the Subcentral TIPNIS and its rejection of the consultation process. Thus, in these communities which managed to prevent the government from persuading individual community members to defy their representative organizations and approve the highway project, rejection of the consultation represented the rejection of the government as an alternative form of representation for the communities and distrust in the government’s promises of development or accuracy in reporting their responses.

²⁷⁸ Ibid, 262.

²⁷⁹ Ibid, 262-263.

The consultations in divided communities, however, took place without a set consultation protocol, without the benefit of independent observers, without organizational leadership, and, perhaps, without communal leaders.²⁸⁰ Potential participants and the consultation brigades worked together to ensure that consultations took place in these communities and to silence opposition to the consultation process and the highway project. The consultations in the communities of Gundonovia, where the Subcentral TIPNIS and CIDOB were conducting their blockade against the consultation brigades, and San Pablo, which would become the epicenter of the struggle for control over the territory after the consultation concluded, exemplified how the consultation process took place in these communities. The brigade recounted that it had made various prior attempts to conduct a consultation in the community of San Pablo before the process officially took place on October 4, 2012. In fact, the report listed another possible date for the consultation in San Pablo: September 5, 2012.²⁸¹ Gundonovia's report also offered two potential dates for the consultation process: November 7, 2012 and November 26, 2012.²⁸² Thus, there is evidence that in both these communities, the consultation process took place over multiple encounters between community members and the consultation brigades. Moreover, the report stated that the community members of San Pablo and their *Corregidor*, Erwin Flores, claimed that the participants in the anti-highway opposition were not members of the community.²⁸³ Likewise, in a letter from members of the community of Gundonovia, the

²⁸⁰ Asamblea Permanente de Derechos Humanos Bolivia and the Federación Internacional de Derechos Humanos, *Bolivia: Informe de verificación de la consulta realizada en el Territorio Indígena Parque Nacional Isiboro-Sécure*.

²⁸¹ Ibid, 244.

²⁸² Ibid, 259-260.

²⁸³ Ibid, 244.

community members disavowed the participants in the opposition's blockade against the consultation brigades.²⁸⁴ These statements sought to legitimize the consultation process in these communities, with participants in both Gundonovia and San Pablo claiming that the consultation had the full participation of its community members.²⁸⁵

In Gundonovia, the rejection of the community's leadership and the blockade was a reaction to the effects of the blockade in the community. On October 19, Minister of the Presidency Juan Ramón Quintana told Luis Mealla from *La Razón*, "The families that have been affected directly [by the blockade] and have suffered lethal consequences of these actions are complaining because there are dead women that are coming to light, elderly and children have died, therefore they are complaining against those leaders who are those that have provoked this."²⁸⁶ Minister Quintana gave an example: the death of a child in Gundonovia from a snake bite because the blockade prevented the community from accessing health care unavailable in Gundonovia.²⁸⁷ In its vision of development, however, the participants from Gundonovia demanded the return of the doctor and the reactivation of the micro-hospital in the community, suggesting that the blockade, or the government's implementation of "intangibility" in the territory, had prevented the community from accessing its existing health services.²⁸⁸ Furthermore, the participants' disavowal of the anti-highway movement and the community's leadership in the letter likely reflected the

²⁸⁴ Ibid, 256.

²⁸⁵ Ibid, 244; 256.

²⁸⁶ Luis Mealla, "Afectados por bloqueo en el TIPNIS procesan a dirigentes," *La Razón*, October 19, 2012, accessed September 15, 2018, https://cedib.org/post_type_titulares/afectados-por-bloqueo-en-el-tipnis-procesan-a-dirigentes-la-razon-19-10-12/.

²⁸⁷ Ibid

²⁸⁸ Ibid, 260.

frustration of the community with the implementation of “intangibility” and an attempt to convince the brigade to visit Gundonovia rather than a misunderstanding of Law 180. The participants complained, “We were not consulted so that this Law could be approved in our territory. It does not permit development in our community. We do not have any progress with Law 180. We do not want to be ‘intangible.’”²⁸⁹ One participant, however, had intervened and commented that Law 180 protected the territory and its resources and prevented illegal settlements. After further discussion, the participants from Gundonovia decided to reject Law 180. But they also demanded a new law for the protection of the TIPNIS and “drastic sanctions” against those who violated laws to protect the TIPNIS, recognizing that the territory would need a new protection law following the rejection of Law 180 and “intangibility.”²⁹⁰

In the participants’ discussion of the Villa Tunari-San Ignacio de Moxos highway, the community expressed suspicion at the project, offering its approval on the condition that the government provide better information about the highway’s route.²⁹¹ Although they acknowledged the difficulty the community had in travelling to the city, some of the participants had told the brigade that the highway was unnecessary. Instead, one woman told the brigade that “the river is dangerous for our children. Thus, we ask that the [neighborhood] road Los Puentes-Gundonovia be constructed.”²⁹² The results from the consultation in Gundonovia, then, represented the participants’ experience with the creation of development plans and the participants’ understanding that the consultation

²⁸⁹ Ibid, 261.

²⁹⁰ Ibid

²⁹¹ Ibid

²⁹² Ibid

process was an opportunity for the communities to express their demands despite the government's refusal to negotiate with the Subcentral TIPNIS. The expressions of frustration with the anti-highway leadership, "intangibility," and the blockade at Gundonovia, however, revealed the limitations of the anti-highway leadership's strategy of confrontation to protect the territory against the government's strategy of offering the consultation to the communities as alternative mechanism for political representation.

Conclusions

An analysis of the community-level consultation results demonstrated the government's attempt to use the consultation process to enforce a discourse of indigenous identity and visions of indigenous rights, development, and environmental protection. First, many of the communities who participated in the consultation process expressed frustration at the suspension of tourism and logging licenses in the TIPNIS under the government's implementation of "intangibility." During the consultation process, the brigades informed that communities that Law 180 and "intangibility" cancelled the previous management plan with zones of varying levels of conservation. Through its application of "intangibility" and its explanation of Law 180 during the consultation process, the government promoted the idea that the indigenous territorial rights established in Law 180 prohibited all development in the TIPNIS. Puerto Totorá's rejection of Law 180 and Santo Domingo's rejection of indigenous identity both reflected the government's attempts to enforce a vision of indigenous identity, territorial rights, development, and environmental protection.

Moreover, an examination of these community-level results reflected the agendas of the TIPNIS representative organizations during the consultation process. First, the president of the Subcentral Sécure, Carlos Fabricano, attended the inauguration in

Oromomo, where he and fellow leaders promoted their approval of the highway project, the communities' need for development, and their pride at participating in the consultation process. Moreover, Fabricano assisted Oromomo in articulating its demands for development, territorial protection, cultural rights, and environmental conservation, constructing demands to represent the organization in Oromomo while leaving the small communities like Ushve and Areruta vulnerable to the suggestions of the consultation brigades. In the CONISUR communities, the consultation protocol encouraged the communities to express specific demands for development as well as demands for autonomy, territorial protection, and environmental conservation. As the Subcentral TIPNIS rejected the consultation process, it attempted to prevent the government from using the consultation process to elicit approval for the highway project and the repeal of Law 180 from its communities. Eleven did not participate, and Concepción de Ichoa rejected the highway project and defended Law 180. In Gundonovia and San Pablo however, repeated visits from the consultation brigades, the government's ban on development, and the effects of the opposition's blockade on these communities compelled them to participate in the consultation process.

Despite the influences of the government, the Subcentral Sécure, Subcentral TIPNIS, and CONISUR on the consultation in the TIPNIS, the communities exploited the window of opportunity the consultation opened to express their own visions of indigenous identity, indigenous rights to territory and autonomy, and visions of development and environmental protection. Almost all the communities demanded that the government protect the territory from illegal settlements. Even in Santo Domingo, where a member had denied the community's indigenous identity, the community constructed a vision of an

“us,” the TIPNIS communities, and a “them,” the migrants who encroached on the TIPNIS. In Puerto Totorá, the community rebuked the government for violating the right of the communities to representation by their traditional organizations. Moreover, the communities in Polygon 7 demanded the creation of an autonomous area and an agreement with the *cocaleros* to respect the TIPNIS. Although only a few communities demanded specific conservation projects, many communities demanded a continuing and strengthened relationship with the national park service. Thus, while the demands from the communities for productive development challenged the “image of the ecologically noble savage” and a limited vision of indigenous livelihoods, their demands for territorial rights, autonomy, and environmental protection represented the agency of the TIPNIS communities. The TIPNIS communities exploited the window of opportunity the consultation process presented to promote their own visions of indigenous identity, territorial and autonomy rights and environmental protection without giving up the right to development.

CHAPTER 4: THE NATIONAL CONFLICT REIGNITES

This chapter will describe how the government's attempts to enforce the consultation results and begin construction on the Villa Tunari-San Ignacio highway in the TIPNIS made the community-level actors introduced during the consultation process influential in the conflict over the highway following the conclusion of the consultation. First, this chapter will describe how the government responded to demands for development from the TIPNIS communities during the consultation process to demonstrate its willingness to comply with the consultation results. Next, this chapter will discuss how the communities rejected the government's attempt to create a parallel leadership for the Subcentral TIPNIS in San Pablo in 2013. Next, it will discuss how the process of promulgating Law 969 in 2017 and the law's representation of the community-level consultation demands reflected community visions of indigenous identity, indigenous rights, development, and environmental protection, preserving the TIPNIS's status as an indigenous territory and national park while enforcing a hierarchy of indigenous identities within the national discourse of indigenous rights that challenged the "image of the ecologically noble savage." Finally, this chapter will describe how, as the national conflict over the highway project reignited following the promulgation of Law 969, pro-highway leaders in the TIPNIS and in Polygon 7 have asserted the demands of the communities in the consultation. This chapter will argue that community-level actors remained influential within the local and national conflicts over the highway in the TIPNIS following the conclusion of the consultation process even as the government has attempted to enforce its

vision of indigenous identity, indigenous rights, environmental protection, and development in the TIPNIS.

Promises of Development

The consultation in the TIPNIS concluded on December 7, 2012, and the government claimed that 80% of the communities had approved the highway project and rejected Law 180. While the national conflict faded into the background, the battle between pro-highway and anti-highway leaders continued in the territory. Releasing its final report in April 2013, the government assured the TIPNIS communities that the government would prioritize poverty alleviation over the construction of the highway in the TIPNIS. A MAS deputy told *La Razón*, “The priority for the Government and for the indigenous brothers of the TIPNIS is to attack extreme poverty.”²⁹³ The Minister of the Environment concurred: “We have to demonstrate to [President Evo Morales] that extreme poverty is eliminated before 2014 concludes...the highway is extremely important, but it is more important to solve the themes of extreme poverty in the TIPNIS.”²⁹⁴ Thus, one pillar of the government’s strategy in its pursuit of the highway project following the conclusion of the consultation process was to implement small-scale development projects in the TIPNIS to demonstrate the government’s commitment to fulfilling community-level demands before pushing for construction of the Villa Tunari-San Ignacio de Moxos highway.

²⁹³ Luis Mealla, “La Asamblea no tratará aún leyes para el TIPNIS,” *La Razón*, April 11, 2013, accessed November 15, 2018, http://www.la-razon.com/nacional/Asamblea-tratara-leyes-TIPNIS_0_1813018726.html.

²⁹⁴ *Ibid*

Divide and Conquer

This section will describe how the government attempted to capitalize on the division within Bolivia's indigenous movements the TIPNIS conflict had created to isolate the Subcentral TIPNIS from its allies and supplant the anti-highway leadership with pro-highway leaders. First, it will describe the government's success at supporting pro-government factions as they took over CIDOB in 2012 and the highland organization, the *Consejo Nacional de Ayllus y Markas de Qullasuyu* (CONAMAQ), at the end of 2013. Next this section will describe the government's attempt to use CONISUR to hold a meeting in San Pablo in 2013 to create a parallel leadership for the Subcentral TIPNIS and how the TIPNIS communities rallied to defend their representatives.

The support of the communities for the Subcentral TIPNIS in San Pablo in 2013 allowed the anti-highway leaders to prevent the government from creating a parallel leadership over the organization as the government's "divide and conquer" strategy caused organizational crises within the lowland and highland indigenous organizations that had supported the Subcentral TIPNIS during the conflict over the highway. The pro-government faction of the Subcentral TIPNIS's national affiliate CIDOB derecognized Adolfo Chávez, leader in the Eighth and Ninth Marches, as president of the organization and elected Melva Hurtado in his place on July 11, 2012. Throughout the month, CIDOB's headquarters in Santa Cruz became ground zero for the battle between factions within the lowland indigenous organization.²⁹⁵ Likewise, in December 2013, the highland indigenous organization CONAMAQ, which represents more than a dozen indigenous communities in

²⁹⁵ "Gobierno divide a indígenas y se vive un día de furia en la CIDOB," *Eju!*, July 30, 2012, accessed March 9, 2019, <http://eju.tv/2012/07/gobierno-divide-a-indigenas-y-se-vive-un-da-de-furia-en-la-cidob/>.

the highlands, succumbed to attempts by a faction of pro-government leaders to take control of the organization. Supporters of the pro-government leader Hilarion Mamani stormed the organization's headquarters in La Paz on December 10 and assumed control on January 14, 2014 after attacking the vigil in support of the traditional leadership that had formed outside. Police took control of the building and then released it to Mamani, recognizing him as the legitimate leader of COMAMAQ.²⁹⁶

When CONSIUR President Gumercindo Pradel attempted to hold a meeting to establish a pro-highway leadership for the Subcentral TIPNIS in San Pablo in 2013, however, members of the TIPNIS communities rallied behind the anti-highway leaders and prevented the meeting from taking place. According to the *Equipo de Comunicación Comunitaria*, on June 20, 2013, traditional leaders Fernando Vargas and Emilio Noza of the Subcentral TIPNIS and Subcentral Sécure, respectively, were waiting with hundreds of supporters from surrounding communities for government-affiliated leaders, who planned to hold a meeting to derecognize the 15 traditional leaders of the TIPNIS who had supported the Eighth and Ninth Marches in defense of the territory. The leaders of the Subcentral TIPNIS ordered CONISUR's president to submit to communitarian justice.²⁹⁷ The president of CIDOB said, "They have punished Gumercindo Pradel following the uses and customs of the indigenous peoples. Later, he signed an Act of Commitment not to

²⁹⁶ James Carwil, "[2014] CONAMAQ in crisis: Pro-government faction seizes headquarters by force," *Carwil without Borders* (blog), July 6, 2017, accessed March 8, 2019, <https://woborders.blog/2017/07/06/2014-conamaq-in-crisis-pro-government-faction-seizes-headquarters-by-force/>.

²⁹⁷ Equipo de Comunicación Indígena Originario, "TIPNIS: Gumercindo Pradel fue sometido a la Justicia Comunitaria," *Centro de Documentación e Información Bolivia*, June 24, 2013, accessed March 15, 2018, https://cedib.org/post_type_titulares/tipnis-gumercindo-pradel-fue-sometido-a-la-justicia-comunitaria-equipo-de-comunicacion-indigena-originario/.

return to interfere with the organic life of the legitimately constituted subcentrals.”²⁹⁸ Thus, even after some of their members participated in the consultation, the TIPNIS communities rejected the government’s attempt to violate their right to self-governance by their traditional representatives. Moreover, members of the TIPNIS communities continued to support the anti-highway leadership against the government’s harsh response to the communal punishment of Gumerindo Pradel and their incursions within the TIPNIS territory to introduce small-scale development projects. On August 9, *Erbol* reported that the anti-highway leaders had been sheltering in the headquarters of the Subcentral TIPNIS in Trinidad with more than 150 inhabitants of the TIPNIS guarding the building to avoid the police, who were looking to arrest the anti-highway leaders on charges of attempted murder for the whipping of Pradel on June 20.²⁹⁹ The communitarian punishment of Pradel in San Pablo and the reaction of the TIPNIS communities to the attack on their traditional leadership represented a firm response from the communities of the Subcentral TIPNIS who perceived the government’s strategy in the TIPNIS following the consultation as an assault on the sovereignty of their organizations and their right to self-governance within the territory.

Law 969

The government was unable to create a parallel leadership for the Subcentral TIPNIS. Rather, the government and the pro-highway leaders focused on securing a friendly leadership of the organization through the organization’s “uses and customs,” or

²⁹⁸ Ibid

²⁹⁹ “29 días de encierro en la Subcentral TIPNIS,” *Erbol*, August 9, 2013, accessed March 1, 2019, https://cedib.org/post_type_titulares/29-dias-de-encierro-en-la-subcentral-tipnis-erbol-9-8-13/.

traditional practice for the selection of leaders. This section will describe the process by which the government negotiated Law 969 with pro-highway leaders in the TIPNIS. Then, it will discuss the visions of indigenous identity, environmental protection, development, and indigenous rights to territory and self-governance introduced in Law 969. These visions reflected the demands from the TIPNIS communities during the consultation despite the government's ongoing efforts to enforce its discourse of indigenous identity and indigenous rights.

The anti-highway movement within the TIPNIS reacted with shock when Domingo Nogales, who became leader of the organization following his election by the TIPNIS communities in December 2016, signed the proposal for Law 969 in July 2017.³⁰⁰ CONISUR and its allies in the TIPNIS organizations completed the project for Law 969 with the support of the *Coordinadora de Pueblos Indígenas del Trópico de Cochabamba* (CPITCO) and in the absence of the *cocaleros*, distancing CONISUR from the organization which had negotiated the creation of Polygon 7 in 1990. MAS delegates also participated in the drafting of the proposal.³⁰¹ The project's stated intent was to codify the consultation results, and Law 969 developed a vision of indigenous identity, providing for the conservation of the TIPNIS as a protected area, the integrity of the TIPNIS as an indigenous territory, and the rights of the indigenous peoples living within the territory to access to development and self-governance within their territory.³⁰²

³⁰⁰ Rubén Martínez, "Con la Ley 969 el Gobierno reactiva el conflicto por el TIPNIS," in *TIPNIS bajo asedio: el conflicto se reactiva con la Ley No 969*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2017), 4-5.

³⁰¹ Ibid

³⁰² Asamblea Legislativa Plurinacional de Bolivia, *Ley de protección, desarrollo integral y sostenible del Territorio Indígena y Parque Nacional Isiboro Sécore - TIPNIS*, August 21, 2017, accessed July 13, 2018, https://cedib.org/post_type_leyes/ley-969-de-proteccion-desarrollo-integral-y-sustentable-del-territorio-indigena-parque-nacional-isiboro-secure/.

First, Law 969 permitted the construction of the Villa Tunari-San Ignacio de Moxos highway by abrogating Law 180, but it did not explicitly authorize the construction of the Villa Tunari-San Ignacio Moxos highway. Instead, Article 9 discussed the “integration” of the TIPNIS through the construction of neighborhood roads, highways, and river transportation. Article 9 indicated that all integration should incorporate technology and mechanisms to limit negative environmental impacts, minimize the effects of the projects on the local communities and their ways of life, and promote the preservation of soils, water sources, and biodiversity. Moreover, all projects to integrate the TIPNIS should be carried out with the participation of the communities, fulfilling a demand from many of the communities during the consultation that the government continue to consult with them over the provision of basic services as well as infrastructure projects, including highways, in their territory.³⁰³ The omission of the Villa Tunari-San Ignacio de Moxos highway reflected a response to the continued rejection of the highway project from communities in the Subcentral TIPNIS, even some of those that had participated in the consultation process, and the communities of Polygon 7, some of whom had requested an environmental impact study and another consultation over the highway project, its characteristics, and its final route.

In its conception of the TIPNIS as an indigenous territory, Law 969 proposed the following objectives: (1) to guarantee the long-term territorial integrity of the TIPNIS and the right of the communities to “develop their life and vision for the future;” (2) to establish clear mechanisms to prevent invasions and illegal settlements in the TIPNIS; and (3) to

³⁰³ Ibid

prohibit the illegal use of the territory's resources.³⁰⁴ Article 6 contained specific prohibitions against the exploitation of resources within the territory without the authorization of both the competent state entities and the titular authorities and development activities that did not comply with the TIPNIS's status as a protected area.³⁰⁵ Thus, the proposal for Law 969 preserved the status of the TIPNIS as an indigenous territory and national park. Law 969's conception of the TIPNIS as an indigenous territory and national park, however, challenged the construction of the "dual status" territory within Law 180 and its principle of "intangibility." Article 4 of Law 969 called for a "harmonious, dynamic, adaptive, and equilibrative relationship" between the needs of the indigenous peoples of the TIPNIS and the rights of the Madre Tierra through integral and sustainable development.³⁰⁶ Law 969's discussion of the balance between the indigenous right to development and the conservation of the environment placed the communities and the environment in competition and echoed the government's argument that environmental protection could not supersede the right of the TIPNIS indigenous peoples to development. In contrast, the "dual status" of the *Reglamento* envisioned a reciprocal relationship between the indigenous communities and the TIPNIS territory assumed in the discourse of the "ecologically noble savage." Article 9 stated: "Contemplates the development of human use of the natural resources and the biodiversity necessary to care for and strengthen the values, elaborations, techniques, and cultural knowledge of the Yuracaré, Tsimane, and Mojeño-Trinitario indigenous peoples, maintaining their potentialities, so that these can

³⁰⁴ Ibid

³⁰⁵ Ibid

³⁰⁶ Ibid

satisfy the present and future needs of their communities.”³⁰⁷ Thus, the “dual status” of the *Reglamento* presented the TIPNIS as the vital space of cultural reproduction for its indigenous peoples and placed intrinsic value on the territory itself rather than its development potential.

Moreover, the vision of development the *Reglamento* established through its definition of “intangibility” contrasted with the visions of development represented during the consultation in Polygon 7 and Law 969’s prioritization of development over conservation. While Law 969 reserved the right to determine the use of the TIPNIS’s resources for its communities, Chapter 3 of the *Reglamento*, on “intangibility,” also established “the obligatoriness of the traditional use of the renewable natural resources, based on uses and customs, and that do not have commercial purposes.”³⁰⁸ Although the Polygon 7 communities had demanded traditional development projects, such as hunting, fishing, and ecotourism, as well as restorative projects, such as repopulating fish and reforestation, many had also demanded the expansion of their productive capabilities, the introduction of production with value-added, and access to the market. Thus, while the *Reglamento*’s “dual status” and “intangibility” presented a reciprocal relationship between the communities and the territory and confined indigenous rights to exploit the TIPNIS’s natural resources to the reproduction of the indigenous communities, the vision of development the Polygon 7 communities had expressed during the consultation and codified in Law 969 prioritized poverty alleviation in the TIPNIS and promoted the

³⁰⁷ Evo Morales Ayma. *Decreto Supremo No 1146*, February 24, 2012, accessed July 5, 2018, https://cedib.org/post_type_leyes/decreto-reglamentario-de-la-ley-180-de-intangibilidad-del-tipnis/.

³⁰⁸ Ibid

transformation of the TIPNIS communities into productive citizens and the TIPNIS territory into productive land.

The project for Law 969 also constructed a vision of indigenous identity that supported the intercultural identity CONISUR and its allies in the TIPNIS had expressed throughout the conflict in the TIPNIS. It introduced the principle of “pluriculturalidad” as “the harmonious and peaceful existence of different ‘originary’ peoples and cultures” within the State and the existence of different models of production, social organizations, cultures, and symbols “that are valued in an inter-relational manner by communities and families.”³⁰⁹ Moreover, Article 7 echoed Law 180, calling on the State to protect the socio-cultural patrimony of the indigenous peoples of the TIPNIS and to promote local development taking cultural, symbolic, productive, and technological issues into account.³¹⁰ Thus, the project established the intercultural nature of the TIPNIS indigenous territory based on the coexistence of the TIPNIS Moxeño-Trinitario, Yuracaré, and Chimane indigenous peoples and the Aymara and Quechua highland peasant migrants with different cultures, organizations, and visions of development and promoted a vision of indigenous self-governance by reserving the responsibility for resolving these different visions for the communities themselves.

Law 969 conferred rights to territory, self-governance, and development to the TIPNIS’s “indigenous ‘first peoples’ peasant” peoples, however, challenging Law 180’s assertion of the exclusive rights to territory and self-governance of the “indigenous

³⁰⁹ Asamblea Legislativa Plurinacional de Bolivia, *Ley de protección, desarrollo integral y sostenible del Territorio Indígena y Parque Nacional Isiboro Sécore – TIPNIS*.

³¹⁰ Ibid

peoples” of the TIPNIS.³¹¹ Law 969’s affirmation of the territorial and self-governance rights of the TIPNIS’s “indigenous ‘first peoples’ peasant” peoples implied that the multicultural, individually-titled communities in Polygon 7 had access to the same territorial and self-governance rights the collective title to the TIPNIS indigenous territory gave the Subcentral TIPNIS. In contrast, Law 180’s specification of “indigenous peoples” reserved this right for the Moxeño-Trinitario, Yuracaré, and Chimane indigenous communities and their traditional indigenous organizations and sought to protect the territory from the increasing influence of CONISUR and the *cocalero* federation. The construction of a “harmonious” and “peaceful” co-existence between highland peasant migrants and the TIPNIS indigenous peoples envisioned in Law 969 denied the conflict between pro-highway and anti-highway leaders and the hierarchy between the intercultural indigenous identity CONISUR mobilized and the “ecologically noble savage” indigenous identity that the traditional leadership of the TIPNIS had promoted that the TIPNIS conflict reinforced.

The MAS-controlled legislature approved the proposal for Law 969 within six weeks.³¹² This process contrasted sharply with the struggle through which the Eighth March finally forced the government to accept their proposal for Law 180, the government’s breaking of negotiations with the leaders over the *Reglamento*, Morales’s refusal to negotiate with the Ninth March, and the implementation of the consultation process without the participation of the Subcentral TIPNIS. By choosing to negotiate with the pro-highway leaders and refusing to negotiate with the traditional leadership, the

³¹¹ Ibid

³¹² Martínez, “Con la Ley 969 el Gobierno reactiva el conflicto por el TIPNIS,” 4.

government established a clear hierarchy between CONISUR's intercultural indigeneity and the traditional leadership's "image of the ecologically noble savage." This hierarchy increased the ability of the communities to access rights to development, territory, and self-governance through pro-highway leaders and diminished the rights reserved for the "ecologically noble savage."

Parallel Meetings

In response to the promulgation of Law 969 and Morales's announcement that he would visit San Pablo to meet with pro-highway leaders to negotiate the implementation of Law 969, the anti-highway leaders in the TIPNIS organized the XXXII Extraordinary Meeting of Leaders and Communities at the territory's development center in Santa María on August 27, 2017.³¹³ The meeting of the pro-highway leaders and Morales took place at the same time in the neighboring community of San Pablo. The contrast between the government's support for the pro-highway leaders and the conflict that ensued between the military and the anti-highway leaders revealed the government's commitment to enforcing its hierarchy within the TIPNIS representatives. This section will illustrate that, after the promulgation of Law 969, the anti-highway leaders found themselves isolated from their national and international allies and the communities as the government's promotion of Law 969's intercultural indigenous identity continued to challenge the "image of the ecologically noble savage."

The anti-highway leaders met after a difficult two-day journey from Trinidad, during which time a delegation of pro-government leaders passed them on their way to

³¹³ Ibid

meet with Morales in San Pablo on August 26 in around 30 4x4 trucks with insignia from the Government of Beni, the state hydrocarbons company, and the state television company.³¹⁴ The meeting took place amid confrontations between the military, which was reportedly in the TIPNIS to eradicate illegal coca leaf plantations, and the anti-highway leadership, who attempted to prevent the military boats from delivering provisions to the parallel meeting in the neighboring community.³¹⁵ The anti-highway leaders concluded that by dividing leaders in his attempt to construct the highway through their territory, Morales was risking the extinction of the biodiversity of the TIPNIS and its indigenous communities. They identified interculturals and *cocaleros* living in Polygon 7 as the main threat to their territory and survival. Alex Villca Limaco, a representative from the *Mancomunidad de Comunidades de los Ríos Beni, Quiquibey y Tuichi*, declared, “If they [the interculturals] reach a majority, obviously they are going to be presidents, *corregidores*, *caciques*.”³¹⁶ He declared that indigenous peoples within multicultural communities were “living a new colonialism, and this government is looking for the ways, the strategies, to have this type of instrument, to annihilate us, to annul us, to take away our territory.”³¹⁷ He and other leaders suggested separating Polygon 7 from the TIPNIS.³¹⁸

³¹⁴ Rubén Martínez, “El conflicto del TIPNIS enfrenta a actores y fuerzas abismalmente disímiles,” in *TIPNIS bajo asedio: el conflicto se reactiva con la Ley No 969*, edited by Fundación TIERRA (La Paz: Fundación TIERRA, 2017), 8.

³¹⁵ Rubén Martínez, “Durante el XXXII Encuentro de Corregidores del TIPNIS, el territorio estuvo bajo presión militar,” in *TIPNIS bajo asedio: el conflicto se reactiva con la Ley No 969* (La Paz: Fundación TIERRA, 2017), 12-15.

³¹⁶ Rubén Martínez, “Extractivismo y avance cocalero ponen en peligro de extinción a indígenas del TIPNIS,” in *TIPNIS bajo asedio: el conflicto se reactiva con la Ley No 969* (La Paz: Fundación TIERRA, 2017), 16.

³¹⁷ Ibid

³¹⁸ Ibid, 17.

But ex-president of the Subcentral of Women of the TIPNIS, Julia Molina, told the assembly, “It hurt me when our President of the CPEM-B said we should leave [Polygon 7], that it should not be part of the TIPNIS. Regrettably, I live there.”³¹⁹ Molina described the situation in her community, Santísima Trinidad, the final community in Polygon 7 to associate with the Subcentral TIPNIS. She said, “Sadly my community is, I tell you like this, bought. I do not understand why some brothers act like this knowing that our territory is, well, where we live, where we are born, where we have our resources that day after day we need, we take from inside the territory. There, we fish. There, we hunt. There, we plant for our subsistence.”³²⁰ She told the assembly of the experience of ostracization she faced in her community by continuing to participate in the anti-highway movement. “I cannot raise my voice to say that I am firm here defending my territory, I am firm with the brothers there defending my territory. I cannot dictate like this because they are the majority and I [am] alone. Until they can get me out of there, throw me away, make me leave walking away from there.”³²¹ For his part, ex-President of the Subcentral TIPNIS Fernando Vargas told the assembly that CONISUR had already expanded its influence into the TIPNIS indigenous territory.³²² Indeed, the participation of the new president of the Subcentral TIPNIS in the promulgation of Law 969 and the lack of support from the communities for the anti-highway leaders during the parallel meetings spoke to a shift in allegiance within the TIPNIS communities.

³¹⁹ Ibid, 18.

³²⁰ Ibid

³²¹ Ibid

³²² Ibid

The Negotiation Continues

The election of Domingo Nogales as president of the Subcentral TIPNIS in 2016, however, took place within a communal assembly and following the “uses and customs” of the organization. His election through the organization’s assembly was significant because his “organic” representation of the communities added a level of legitimacy to the proposal for Law 969 and complicated efforts by the anti-highway leadership to denounce Nogales and the legislative proposal. But as the legitimate leader of the Subcentral TIPNIS, Nogales’s election also made him responsive to the mandates of the communities that chose him as their leader. This section will discuss how Nogales used the announcement of Law 969 to reopen negotiations with the government about the Villa Tunari-San Ignacio de Moxos highway, exhibiting his responsiveness to top-down pressure from the government, horizontal pressure from the opposition, and bottom-up pressure from the communities.

The same month that the legislature promulgated Law 969, Nogales announced that the Subcentral TIPNIS had an alternative to the government’s proposed highway project. He told *El Deber*, “We have two proposals, that are two roads, that will pass through Los Puentes but not through [San Ignacio de Moxos].”³²³ Nogales asserted that his plan would benefit the communities of the TIPNIS and prevent the highway from crossing through the center of the national park. He continued, “These are the two proposals that were and that are still pending...and that is the fight right now, the struggle.”³²⁴ He said that his support for the abrogation of “intangibility” in the TIPNIS through Law 969 represented an attempt

³²³ “Dirigente Nogales sorprende con propuesta para que no se atravesase el Tipnis,” *Eju!*, August 29, 2017, accessed March 2, 2019, <http://eju.tv/2017/08/dirigente-nogales-sorprende-con-propuesta-para-que-no-se-atravesase-el-tipnis/>.

³²⁴ Ibid

to resume development projects in the TIPNIS that had been suspended under the government's implementation of Law 180.³²⁵

First, Nogales's alternative to the government's proposed highway reflected the demands of the participants in the consultation from the Subcentral TIPNIS communities, such as San Miguelito, who argued that the proposal would not benefit their community, or Gundonovia, who asserted alternative projects to integrate the territory. Moreover, the proposal broke with the government, the CONISUR leadership, and the pro-highway faction of the Subcentral Sécure, who supported construction of a highway between Villa Tunari and San Ignacio de Moxos. Nogales's assertion that his support for Law 969 represented an attempt to annul "intangibility" and revive development within the communities responded to the motivation many participants cited for their participation in the consultation but contradicted the continuing support for "intangibility" among communities like Concepción de Ichoa. His "organic" election and support for the consultation results from his communities demonstrated Nogales's responsiveness to his indigenous base. But his alternative proposals also demonstrated his acceptance of the government's strategy for channeling representation of the TIPNIS indigenous communities through the consultation process. Nogales, like the members of his base, sought to codify the demands of the participants from his communities and maintain the window of negotiation the government had opened with the consultation process through his support of Law 969. While the government has used Law 969 to begin construction on the Villa Tunari-San Ignacio de Moxos highway within the TIPNIS, the anti-highway

³²⁵ Ibid

leadership has continued to actively challenge the consultation results and Law 969, forcing Nogales to walk the line between the demands of the TIPNIS indigenous communities and the intransigence of the Morales administration over the highway project. Nogales's proposals for alternative route, then, demonstrated his attempt to navigate the terrain between the bottom-up pressure from his communities, the horizontal pressure from the anti-highway movement, and the top-down pressure from the government to continue to negotiate the highway project in the TIPNIS.

Asserting CONISUR's Indigenous Rights

For CONISUR and its allied leaders in the TIPNIS, Law 969 represented the government's support, once again, of their claims to indigenous rights to territory, self-governance, and development. Moreover, it authorized CONISUR's construction of an intercultural indigenous identity. CONISUR would project this intercultural indigenous identity and its authority over its territory at the national and international levels as the government initiated the construction of the highway through the TIPNIS. In August 2017, shortly after the promulgation of Law 969, CONISUR's leaders blocked a caravan of opposition deputies and representatives from the Cochabamba Civic Committee traveling to Polygon 7 to inspect progress on the first three bridges of the highway project within the TIPNIS. CONISUR justified the blockade, arguing that the delegation had not sought to coordinate with the legitimate leaders of Polygon 7. Morales and MAS supported

CONISUR's actions against the political opposition and in defense of the highway project.³²⁶

Another, more revealing, incident transpired on August 19, 2018, when members of the community of Isinuta prevented a commission from the International Rights of Nature Tribunal from entering Polygon 7 to inspect the communities in the colonization zone for environmental damage. The international delegation arrived in Bolivia on August 16 in response to a complaint that anti-highway leaders had filed in November 2017 at the United Nations Climate Change Conference in Bonn, Germany.³²⁷ They had invited the Tribunal to observe the environmental damage the *cocaleros* had caused in Polygon 7 and witness the government's violation of their indigenous rights.³²⁸ The anti-highway leaders hoped the Tribunal would revive the international pressure on Morales that had constrained him in his pursuit of the highway project since the beginning of the conflict in the TIPNIS. The commission visited Trinidadcito on August 17, where leaders and community members had been willing to discuss the conflict over the highway. The leader of the commission Alberto Acosta said they had gained valuable information in Trinidadcito. He remarked, "[T]he people told us their experiences, struggles and hopes...the violent situations, not only against Mother Nature, but also against the people."³²⁹ At 10 A.M. on

³²⁶ "Conisur Vuelve a impedir inspección dentro del TIPNIS," *Los Tiempos Digital*, August 9, 2017, accessed May 12, 2018, <http://www.lostiempos.com/actualidad/economia/20170809/conisur-vuelve-impedir-inspeccion-dentro-del-tipnis>.

³²⁷ Miriam Telma Jemio, trans. Sarah Engel, "Environmental delegation blocked from entering Bolivian national park," *Mongabay*, October 22, 2018, accessed October 28, 2018, <https://news.mongabay.com/2018/10/environmental-delegation-blocked-from-entering-bolivian-national-park/>.

³²⁸ Ibid

³²⁹ Ibid

August 19, however, members of CONISUR blocked the entrance to Polygon 7 at Isinuta, detaining the Tribunal's five vehicles and claiming they had to wait for their leadership before they could speak with the Tribunal. At 3 P.M., three police officers finally arrived at the blockade and instructed the community members that they had to release the delegation because news of their detention was known internationally.³³⁰ Only then did Gumercindo Pradel and Jacinto Noza, leaders of CONISUR, appear to speak with the commission. They disputed the validity of the invitation that Acosta alleged welcomed the commission to visit Polygon 7 and contained Noza's signature. Noza said the letter was invalid because it had never been approved in an assembly. Moreover, Pradel claimed that the communities had decided not to let anyone enter the TIPNIS without coordination "with us, with the leaders of the area" at an assembly on August 17 and 18, or concurrent with the Tribunal's visit to Trinidadcito.³³¹ Finally, police escorted the commission back to Villa Tunari.³³²

CONISUR's orchestration of the detention of the commission at Isinuta was clear. Noza did not deny signing the invitation. Instead he prioritized the "organic" decision of the communities to blockade the territory against the Tribunal over his personal invitation. Moreover, Pradel explained the detention as the fulfillment of a mandate reached in an assembly, which he and the leadership were obligated to enact.³³³ The leaders had convened the assembly after they knew of the commission's visit to Trinidadcito to create an opportunity to project CONISUR's legitimate representation of the TIPNIS indigenous

³³⁰ Ibid

³³¹ Ibid

³³² Ibid

³³³ Ibid

communities and their territory on the international stage. They achieved this by appearing to speak with the commission only after police officers informed them that they had the world's attention. Acosta told a reporter from *Mongabay* that the community members had accused the commission of coming to destroy one of the Villa Tunari-San Ignacio de Moxos highway's bridges, which he assured the Tribunal had no intention of doing.³³⁴ He criticized CONISUR for manipulating the communities with false information, something that likely happened at the assembly on August 17 and 18 and served to create the opportunity for the CONSIUR leadership to mobilize this intercultural indigenous identity before a global audience.³³⁵ The government's acquiescence to CONISUR's assertion of its territorial rights contrasted sharply with the militarization of the TIPNIS in response to the opposition's attempt to blockade the consultation brigades. It was one more act in a string of acts by the government throughout the conflict in the TIPNIS which sought to elevate the intercultural indigenous identity that CONISUR constructed during the conflict above the "image of the ecologically noble savage" that the traditional leadership of the TIPNIS had mobilized in defense of the territory.

The government responded to the incident by blaming the commission. The Vice Minister of the Environment justified the blockade on social media. She charged, "Let's see how Alberto Acosta and the activists explain it, who are representing the interests of nongovernmental organizations, who wanted to pass over legitimate indigenous representatives, and who have the nerve to accuse our government of 'not having control'

³³⁴ Ibid

³³⁵ Ibid

in our own territory.”³³⁶ She also questioned the legitimacy of the International Rights of Nature Tribunal, even though it had developed out of the World People’s Conference on Climate Change and the Rights of Mother Earth, which President Morales had organized, in Cochabamba in 2010. The commission remained in Bolivia and carried out other activities, including public talks and university seminars, until August 23 without encountering other problems.³³⁷ Thus, the government’s response to the incident demonstrated the ongoing collusion between CONISUR and the MAS government to affirm CONISUR’s indigenous identity and indigenous rights to territory and self-governance and prevent the international indigenous rights and environmental communities from creating obstacles to the construction of the Villa Tunari-San Ignacio de Moxos highway at the behest of the opposition.

While the incident in Isinuta appeared to be just another example of the government and CONISUR working together to ensure construction of the Villa Tunari-San Ignacio de Moxos highway, CONISUR used the media attention the incident generated to increase the legitimacy of its claims of indigenous identity. A day after the detention of the International Rights of Nature Tribunal, CONISUR leader Jacinto Noza confirmed in an interview with *Radio Panamericana* that there had been coca production in Polygon 7 for many years.³³⁸ This confirmation seemed to validate the claims of the opposition to the highway that the project would increase the invasion of *cocaleros* into the TIPNIS, but Noza asserted that

³³⁶ Ibid

³³⁷ Ibid

³³⁸ Laura Manzaneda, “Dirigentes del Conisur se atribuyen ‘control’ de ingreso al Polígono 7,” *Los Tiempos*, August 21, 2018, accessed November 5, 2018, <http://www.lostiempos.com/actualidad/economia/20180821/dirigentes-del-conisur-se-atribuyen-control-ingreso-al-poligono-7>.

the coca cultivation in Polygon 7 occurred within the legal limits set by the Coca Law, defending coca production in the colonization zone and denying the existence of illegal *cocalero* settlements or coca plantations in the TIPNIS. At the same time, however, Noza denied participating in coca production, distancing himself from the *cocaleros* to reaffirm his and CONISUR's legitimacy as representatives of the indigenous peoples of the TIPNIS.³³⁹ Later that day, Noza held a press conference in Cochabamba's Plaza Colón, reasserting the right of CONISUR to control passage of any person into Polygon 7. He explained that CONISUR had chosen to impede the commission because they feared the government would stop completing projects in the territory if they cooperated with them. He said, "We do not want other outsiders to hinder us. It is a big struggle we have had since the consultation. We have marched so that they would give us projects. It is not that the government has come to give us [projects]."³⁴⁰ Noza's press conference served two purposes. First, Noza declared CONISUR's right to control access to the territory. Second, Noza depicted CONISUR's struggle to represent the TIPNIS communities before the government and asserted CONISUR's efficacy at extracting projects.

Ultimately, the press conference set the stage for another declaration Noza made in the aftermath of the International Rights of Nature Tribunal's interrupted visit. He later told *Erbol* that the government must conduct another consultation in the TIPNIS to determine the final design for the Villa Tunari-San Ignacio de Moxos highway. He claimed the consultation was necessary to ensure that the forest would be protected and that the

³³⁹ Ibid

³⁴⁰ Ibid

highway would benefit the communities.³⁴¹ Thus, Noza's press conference and his call for another consultation on the highway project represented CONISUR's use of the detention of the International Rights of Nature Tribunal commission to project its authority in Polygon 7 and assert its success at negotiating with the government on behalf of the TIPNIS communities. Moreover, Noza's statements, like Nogales's alternative proposals for the highway project, revealed the delicate political situation within which CONISUR and its allies in the TIPNIS had to operate, between the top-down pressure the government applied in its inflexible push to construct the Villa Tunari-San Ignacio de Moxos highway, the bottom-up pressure from the communities CONISUR and its allies claimed to represent, and the relentless pressure the opposition to the highway project applied at the local, national, and international levels.

Conclusions

The emergence of the communities as influential actors in the national conflict represents an essential shift in the power relations between local, national, and international actors as the government used its implementation of "intangibility," the consultation process, and its support of the pro-highway leaders to enforce a hierarchy between the intercultural indigenous identity of CONISUR and the "image of the ecologically noble savage" of the anti-highway leaders. While the communities mobilized to prevent the creation of a parallel leadership in the TIPNIS in 2013, they failed to support the anti-highway leaders in 2017 after the "organically-elected" president of the Subcentral TIPNIS

³⁴¹ Erbol, "Conisur exige otra consulta para ejecutar la carretera por el Tipnis," *Los Tiempos*, August 24, 2018, accessed November 5, 2018, <http://www.lostiempos.com/actualidad/economia/20180824/conisur-exige-otra-consulta-ejecutar-carretera-tipnis>.

signed the proposal for Law 969. Law 969 represented the influence of the communities and the opposition. The law reflected the communities' rejections of "intangibility" and demands for development and reaffirmed the TIPNIS as a national park and indigenous territory. But Law 969's construction of indigenous territorial rights and extension of those rights to the "indigenous 'first peoples' peasant" reaffirmed the TIPNIS's established CONISUR, the Subcentral Sécure, and the Subcentral TIPNIS as equal stakeholders in the TIPNIS and its development. Moreover, Law 969's vision of a balance between the development of the TIPNIS communities and the protection of the TIPNIS national park redirected the goal of development in the TIPNIS from environmental conservation to alleviating the poverty of the TIPNIS communities.

As the alternative proposals for the highway project from the Subcentral TIPNIS in 2017 and the press conference from CONISUR in 2018 illustrated, however, the debate over the Villa Tunari-San Ignacio de Moxos highway has not ended. The international pressure on the government waned as the Morales administration gained the support of the leader of the Subcentral TIPNIS, but the presence of the anti-highway movement continues to force the pro-highway leadership to press the demands of the communities. As the anti-highway movement continues to protest construction of the Villa Tunari-San Ignacio de Moxos highway and demand the repeal of Law 969, the communities will remain influential actors in the implementation of Law 969's construction of indigenous identity, indigenous rights, environmental protection and development.

CONCLUSION

Interpretations of the TIPNIS conflict have recognized its significance for understanding how MAS's state project has altered the relationships between the state and lowland indigenous organizations and the between the state and the *cocaleros*, but they have not recognized the significance of the TIPNIS conflict for understanding the modification of an indigenous rights legal framework that the Bolivian government began to implement through its neoliberal structural adjustment in the 1990s. As the Subcentral TIPNIS and CIDOB mobilized against the construction of the highway during the Eighth March, they invoked the indigenous identity and international legal framework upon which they based their demands for territory and the development of their organizations. But as the government sought a strategy for repealing Law 180 to revive the highway project after the repression of the Eighth March, the national debate over the highway transformed into a national debate over discourses of indigenous identity, visions of development and environmental protection, and rights to territory and self-governance. As the government openly challenged the Subcentral TIPNIS's discourse of indigenous identity and claims to indigenous rights, the government also challenged the indigenous rights legal framework upon which they based their demands. The government has used the police, the military, government funds, the media, and CONISUR within these debates to enforce its visions of indigenous identity, indigenous rights, development, and environmental protection. Meanwhile, the Subcentral TIPNIS and CONISUR have mobilized fixed discourses of the "ecologically noble savage" and intercultural indigenous identity to press demands for their visions of indigenous rights, development, and environmental protection.

As the consultation moved this conflict from the national arena to the TIPNIS communities themselves, the communities participated in these debates, revealing their experiences with the implementation of an indigenous rights legal framework within their territory and their support for and critiques of their constructions of indigenous identity, indigenous rights to territory and self-governance, and their visions of development and environmental protection. After the consultation process, these communities were influential actors in the struggle between pro-highway leaders and the anti-highway leaders for control over the territory, Law 969 reflected the demands they made during the consultation process, and the communities have continued to influence the conflict over the highway after construction began in Polygon 7 in 2017. This conclusion will continue by discussing how the legal framework that developed during the conflict over the Villa Tunari-San Ignacio de Moxos highway came to define indigenous identity, indigenous rights to territory, autonomy, and consultation, and visions of development and environmental protection.

Law 969's construction of indigenous identity refined the "indigenous 'first peoples' peasant" citizenship category that the 2009 Constitution introduced. While the government and CONISUR attempted to enforce a strict hierarchy between productive peasants and unproductive, backward indigenous peoples, the Subcentral TIPNIS fought to codify the exclusive right of the indigenous Moxeño-Trinitario, Yuracaré, and Chimane communities to the TIPNIS indigenous territory by promoting their role as environmental conservationists. In Law 969, the "indigenous 'first peoples' peasant" communities in the TIPNIS reserved the right to settle conflicts over indigenous identity within their communities and organizations, without interference from the government. Since the

promulgation of Law 969, the communities have supported both the anti-highway leaders and the pro-highway leaders at different points, exhibiting their agency in enforcing their right to self-determination and challenging attempts by both the government and the TIPNIS representative organizations to impose their visions of indigenous identity on them.

During the conflict over the highway, the government has asserted its authority within the TIPNIS indigenous territory. First, it announced the highway project without the consent of the Subcentral TIPNIS. Next, it conducted a consultation in the territory without the participation of the Subcentral TIPNIS. Third, it promoted CONISUR's right as an indigenous organization to participate in the consultation. Finally, the government has used the military to prevent the anti-highway leaders from impeding the consultation process and thwarting the meeting of Morales and pro-highway leaders in San Pablo in 2017. In contrast, the Subcentral TIPNIS declared states of emergency throughout the conflict to ban the government from entering the territory and denied the right of CONISUR to participate in the consultation process because of Polygon 7's continued exclusion from the indigenous territory. CONISUR's participation in the consultation process extended territorial rights beyond the "Red Line." Law 969's ban on illegal settlements in the TIPNIS and demands from even the CONISUR communities to prevent the incursion of *cocaleros* and migrants in the territory reflected the communities' vision of exclusive territorial rights for the TIPNIS communities. Moreover, the communities have demanded the right to participate as the government fulfills its responsibility to protect the TIPNIS, whether in guard posts on the borders of the territory or within an ecological military barracks within the national park.

The government has challenged the autonomy of the Subcentral TIPNIS by denying their right to veto the highway project in their territory, their right to determine development in their territory, their right to practice communal justice in their territory, and their right to choose organizational leadership through their “uses and customs.” As the government and the Subcentral TIPNIS debated autonomy, the communities claimed some of this autonomy for themselves. They crafted their own visions of development that combined demands for productive projects, traditional economic development, and environmental protection. Moreover, they asserted their right as communities to continue to negotiate development plans. Some participated in the consultation process and approved the highway project despite the Subcentral TIPNIS’s rejection of both, while others rejected the highway project and criticized the government for its “divide and conquer” tactics during the conflict. Either choice represented the communities’ agency in claiming autonomy from both the government and their representative organizations.

The debate over Law 222 and the consultation in the TIPNIS defined the indigenous right to consultation over infrastructure projects in their territories. The government sought to use the consultation process to gain approval for the highway project, while the Subcentral TIPNIS denied the legitimacy of a consultation in the TIPNIS without their participation. The communities challenged both vision of the indigenous right to consultation. Puerto Totorá was representative of the agency of the communities in defining the right to consultation, initially challenging the pro-highway leader of the Subcentral Sécure by rejecting the consultation, then choosing to participate despite its strong connections to the anti-highway movement, and using the process to demand development but rebuke the government for its conduct during the conflict in the TIPNIS

and rejecting the highway project. As the consultation brigades travelled through the TIPNIS, the communities used participation in or rejection of the consultation to represent their demands, not allegiance to the government or their representative organizations. More importantly, the communities have supported the leaders who have best represented their demands at different points in the conflict. In so doing, the communities have enforced a vision of the equal responsibility between the government and the TIPNIS organizations to fulfill the communities demands during the consultation process.

The government has attempted to impose its vision of development on the TIPNIS, insisting on a certain route for the highway, enforcing its own strict definition of “intangibility,” and suggesting development plans through the consultation protocols. Likewise, the Subcentral TIPNIS and CONISUR have promoted contradictory visions of development, with the Subcentral TIPNIS prioritizing territorial and environmental protection over development and CONISUR prioritizing poverty alleviation in its communities. During the consultation process, the communities demanded the government respect their rights to determine their own identities, to represent themselves through their “organic” leaders, to territory and pressed for development projects and environmental protection. While Law 969’s construction of a competitive relationship between the communities’ rights to development and the protected status of the TIPNIS, the communities presented an alternative and pressured the government and its leaders to accept it: that they had indigenous rights to territory, autonomy, consultation, and development and that both development and environmental protection were possible within the TIPNIS. Thus, the communities exploited the window of opportunity the national conflict over the Villa Tunari-San Ignacio de Moxos highway opened to express their

specific visions of indigenous identity, indigenous rights, and environmental protection without giving up the right to development. Just as the conflict over territory in the TIPNIS did not begin with the introduction of an indigenous rights legal framework, the conflict over the highway project and the indigenous rights legal framework in the TIPNIS did not end with the promulgation of Law 969 and the start of construction within Polygon 7. As the government, the anti-highway leaders, and the pro-highway leaders continue to negotiate the highway project and the implementation of Law 969, the TIPNIS communities will remain influential actors in the national process of defining indigenous identity and indigenous rights at the crossroads of environmental protection and development.

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