

Indigenous Participation and Free, Prior and Informed Consent in REDD+

Lessons from Indonesia, Peru and Costa Rica

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Abstract

The norm of 'indigenous participation and 'free, prior and informed consent'' (FPIC) has been incorporated in many international treaties and policy documents involving the rights of indigenous peoples, such as the 2007 United Nations (UN) Declaration on the Rights of Indigenous Peoples (UNDRIP). One climate change mitigation initiative particularly involving indigenous communities is REDD+, the world's largest program on forest protection. However, despite the unanimous commitment to fostering indigenous participation, many states implementing REDD+ at the national level fail to adhere to this norm. The 'spiral model' on human rights norms introduced by Risse et al. tries to explain the discrepancy between states' international commitment to norms, and their lack of domestic norm compliance. This thesis aims to explore to what degree the spiral model can account for states' lack of compliance with the norm of indigenous participation and FPIC, and proposes various alterations and additional explanatory mechanisms. The analysis therefore concerns both inductive and deductive research. It critically assesses existing literature on indigenous participation and analyses these concepts in three cases of REDD+ implementation: Indonesia, Peru and Costa Rica. This thesis concludes that while the spiral model still largely applies, it lacks understanding in the exact effects of its 'social mechanisms' and 'scope conditions' that are claimed to improve norm compliance, while the analysis indicates that some of these can also achieve the exact opposite effect. The clashing between international norms was also found to significantly influence compliance. In this case international pressure to rapidly implement climate change mitigation programs often clashes with time-consuming processes of indigenous participation. Different perceptions of relevant stakeholders on who is entitled to a right, in this case who is 'indigenous', furthermore proved to be of great importance to compliance. In total indigenous participation and FPIC proves to be a unique norm for the spiral model and on-the-ground practices, as it requires both international pressure to be implemented, but also bottom-up input from indigenous communities for this process to happen effectively.

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List of abbreviations

AIDSEP	Inter-Ethnic Association for Development of the Peruvian Rainforest
CERD	UN Convention for the Elimination of Racial Discrimination
CIFOR	Center for International Forestry Research
CONAI	National Indigenous Council (Costa Rica)
CONAP	Confederation of Amazonian Nationalities of Peru
COP	Conference of Parties
EU	European Union
FAO	Food and Agriculture Organization
FCPF	Forest Carbon Partnership Facility
FIP	Forest Investment Program
FPIC	Free Prior and Informed Consent
GCF	Green Climate Fund
GHG	Global Greenhouse Gasses
ICC	International Criminal Court
ILO	International Labour Organization
JDI	Joint Declaration of Intent for the Peru-Norway-Germany Agreement
LDCs	Least Developed Countries
MINAM	Peruvian Ministry of Environment
PES	Payment for Ecosystem Services
R2P	Responsibility to Protect
SDG	Sustainable Development Goals
SIS	Safeguard Information System
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDRIP	UN Declaration on the Rights for Indigenous Peoples
UNFCCC	UN Framework Convention on Climate Change
UNPFII	UN Permanent Forum On Indigenous Issues
UNWGIP	UN Working Group on Indigenous Populations
WRI	World Resources Institute
WWF	World Wide Fund for Nature

1. REDD+ and norm compliance

1.1. Introduction

'Our house is on fire' 'It's the fight of the century'. These quotes by a young activist (Greta Thunberg) and an international leader (Emmanuel Macron) are mere examples of the ever increasing worldwide concern with climate change and how to compensate for our carbon emissions, transcending divides between generations and social class, between states and ideology. In turn, these developments are translated into ever more initiatives that are being implemented to adapt to and mitigate the effects of climate change on our planet and daily lives. One of these initiatives, that in its different forms by now has been up and running for over 10 years, is the UN REDD+ program: *'Reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries'*.

From the Americas to the Pacific, REDD+ has been and will be implemented in numerous states (figure 1), each with its own specific context. The ambitions and expectations behind REDD+ are enormous. Project sizes are only expected to increase, as will their effects on the environment, but also on indigenous peoples (UN-REDD, 2015). International norms regarding the protection of indigenous peoples and forest dwelling communities have long been pushed on the international agenda, resulting most notably in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). However, academic research, (non) governmental organizations and journalists have stressed that many REDD+ programs actually violate UNDRIP principles. This thesis aims to contribute to the expanding research focusing on the synergy between international norms and national practices for indigenous peoples and forest-dependent communities in REDD+ projects, focusing on the norm of indigenous participation and FPIC.

Figure 1: UN-REDD program – participating states (UN-REDD, 2020).



1.2. REDD+ and indigenous rights

Forest loss is a major driver of climate change (Tänzler, 2013, p. 27). Although predictions vary, deforestation alone is expected to account for between 10 and 20 percent of worldwide carbon dioxide emissions annually between 1990 and 2015, with over a 150 million hectares lost since the 1990s (Taylor, 2019; Adams, 2012). In perspective, this is higher than the entire European Union's (EU) total greenhouse gas emission. Still, forests cover over 31 percent of the world's land surface, absorbing 2.5 billion metric tons of carbon dioxide annually (ibid., FAO, 2016). Afforestation has therefore been described as one of the most natural and technologically simple methods to enhance CO₂ absorption from the atmosphere, also called a 'negative emission technology' (NET) (Dunne, 2018).

It is this assumption that led to the founding of REDD+ in 2007. After several years of pilot programs initiated throughout the world, the program design was finally shaped in its current form under the 2016-2020 Strategic Framework (UN-REDD, 2015, p. iv). According to the Strategic Framework, REDD+ aims 'to reduce forest emissions and enhance carbon stocks in forests while contributing to national sustainable development' (ibid.). Where in the first years REDD+ was mainly focused on reducing emissions, scholars recognize that in recent years the program's scope and aim has been expanded to include the improvement of social development and non-carbon benefits (Lima et al., 2017, p. 591). As the framework states: 'action to conserve, sustainably manage and restore forests can contribute to economic growth, poverty alleviation, rule of law, food security, climate resilience and biodiversity conservation' (ibid., p. 4).

To achieve all this, the framework stresses the importance of stakeholder engagement, allowing both governmental and non-governmental stakeholders such as indigenous peoples to be involved in the projects' implementation process (ibid., p. 19). States are encouraged to include indigenous feedback and consent in various ways, including stakeholder analyses, setting up multi-stakeholder platforms, awareness support and through social inclusion (ibid., p. 21-22). Thus far, the success rate of REDD+ in achieving this engagement however is far from optimal (Fletcher et al. 2016, p. 2; Clements, 2010, p. 309-310; Isyaku et al, 2017, p. 212).

It is exactly the element of indigenous participation that has been interrogated both in academic literature as well as by NGOs as lacking (Cavanagh et al, 2015 p. 72; Lunstrum, 2014; Den Besten et al. 2014). The Center for International Forestry Research (CIFOR) in its Global Comparative Study on REDD+, which is widely considered the largest qualitative research program on REDD+, describes that while indigenous knowledge plays a key role in implementing effective national strategies, their involvement has generally been insufficient (Angelsen et al. 2018, p. 140).

This is remarkable, since the protection and improvement of indigenous rights, of which the norm of indigenous stakeholder participation forms a significant part, has been on the international agenda for quite some time, and has only become more prominent with the emergence of REDD+. The adoption of UNDRIP in 2007 is an important highlight of this process. Articles 10, 11, 19, 28, 29 and 32 all explicitly mention states' obligations to enact free, prior and informed consent (FPIC) from indigenous peoples (UNDRIP, 2007). Furthermore, in 2010 REDD+ adopted safeguards that explicitly mention UNDRIP and respect for the knowledge and rights of indigenous peoples (Angelsen et al, 2012, p. 302). FPIC is again mentioned multiple times in the 2016-2020 UN-REDD Strategic Framework (UN-REDD, 2015, p. 5). All of these treaties and declarations have received worldwide support from nearly all states. According to the 'norm life cycle' developed by Finnemore and Sikkink (1998, p. 896) this indicates the internalization or 'taken-for-granted' status of stakeholder engagement and FPIC both in international and national contexts (ibid., p. 904-905). But as existing research indicates, reality is unruly to this hypothesis.

The work of Risse, Ropp and Sikkink (henceforth Risse et al.) (2013) delves into this synergy between international norms and national practices. Building on the 'spiral model' of human rights introduced by the same authors in 1999 (Risse et al. 1999), they argue that there is a difference between *commitment* to a norm, and actual *compliance*. The authors outline four social mechanisms that can push a state to actually comply with a norm: coercion, incentives, persuasion and capacity building (ibid., p. 13-15). Combined with various scope conditions (ibid., p. 16) Risse et al. expect that states and organizations can be pushed towards compliance with a norm beyond mere commitment.

1.3. Research question

However, despite many of these social mechanisms and scope conditions being present in the case of REDD+, compliance with the norm of indigenous participation and FPIC is often partly or completely absent. This thesis' aim is twofold. First, to identify these gaps in the explanatory mechanism of norm compliance by the spiral model in the case of REDD+ for the central norm of '*indigenous stakeholder participation and FPIC*'. Second, based on the first point, the analysis will focus on finding out if the social mechanisms and scope conditions work differently than the model assumes, or if additional mechanisms are at work. This leads to the following research question guiding the rest of this thesis:

Research question: Why do norms on indigenous participation and FPIC fail to translate from international commitment to national practice in REDD+?

This research question requires an in-depth knowledge on various important aspects. The first is the history of the development of indigenous stakeholder participation and FPIC as an international

norm, both within the REDD+ strategic framework as well as in international treaties and negotiations such as UNDRIP. In order for the spiral model to be applicable to stakeholder participation and FPIC, it will need to be argued that this can be seen as a human right, since the model is originally designed for the development of human rights norms. Subsequently this can be connected to the development of REDD+ in our cases through the spiral model. This requires a thorough understanding of the development of REDD+ both internationally and on the national level as well as of the social mechanisms and scope conditions by Risse et al. Finally, this thesis will make use of additional literature on the practical implications of indigenous participation, connecting these to the mechanisms described by Risse et al.

1.4. Scientific and Societal relevance

Climate change mitigation receives ever more attention both from national and international actors. The UN Sustainable Development Goals (SDGs), particularly goal 13 on climate action, and the global support for the Paris Climate Agreement indicates the increasing global demand for concrete initiatives to adapt to and mitigate the effects of climate change (UN General Assembly, 2015, p. 14). Reducing carbon emissions through avoiding deforestation is one of the major tools through which this development is aimed to take place. As Goal 13.A. states, from 2020 onwards large funds for climate change mitigation need to be addressed to developing countries (UN SDGs, 2020). This mainly concerns the Green Climate Fund (GCF), one of the major financial contributors to REDD+. Goal 13.B concerns the promotion of mechanisms for raising capacity for effective climate change-related planning and management in least developed countries (LDCs) (ibid.). It is exactly in these states that deforestation is one of the biggest causes of rising carbon emissions. REDD+ is therefore only likely to grow, as will its societal impact.

As described above, REDD+ programs have already been criticized for their lack of indigenous stakeholder participation and FPIC (Angelsen et al. 2018, p. 140). Evaluations of indigenous participation however often stress how crucial exactly this participation is to the success of a project, both in terms of environmental and social benefits (Riamit and Tauli-Corpuz, 2012, p. 6) Improved participation can lead to the improvement of other issues on which REDD+ is often criticized, such as corruption, transparency, social inclusion and land tenure (Fletcher et al. 2016, p. 2; Clements, 2010, p. 309-310; Isyaku et al, 2017, p. 212; Corbera and Schroeder, 2010, p. 5).

A better understanding of how such a norm transforms from its international abstractness to national practice can also benefit a wide range of actors in understanding the best ways of pushing it towards actual implementation. This can also work the other way around, as the results of such a research can guide states, NGOs and other organizations towards new insights on the best way to

implement a human rights norm, for instance through better involving all relevant stakeholders. Various aspects of the current norm might hinder its effective transformation to national practice. As Tänzler (2013, p. 27) states, REDD+ projects are often implemented in areas plagued by (armed) conflict. As these conflicts are often taking place between the indigenous peoples and local or national governments, a better understanding of why indigenous participation and FPIC fail to take place in these areas can greatly contribute to future conflict-sensitive climate mitigation initiatives and even the promotion of stability in these areas (ibid., p. 28).

Despite growing attention in academic literature for the effects and implementation of REDD+, the normative side of stakeholder participation has thus far remained relatively little studied. Corbera and Schroeder (2010, p. 96-97) outline various priorities for future research on REDD+ programs. Among their suggestions is the need to understand the interplay of REDD+ politics in national and international negotiations (ibid., p. 97). Although the spiral model does cover all of these aspects, it faces two major scientific challenges. The first, as already explained in the previous section, is the potential gaps in the explanatory mechanism of the model, as the current model seems to indicate that norm compliance should happen, while it does not. The second challenge concerns the unique character of indigenous participation and FPIC as a norm. While the spiral model analyzes 'classic' human rights norms, this thesis tries to establish whether it is also applicable to the norm of indigenous participation and FPIC. This goal might call for refining the spiral model and finding additional explanatory mechanisms, thus contributing to the academic debate on norm emergence, commitment and compliance.

1.5. Thesis structure

This thesis will first start with an overview of the history the development of the central norm, indigenous participation and FPIC. The following theoretical framework will consist of two central concepts. The first concept is norm compliance, which will be built around the spiral model of Risse et al., combined with insights from other authors to design a set of social mechanisms that can explain the non-compliance with the central norm. The second concept concerns stakeholder participation and FPIC of indigenous peoples. Recent insights on how stakeholder engagement takes place on the ground in actual projects will be combined to contribute to the search for improving the spiral model. This will be followed by the methodology, which will consider the benefits and disadvantages of the research method, explain the case selection and formulate and operationalize hypotheses. The analysis, in which three cases will be studied, tries to explain the interplay between the two concepts from the theoretical framework, indigenous stakeholder participation and norm compliance.

2. Literature review & theoretical framework

The participation of indigenous peoples in international negotiations and national policies concerning climate change mitigation initiatives has a long history. This chapter will first outline this history, followed by a section on the unique character of indigenous participation for the spiral model of Risse, Ropp and Sikkink. As this thesis assumes the norm of indigenous participation and FPIC to be internalized in international negotiations, the theoretical section will continue with a brief explanation of the norm life cycle by Finnemore and Sikkink. The main part of this chapter will then be used to outline the spiral model. For the sake of identifying additional explanatory mechanisms for the lack of norm compliance in the case of REDD+, a review of recent literature on indigenous participation and FPIC will clarify how exactly these take form on the ground.

2.1. Human rights compliance theory

Especially since the 1990s, academic literature on states' compliance with human rights norms has been steadily increasing, both in volume and sophistication (Bates, 2015, p. 1169). Rather than focusing on commitment, scholars studying compliance focus on the mechanisms influencing actors to actually put a norm into practice. Although many different strands of compliance theory can be identified, most can be sorted under two dueling perspectives¹, rational choice and constructivism (ibid., p. 1170). The first approach focusses more on mechanisms such as hegemony, incentives, sanctions, reputational concerns and material self-interest. Constructivist compliance theory instead argues that state practice is formed by interactions, argumentation and exposure to norms (ibid.). Each branch of the theoretical spectrum offers a wide variety of case studies and larger quantitative analyses to support its own assumptions, or rather show weaknesses and blind spots in other approaches.

This thesis analyses the norm of indigenous participation and FPIC, largely based on the spiral model of Risse et al. (1999; 2013). What makes this model rather attractive opposed to various other approaches is that it cannot be placed in either of the two branches. As Risse and Ropp explicitly acknowledge, pitting rational choice against constructivist hypotheses 'does not make sense' if a normative model can accommodate and integrate explanatory factors from both (Bates, 2015, p. 1172). As the next chapters will reveal, the spiral model does exactly this by proposing a number of

¹ As Bates (2015, p. 1170) states, a number of these strands of compliance theory consist of Goldsmith and Posner's Neorealism, Guzman's rational choice approaches, liberal institutionalism and transborder elite networks by Slaughter, managerialism by Chayes and Chayes, Koh's transnational legal process, norm dynamics by Finnemore and Sikkink and Brunée and Toope's interactional theory of legal obligation.

social mechanisms and scope conditions for norm compliance that borrow both from rational choice and constructivist arguments (Risse et al., 2013).

Another, and arguably the most prominent reason to use the spiral model, is that it is specifically tailored to explain for the difference between international commitment and actual compliance, whereas other contributions focus on specific elements of compliance or mechanisms, often only partially accounting for compliance. The approach by Risse et al. is rather unique in offering a comprehensive theoretical model using a wide range of mechanisms to account for a lack in norm compliance by states and therefore seems best suited to study the norm of indigenous participation and FPIC.

2.2. Indigenous participation, consultation and consent in recent history

Nevertheless, the model still has trouble explaining non-compliance with one particular norm in REDD+, gaps which this thesis aims to explore. The norm in question is that of the right to indigenous participation and FPIC in environmental initiatives that affect their livelihood. The participation of indigenous peoples in international negotiations and national policies concerning climate change mitigation initiatives has a long history (Angelsen et al. 2018). Throughout the 20th century, many states adopted various approaches towards their indigenous populations. At the same time, international structures appeared that aimed to protect and advocate the rights of these peoples. This chapter briefly describes these developments.

There is no universal definition of indigenous and tribal peoples. Anaya (2010, p. 28) argues that even if it would be possible to create a generic, descriptive list, the questions remains if this would be desirable. As the UN states, considering the diversity of indigenous peoples, an official categorization has not been adopted. Instead, a modern understanding has been developed by the UN Permanent Forum on Indigenous Issues (UNPFII) based on the following (UNPFII, n.d., p. 1)

- There needs to be a self-identification as indigenous peoples at the individual level, accepted by the community
- Historical continuity with pre-colonial and pre-settler societies with a strong link to territories and surrounding natural resources
- Distinct social, economic or political system with distinct language, culture and beliefs
- Indigenous peoples form non-dominant groups of society that resolve to maintain and reproduce their ancestral environments and systems

The International Labour Organization (ILO) has been engaged with indigenous peoples' issues since the 1920s (UN DESA, 2020a) and uses its own definition defined in the ILO Convention 169 (ILO,

2020) which is largely similar to the criteria of the UNPFII, but does make the distinction between indigenous and tribal peoples. Other national terms for the same group are natives, aboriginal, first nations, Adivasi, Janajati, etc. (ibid.) For the sake of clarity this thesis will describe the collection of these groups as 'indigenous peoples'. As of 2020, there are approximately 370 to 500 million indigenous people living worldwide (ibid.). The degree to which these people are actually acknowledged as such by their respective national governments varies however, which will be an important factor later in this thesis.

Indigenous peoples' involvement in international negotiations can be traced back to the early 20th century (UN DESA, 2020a; Anaya, 2010, p. 4). Protests against assimilation policies for indigenous peoples led to the formation of native support groups and organizations that in turn finally coalesced in international lobbying efforts (ibid., p. 9). These groups were able of sending leaders to international forums, raising awareness of human rights violation, 'occurring even in major democracies'.

These efforts resulted in various initiatives on behalf of the promotion of indigenous rights, including the Working Group on Indigenous Populations (UNWGIP) in 1982, the ILO Convention 169 in 1989, the 1993/1994 International Year and Decade of Indigenous Peoples and the Permanent Forum on Indigenous Issues (PFII) in 2000 (UN DESA, 2020a). Meanwhile the number of states vocally supporting indigenous rights grew as well. In the early 2000s, indigenous spokespersons occupied a relatively strong position in the U.N. human rights system (Feiring, 2013, p. 29; Eimer and Bartels, 2020, p. 245). This eventually came to fruition in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007; Anaya, 2010, p. 56).

Despite ongoing disagreements between state and indigenous representatives at the negotiation rounds for UNDRIP, the declaration neared its completion in 2005-2006 (ibid.). One of the key issues of contestation was the caveat that the declaration is not to be 'construed as authorizing or encouraging any action which would dismember or impair ... territorial integrity or political unity of states'. However, as Anaya (ibid.) describes, out of fear for losing momentum towards the final signing, almost all indigenous representatives agreed to go along with the final draft. UNDRIP, now supported by the large majority of indigenous representatives, was signed by 144 states in favour, 4 against (Australia, Canada, New-Zealand and the United States) and 11 abstentions (UN DESA, 2020b). The four votes against the declaration were later reversed.

In the light of this thesis, UNDRIP stands out in two important aspects. First, the steady increase in international awareness on indigenous rights as described above, combined with the large number of votes in favor of UNDRIP, indicates the broad support and international commitment to protecting

indigenous rights. Second, and most importantly, the declaration is very explicit on the central norm of this thesis, indigenous participation and FPIC, as the following parts of UNDRIP (2007) highlight:

- Article 10: No relocation shall take place without the *free, prior and informed consent* of the indigenous peoples.
- Article 18: Indigenous peoples have *the right to participate* in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their *free, prior and informed consent* before adopting and implementing legislative or administrative measures that may affect them.
- Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their *free and informed consent* prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

If all these developments show one thing, it is that indigenous rights have been on the international agenda for a long time. They are supported, at least through official commitment, by a broad range of states, NGOs and other international organizations.

At the same time however, it is important to note the diversity in various forms of indigenous participation in decision-making processes, especially the one between ‘consultation’ and ‘consent’, which are vastly different and of which only the latter one can be considered part of FPIC (Eimer and Bartels, 2020). As Eimer and Bartels show, while indigenous participation in international negotiations has been increasing in recent years, at the same time there seems to be shift in the extent of rights to self-determination. Most notably, recent agreements replace ‘FPIC’ by the weaker formulation of ‘indigenous consultation’, which can have important implications for the actual execution of indigenous participation processes (ibid.). So while indigenous participation in projects might seem to be increasing and to be well-established in its phrasing, it is important to distinguish between various forms in the analysis, for not every form of indigenous participation is the same.

Although one would assume there to be less ambiguity surrounding ‘free, prior and informed consent’, given the clear description of what is required from indigenous peoples, Haugen (2016, p. 250-252) convincingly argues otherwise. Despite FPIC being part of various treaties and rulebooks,

this does not mean that its exact definition is the same everywhere, or as the World Bank specifies ‘there is not universally accepted definition of FPIC’ (ibid., p. 261; World Bank, 2009). This creates many questions. Who is to consult and be consulted? What is the content of the consultation? How should consent be understood? Despite the considerable progression of the recognition of indigenous peoples’ rights in recent decades, lack of clarity on its specifics leave room for adversarial approaches (ibid., p. 272; Van Kersbergen and Verbeek, 2007).

2.3. Indigenous participation and FPIC in the spiral model

This thesis assesses the spiral model, by Risse et al. (2013) which is specifically focused on the development of and compliance with human rights norms. This chapter will argue that the central norm of this thesis, the right to indigenous participation and FPIC, can also be incorporated into this theory, although it poses some unique challenges.

In the original version of the spiral model, published in 1999, the authors leave the definition of human rights to be somewhat vague (Risse et al., 1999). Instead of debating what exactly constitutes a ‘human right’, the authors simply choose to analyze a set of rights from the UN Universal Declaration of Human Rights (UDHR) (ibid., p. 2). Nevertheless, based on the UDHR, the authors do state various common aspects of human rights. They are widely institutionalized in international treaties that have been ratified by national governments (ibid., p. 3). Thereby, they challenge state-rule over society and national sovereignty. If a state commits itself to such an international norm, it is from that moment onwards bound, if not legally it is morally, to follow that norm in its domestic policies (ibid., p. 4). Last, the authors state that human rights, although widely supported, are still often at odds with other principled ideas.

Leaving aside whether the central norm of this thesis can be considered a human right, it fits the description used by Risse et al. First, as mentioned, both ‘indigenous participation’ and ‘free, prior and informed consent’ are explicitly mentioned multiple times in UNDRIP (2007) and ILO convention 169 (ILO, 2020). Within the UN policy discourse, UNDRIP is widely seen as a normative extension of the UDHR for indigenous peoples, and both documents are often mentioned within the same narrative on international rights (UNDRIP, 2007). Thereby, during the negotiation process of UNDRIP, the UN Human Rights Council regularly published recommendations on the final text in its resolutions (ibid., p. 2). Similarly, in other UN policy documents, both aspects of this thesis’s central norm are continuously mentioned under the ‘human rights’ category (UNHR, 2013, p. 1). The idea of universal rights empowering indigenous peoples can even be argued to counter other principled ideas. As Merino (2018) argues, ‘plurinational’ recognition of indigenous peoples, which can be argued is fostered by UNDRIP, challenges the established global political economy of resource

extraction, and is even at odds with existing nationalist and centralized state structures. Hanna and Vanclay (2013) argue that FPIC can be directly linked to the human right of self-determination. Lastly, as UNDRIP (2007) states, besides being a right in itself, FPIC is an instrumental factor in safeguarding many other human rights for indigenous peoples. Therefore, this thesis argues that indigenous participation and FPIC can indeed be analyzed within the framework of the spiral model provided by Risse et al. On the other hand, a (human) rights norm specifically tailored to one group might pose different challenges to the spiral model than a ‘classic’ universal human right, which makes this case interesting with regards to the scientific relevance of this thesis.

2.4. The spiral model: from commitment to compliance

Now that the central norm’s application to the spiral model is established, the model itself will be outlined in the following sections. In 1999, Risse et al. (1999) published *‘The power of human rights: international norm dynamics and domestic change’*. Building on the existing literature on the influence of norms and ideas on state behavior the authors aim to measure the actual compliance of states in following the norms of the UDHR. 50 years after its official adoption, commitment to the declaration has nowadays been extended to virtually all UN member states. Their research is guided by three main questions evaluating the extend of this commitment:

1. Have the norms of the UDHR had any impact on the actual domestic behavior of states?
2. What are the conditions under which the human rights norms are internalized domestically?
3. What accounts for the variation in the degree to which norms are internalized?

A norm, in the research of Risse et al., can be defined as ‘a standard of appropriate behavior for actors with a given identity’, derived from the earlier work of Finnemore and Sikkink (1998, p. 891).

2.4.1. The norm life cycle

As Finnemore (1996) argues, norms and shared understandings can heavily influence state identities and interests. It is based on this understanding that Finnemore and Sikkink (1998) developed the ‘norm life cycle’. This model formulates a standard trajectory of norm development in international politics, divided in three stages, as illustrated in figure 2 (ibid., p. 894).

Figure 2: the norm life cycle (Finnemore and Sikkink, 1998, p. 896).



It is important to shortly delve into this model first, since the spiral model is partly based on the assumptions made by Finnemore and Sikkink. The first stage of norm development concerns the emergence of a norm. Norms are introduced by entrepreneurs who have a strong notion of desirable behavior by states, communities or individuals (*ibid.*, p. 895-898). After a certain number (usually one-third) of states adopt the new norm a tipping point is reached, after which other states are 'socialized' into norm commitment. Socialization occurs through mechanisms such as diplomatic praise or censure (*ibid.*, p. 901). As Katzenstein (1996) argues, state behavior is shaped by state identity, which in turn depends on the cultural-institutional context in which states act. If the norm gains a stronger position in this context, this in turn can influence states' identities.

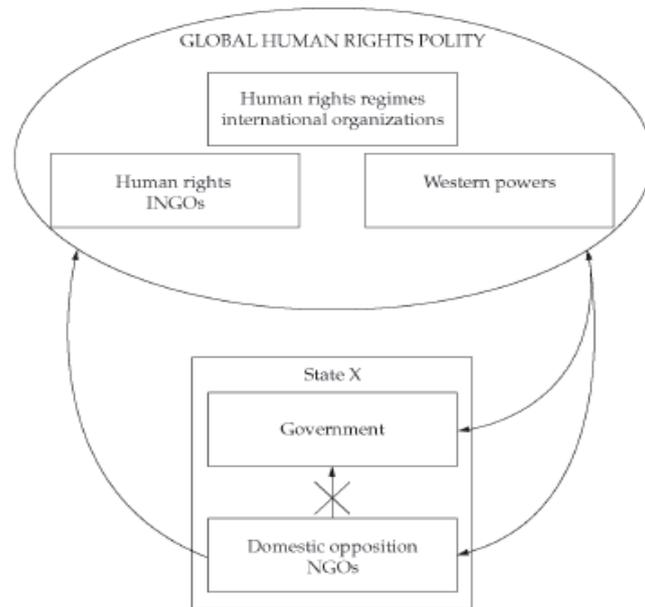
Finally, a norm can become 'internalized', in which its internal value is no longer contested and the effect of socialization is even stronger. Here, norm compliance is central for states to identify if other states are part of the 'liberal' international community (Risse et al., 1999, p. 8). Although Finnemore and Sikkink (1998, p. 893) do already touch upon the interplay between international and domestic norms, they mainly focus on the way domestic actors can influence international norm development. This focus logically follows on one of their main assumptions that norm entrepreneurs are usually operating first on the national level, before a norm can be elevated to international negotiations (*ibid.*). It is however not the issue that after norm internalization, compliance by states on the domestic level automatically follows (Risse et al., 1999, p. 4). It is exactly this crux that spurred the development of the spiral model by Risse et al., who partly base their assumptions on the norm life cycle of Finnemore and Sikkink (but also Finnemore, 1996; Haas, 1992; Goldstein and Keohane, 1993; Katzenstein, 1996; Wendt, 1992).

2.4.2. The spiral model

As elaborated above, the spiral model aims to explain the variation of domestic norm internalization among states. The original spiral model, developed in 1999, was built upon the idea of 'transnational advocacy networks' (TANs) (Risse et al., 1999, p. 18). A transnational advocacy network 'includes those relevant actors working internationally on an issue, who are bound together by shared values, a common discourse, and dense exchanges of information and services' (Keck and Sikkink, 1998). Similar to the international processes described by Finnemore and Sikkink (1998), Risse et al. argue that socialization of a norm also takes place at the domestic level, mainly through pressure from the TANs. This is what Sikkink and Keck describe as the 'boomerang effect'.

Figure 3: The boomerang effect (Risse et al., 1999, p. 19).

The boomerang effect is caused by domestic groups 'bypassing' the repressive state to directly search out international allies, bringing in pressure from outside to push a norm forward (Risse et al., 1999, p. 18). These domestic groups can range from political opposition to NGOs and other social movements. International allies, the TANS, can be human rights organizations, but also other states. Figure 3 illustrates the effect of the boomerang model.



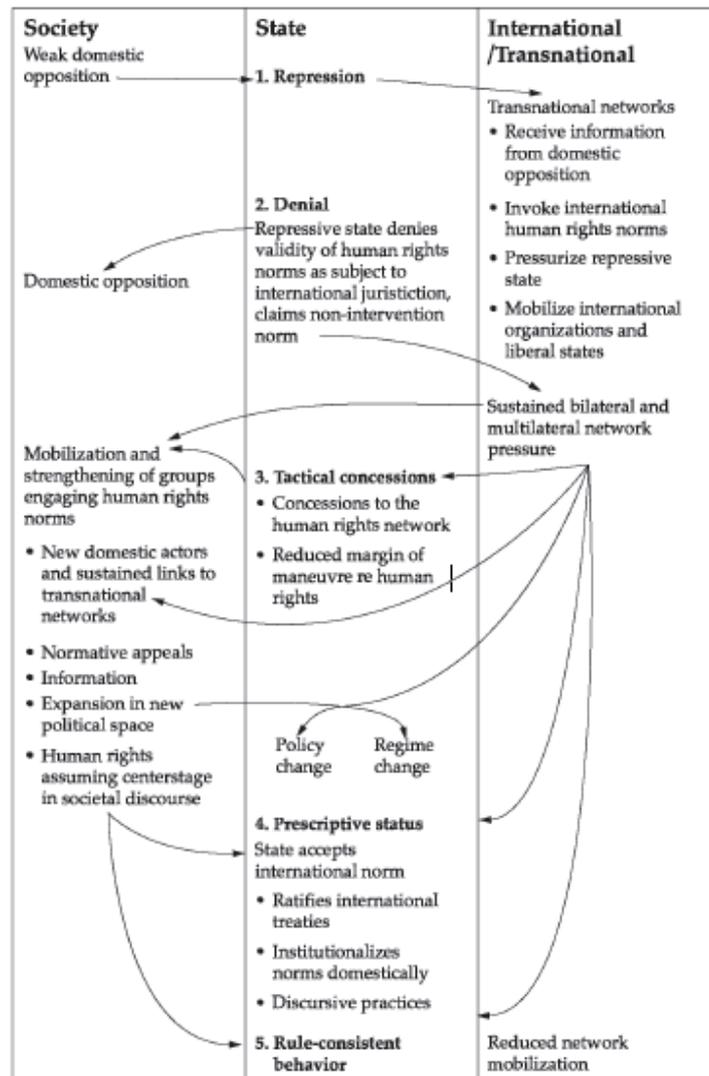
The spiral model specifies the exact process through which a norm develops domestically, supported by the boomerang effect. It does so by arguing that the development of these norms can be divided into five phases, portrayed in figure 4 (Risse et al., 1999, p. 20).

When a certain norm gets introduced in a state violating that norm, the domestic societal opposition is too weak or oppressed to present a significant challenge (ibid., p. 22). While this might initially stop norm development, chances are likely that the domestic groups link up with a TAN. Operating from the international level, TANS can pressure states from the outside. If enough information is gathered, the repression of the norm can be put on the international agenda.

This leads to phase 2, 'denial' (ibid., p. 22-23). With international pressure massing, states almost always react in denial of the norm-violating behavior. Risse et al. describe this denial as 'refusing to accept the validity of the international human rights norm'. The boomerang effect is countered by states with arguments such as 'an illegitimate intervention in internal affairs', which might even activate a nationalist sentiment among the public. The move to the next phase depends on the strength of the TANS and the vulnerability of the norm-violating government to international pressure (ibid. Keck and Sikkink, 1998).

Figure 4: the spiral model of human rights change (ibid., p. 20)

Phase 3 concerns ‘tactical concessions’. When international pressure escalates, norm-violating states seek cosmetic changes ‘to pacify international criticism’ (ibid., p. 25). However, the most important function of this phase is to allow the domestic opposition groups that were initially under repression to gain strength, now able to push both from ‘above’ and ‘below’ (Brysk, 1993; Risse et al., 1999, p. 27). If the importance of the norm grows, even domestic opposition groups that do not believe in it might use it now to criticize the government, especially since a strong international coalition now stands behind that message. Thereby, the government cannot deny the validity of the norm anymore, since they are making tactical concessions. When the norm develops to the next phase, governments have underestimated the impact of these concessions, overestimating their own power and support (ibid., p. 27-28).



In the fourth phase of the model the norm has achieved a ‘prescriptive status,’ in which the actors involved regularly refer to the norm to describe and comment on their own behavior and that of others (ibid., p. 29; Rittberger, 1993, p. 10-11). Risse et al. use various indicators for this phase. First, governments ratify the respective international human rights conventions. Second, the norms are institutionalized within the state itself through rules and laws. Third, citizens can complain about human rights violations and fourth, the government’s discursive practices no longer deny the validity of the norm, nor international criticism regarding its behavior. Nevertheless, despite the norm being virtually uncontested verbally, this phase does not yet take into account actual rule-consistent behavior. The credo ‘talk is cheap,’ which is regularly used by states can still be applied here (ibid., p. 25).

Phase five concerns the true institutionalization of the norm, both in law and behavior. State leaders might now even use international pressure themselves to coerce non-compliant actors in following the norm (ibid., p. 31). This phase marks the end of norm-development in the spiral model, in which the norm has truly internalized.

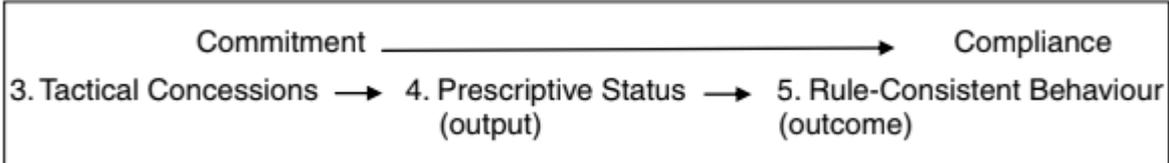
Throughout the years since its publication, the spiral model has not remained without criticism. Schroeder (2009, p. 223) states that too much emphasis is put on the 'pressuring' of states by TANS. While analyzing climate policies using the spiral model, she concludes that information sharing by epistemic communities and 'convincing' rather than 'pressuring' states into adopting a norm works far more effectively. Fleay (2006, p. 43) turns the conceptualization of the model around, arguing that while norms and TANS can influence target states, the same process can occur vice versa. More recently, Lindemann and Petiteville (2019) argue that the model has a western-centered conception on international pressure, while at the same time Risse et al. claim that it is generalizable across cases irrespective of differences among states. Simmons (2013, p. 47) concludes that the model is applicable only to states that are transitioning to or backsliding to democracy, but less so for true autocracies. China is often cited as an example of an authoritarian state able to make tactical concessions without real repercussions. Last, but perhaps most importantly, is the criticism that besides domestic opposition groups, the model does not take into account any other domestic factors for the target states influencing norm development, such as cost-benefit calculations, shifting local interests, or even the support of human rights violations by large parts of the population (Lindemann and Petiteville, 2019; Hochstetler & Viola, 2012).

2.4.3. From commitment to compliance

In 2013, Risse et al. therefore introduced a revision of their original spiral model, noticing three major trends in norm development. First is the rise of a new model of criminal accountability, the increasing importance of the International Criminal Court (ICC). Thereby, the rise of a new norm for intervening in norm-violating states, the 'responsibility to protect' (R2P), has increased the importance of external pressure (Risse et al., 2013, p. 3). Second, the authors recognize that weak or limited statehood is more important as an obstacle to domestic norm implementation and compliance than they initially thought (ibid.). Third, private actors increasingly commit voluntarily to international human rights standards, for example through corporate responsibility. From these developments, Risse et al. recognize that their original model underspecified processes and scope conditions that lead from commitment to actual compliance, which is the central theme of their revision and this thesis.

Inherently a specific model for causal processes can be quite static when it comes to explaining outlying cases (ibid, p. 8). It might even be doubtful whether a universal model for interpreting human rights even exists at the global level (Carraro, 2019, p. 1080). Risse et al. realize that the spiral model does not account for cases such as the United States, a western state that is supposed to pressure other states into norm-commitment, but instead resorts to norm violating behavior itself². Nowadays virtually all states have ratified at least one human rights treaty, but human rights violations continue to be persistent (Hafner-Burton and Tsutsui, 2005; Hathaway 2007). While the pressure mechanisms ‘from above and below’ might work in the first two phases of the model, they do so to a lesser extend in the later stages. Therefore, the authors aim to establish various additional ‘social mechanisms’ and ‘scope conditions’ explaining for the discrepancy between commitment and actual compliance, to be incorporated into the last three phases spiral model, as figure 4 illustrates.

Figure 4: Commitment, compliance and the spiral model (Risse et al., 2013, p. 10)



As the authors argue, the move from initial commitment to actual compliance in the spiral model can take place from phase 3 of tactical concessions onwards (ibid., p. 10). It is important to note that norm-compliance is a complicated process of that can take different forms based on its state-context, the norm it is derived from and the actors that influence it (Carraro, 2019).

As the authors already mention themselves, various scholars, while applying the spiral model themselves, encountered problems with measuring and operationalizing key variables to specific states (ibid., p. 9). This thesis aims to further specify the application of the model by investigating the synergy between the model’s social mechanisms and scope condition on the one hand, and indigenous participation and FPIC on the other.

2.5. Social mechanisms and scope conditions

In their 2013 revision of the spiral model, Risse et al. (2013, p. 13-22) present four social mechanisms that can push a state towards norm compliance and five scope conditions that determine the effectiveness of these mechanisms.

2.5.1. Social mechanisms

² The most prominent example given by the authors is the use of torture by the US in the ‘war on terror’, starting under the Bush administration (Risse et al., 2013, p. 9).

The first social mechanism concerns '*coercion*' (ibid., p. 13). Both state and non-state actors can be coerced to comply with certain norms. This can happen first through the use of force by external actors. The authors argue that the norm of R2P has recently boosted the legitimization of force to establish human rights in other states. Second, states can be coerced into compliance by the legal enforcement of domestic, regional or international courts such as the International Criminal Court (ICC).

The second social mechanism, '*changing incentives*', is argued by the authors to be even more important (ibid., p. 14). Risse et al. see states as rational actors applying utility calculations to the costs and benefits of non-compliance. Incentives can be negative in the form of sanctions, or positive, for instance when looking at foreign aid, which can be increased for norm-compliant states. One could argue that this mechanism is closely intertwined with the previous one, since the threat of force or legal enforcement can be enough of an incentive for a state to work towards compliance.

The third social mechanism is '*persuasion and discourse*' (ibid., p. 14). The authors see persuasion as a process of convincing states into voluntary compliance with norms. While incentives only accommodate existing interests and coercion forces states into compliance, persuaded states actually rearrange their interests. States must be convinced themselves in the intrinsic 'goodness' of supporting a norm, not through external threats or incentives. One important method to achieve this is by linking the norm to other issues. In the case of the subject of this thesis, this could for instance be linking the norm of indigenous participation with the success or failure of environmental projects. The latter has already gained a dominant position in many states' discourses. Thereby, if a human right has become the dominant discourse, naming and shaming and the increase of reputational loss for norm-violating states become ever more important. Reputational damage as an action-influencing mechanism is carried broadly by a variety of IR scholars, also by more liberal approaches such as the liberal institutionalist school of Robert Keohane (1984, p. 105) and rational choice approaches (Guzman, 2008).

The final mechanism concerns '*capacity building*' (ibid., p. 15). Unlike in the original spiral model, the authors recognize the importance of institutional capacity (Bates, 2015, p. 1172). Compliance, besides often caused by unwillingness, can also be the involuntary result of a state's lack of resources or 'limited statehood' to enforce compliance. Capacity-building is described as a 'highly institutionalized process of social interaction aiming toward education, training and the building up of administrative capacities to implement and enforce human rights law'. As we will see below, this mechanism is expected to be of great importance to the process of compliance with the central norm.

2.5.2. Scope conditions

The degree to which social mechanisms induce compliance however depends on various factors, which Risse et al. (2013, p. 16) identify as five 'scope conditions'.

- *Democratic versus authoritarian regimes.* Earlier empirical research shows that state compliance with human rights norms almost always resulted from either regime change or democratization procedures, or in states that are already 'democracies', which Risse et al. define as 'a state with competition for executive office and the degree of participation by citizens in electing their governments'. Following the assumption that respect for human rights is often an institutionalized logic of appropriateness in democracies, one would expect regime type to matter with regards to the social mechanisms. Authoritarian regimes might be less susceptible to incentives or reputational damage.
- *Consolidated versus limited statehood* (ibid., p. 17). This condition is closely related with the mechanism of capacity building and concerns that some states can be incapable of complying with human rights norms. The authors define limited statehood as the absence of political and administrative institutions strong enough to enforce the law. The authors assume that states that do possess these institutions, which means consolidated statehood, but do not comply to human rights norms are rather unwilling than unable to do so. Within this twofold dimension of statehood, relating to the first condition, it matters if states are democratic or authoritarian.
- *Centralized versus decentralized rule implementation* (ibid., p. 18). Instead of seeing states as unitary actors, the spiral model assumes that states' decision making can be more centralized or decentralized, the latter of which makes it more difficult to comply with norms. First, the initiative for international norm compliance is often taken from the level of the national government. Risse et al. argue that compliance is more likely if the responsibility for doing this lies in the hands of those same actors. Second, a centralized government should have more effective means to push for norm compliance throughout its entire territory, rather than a decentralized government which shares more power with local authorities.
- *Material vulnerability* (ibid., p. 20). Economically or politically powerful states are expected to be less vulnerable to external pressures to comply with human rights norms. The authors argue that the same holds for non-state actors or companies.
- *Social vulnerability* (ibid., p. 21). Risse et al. assume states to have identities that can be either 'secure' or 'insecure'. 'States with insecure identities are those that aspire to improve

their standing in the international community' (Gurowitz, 1999, p. 305). These states are more vulnerable to social pressures affecting their reputations.

2.6. Indigenous participation in environmental projects

As this thesis is focused specifically on indigenous stakeholder participation in forest protection programs, this chapter will discuss recent academic literature on this matter to clarify how exactly indigenous stakeholder participation takes form on the ground, which problems appear most prominent.

As West (2015, p. 924) argues, successful efforts to reduce carbon emissions with the help of indigenous peoples vary with how these projects are designed and implemented. Similarly, these projects can have a great effect on the lives of indigenous peoples. The major scholarly conclusion from this ongoing discussion is that local (indigenous) stakeholder participation is perhaps even the most important aspect of any global forest protection mechanism (Daviet et al, 2011; Krause et al, 2013; West, 2015, p. 924). 'Where governance and decision-making structures are established without strong stakeholder involvement, successful outcomes are unlikely'.

First, there is the problem of a lack of in-depth knowledge of indigenous cultures and traditions in governing their lands (West, 2015, p. 926). Despite often having the best intentions, this is a major reason that outsider implementation of community-based projects fails to deliver on its goals. Interveners need to be aware of how interventions feed into the 'politics of the local' (Van Leeuwen et al. 2019, p. 20). Udofia et al (2017, p. 164) similarly recall the lack of information by project developers on local right holders and indigenous interests as a critical aspect of failing environmental project assessments. At the same time, indigenous peoples often have to deal with a lack of information on projects, specific funds and the rights that they have (West, 2016). Without access to sufficient and independent information, it is argued that indigenous participation and FPIC can never truly be developed (Carino, 2005, p. 35).

This lack of knowledge of local social structures and culture is often the cause for many other practical implications in indigenous participation. As Fontana and Grugel (2016, p. 249) argue, prior consultation and FPIC often face difficulties as it is not clear who exactly is entitled to participation. Processes of self-determination are often considered as a key criterion for identifying indigenous peoples in South-American countries, in which people have to identify themselves as indigenous. However, in many African and Asian countries governments apply a more 'minimalist' approach to which groups can be considered indigenous (ibid. 255). Collecting multiple groups under one general classification of being 'indigenous' could however also disregard internal structures among these

groups, such as in Tanzania, where some groups are considered 'more indigenous' than others (Igoe, 2006, p. 416).

Even if indigenous groups are clearly established, legitimate representation of these people can prove equally problematic. Local structures 'may sometimes be violent, elitist or illegitimate' (Van Leeuwen et al, 2019, p. 19). It can also be questioned whether indigenous rights organizations, 'local' grassroots organizations, intermediary NGOs and 'global agents', all claiming to represent indigenous rights, actually do so (Mato, 2000, p. 356). Transnational networks combining these organizations 'affect with their own representations and agendas the social processes through which indigenous peoples' organizations produce representations of their own identities and associated political agendas' (ibid.). Mato argues that the indigenous rights representation nowadays has grown so internationally connected through transnational networks, influencing its own local agendas, that it makes questionable any assumptions that 'global' and 'local' agents even exist as separate realities (ibid.). NGOs' role in setting up environmental projects is further contested at the practical level, as some authors (West, 2016; Hayes and Persha, 2010) plea for the extensive involvement of NGOs instead of central government agents, while others point out that these organizations often also have their own, different agendas from the indigenous demands (Mato, 2000).

Environmental projects often create an additional complexity since, through their often highly politicized nature, interests of indigenous people can appear and are seen as conflicting with environmental conservation (Watkin Lui et al, 2015, p. 1263; Udofia et al, 2017, p. 172). Take for instance the example of the Adivasi in India. Approximately 8 million people are in danger of being evicted from the land they have lived on for thousands of years as a result of a supreme court ruling after environmental organizations had accused them of destroying forests' biodiversity (Thekaekara, 2019). These are all issues from which it can logically be expected to make indigenous people hesitant to further cooperate with outside actors on environmental issues.

One particular aspect of environmental project designs that can be argued to potentially mitigate these effects and foster indigenous participation and consent is a decentralized implementation structure (West, 2016, p. 925; Hayes and Persha, 2010). This can be defined as 'any political act in which a central government formally cedes powers to actors and institutions at lower levels in political-administrative and territorial hierarchy' (ibid.). Lacking a top-down approach, the idea behind decentralization is that it allows a better articulation of traditions and priorities by local actors, as it is easier for them to participate in the designing of the project. As Phelps et al (2010, p. 312) state, 'transition toward decentralized forest management allows local actors increased rights and responsibilities'. Griffiths and Martone (2009, p. 19-20) even argue that top-down

implementation is doomed to failure, only reinforcing inequalities at all levels. However, a certain degree of policy and regulation is naturally required, preventing negative side-effects of the lack of government-regulations, an example of which could be corruption (ibid., p. 926).

Other causes for the absence or minimal enforcement of centralized rules and regulations are weak state structures and the absence of public accountability (Sandbrook et al, 2010). Often states simply do not have the capabilities to organize complex environmental projects, or lack control over the oversight of the flow of external funds and finances. One typical consequence of this is a high level of corruption that is often the major barrier to the effective implementation of initiatives both in reaching their environmental and social goals (Garcia, 2011).

Finally, specifically focusing on the research question of this thesis, it is important to distinguish FPIC as a specific branch of indigenous participation. Specifically focusing on negotiations on international biodiversity regulations, Eimer and Bartels (2020, p. 235) argue that the protection of indigenous rights follows a downwards slope. This can be witnessed specifically through the gradual replacement in agreements of the formulation 'prior, informed consent' by the weaker 'indigenous consultation', all the while indigenous representation in these negotiations has surprisingly enough been increasing in recent years (ibid., p. 236). Eimer and Bartels state that there is a clear link between this shift and the non-fulfillment of indigenous demands. FPIC implies bottom-up procedures, reducing governmental prerogatives regulating property rights and stipulating 'legal pluralism' (ibid., p. 240; Teubner and Korth, 2009). Consultation on the other hand does not compel external actors to 'listen and to accept no as an answer' (Hanna and Vanclay, 2013, p. 154).

2.7. The spiral model and indigenous participation

The final section of this chapter connects the insights on indigenous participation and FPIC with assumptions of the spiral model, to identify where these insights seem to contradict the model's assumptions, or where additional explanatory mechanisms can be formulated to study the lack of norm compliance in REDD+ states in the analysis.

The first concept through which indigenous participation and FPIC contradict the model's assumptions is that of a 'norm' itself. Risse et al. (2013; 1999) use the definition of norms coined earlier by Finnemore and Sikkink (1998) as a 'standard of appropriate behavior for actors with a given identity'. Once a state has committed to a norm, the spiral model seems to assume that this norm is static and clearly defined. However, as illustrated in the previous section it is not always clear what a norm exactly constitutes, or how actors can have varying interpretations on what compliance exactly means. In turn this might have far reaching consequences for norm compliance. This is exactly what Van Kersbergen and Verbeek (2007) argue when analyzing a norm's redefinition after its adoption. It

is only after states have committed to a certain norm that new battles begin on various prerogatives of these norms. Van Kersbergen and Verbeek argue that this cannot be seen separately from internalization and compliance. This might call for the spiral model to acknowledge the adaptability of a norm, rather than to assume its static nature

The second concept is the critical role that the spiral model designates to NGO's and transnational advocacy networks in achieving state compliance on human rights norms. Through international and domestic pressure, states can be forced to adhere to a norm they have committed to (Risse et al., 2013). This however seems to contradict with two lessons from the practices of indigenous participation in environmental projects (Watkin Lui et al, 2015, p. 1263; Udofia et al, 2017, p. 172). First is the negative effects that these same networks can have on indigenous rights such as participation, even if they have committed to protect these same rights. One example is the earlier explained case from India where up to 10 million indigenous Adivasi people can be evicted from their lands because of a lawsuit started against them by a coalition of environmental protection NGOs (Thekaekara, 2019). Another example is the scandal surrounding the World Wide Fund for Nature (WWF) for funding near paramilitary forces of park rangers who allegedly torture and kill local civilians in the name of fighting illegal poaching, all the while when the same WWF brands indigenous peoples as being critical collaborators in the conservation and sustainable use of national resources (Warren and Baker, 2019; WWF, 2020). This indicates that external funding might not always reach the goals it is intended for. Second, as explained above, is that it is questionable whether (international) NGO's always directly represent the interests of indigenous peoples, even if this is their sole purpose. While advocacy networks might push for indigenous participation and FPIC, as Eimer and Bartels show, more representation does not necessarily mean better representation. Furthermore, one of the most difficult parts in setting up environmental project is obtaining sufficient knowledge on local social structures and culture, which might lead to interveners and NGOs alike to misjudge how they influence the 'politics of the local.' Therefore, it could be useful to re-examine the role and effects of non-state actors and advocacy networks within the spiral model to see if in the case of REDD+ they follow a different pattern from the description given by Risse et al. (2013).

Third, but closely linked to the examples from the second concept, is the clashing of international norms, which Risse et al. do not seem to consider. States and non-state actors usually commit to multiple norms, some of which might contradict, or at least clash with each other. As the examples of the lawsuit and WWF might show, indigenous rights and environmental protection, both highly politicized norms, can seriously clash. There might not be a direct negative link between the protection of indigenous rights and the success of environmental projects, but this can be a

dominant discourse in the eyes of certain states and organizations. The spiral model does mention that there might be internal opposition to norm compliance, but does not directly link this to other international norms.

Finally, in the case of indigenous participation it is worth looking specifically at the scope condition of centralization vs. decentralization. Risse et al. (ibid.) argue that centralized rule implementation benefits norm compliance for human rights. However, in this respect, the norm of indigenous participation is a rather unique concept. As argued in the chapter on practical implications, states with centralized decision-making structures are often more likely to neglect indigenous voices in their policies, since these are often not as well organized as other political forces. If the right of indigenous participation cannot be articulated sufficiently, this might not only influence the norm itself, but also have far-reaching consequences on a whole range of other human rights norms. Risse et al., might have overlooked the unique position of indigenous peoples in the human rights arena, which makes it worth to re-examine this scope condition.

3. Methodology

This chapter will elaborate on the methodology used to answer the central research question: *Why do norms on indigenous participation and FPIC fail to translate from international commitment to national practice in REDD+?* The analysis will be conducted through three case studies, the case selection of which will be explained below. The theoretical background presented in the previous chapter will serve as the basis upon which the main hypotheses are built. The hypotheses will reflect the synergy between the social mechanisms and scope conditions of Risse et al. and the practical implications of indigenous participation in environmental projects. The chapter will be concluded by a justification of the data collection methods.

3.1. Method of inquiry

This thesis will operate a small-n study, in which a total of three cases of national REDD+ implementations will be analyzed. The main goal of this analysis is twofold. As a mechanism-based approach, the spiral model shows how a specific outcome, norm compliance, comes about (Hedström and Ylikoski, 2010, p. 51; Mahoney, 2001, p. 580). As the concept of a norm on indigenous participation and FPIC is fairly new to the spiral model, the first, deductive, part will assess to what degree the spiral model can explain the outcome of each case based on various hypotheses. However, as argued, this thesis attempts to strengthen the theory's structuring of the causal process as well. Why do some states not comply with the central norm while one would expect them to do so following the spiral model? This is the inductive part, in which various sub-questions will guide the search for additional explanatory factors. In this regard, a small-n study holds some significant advantages over large-n or single case studies. While single case studies can analyze certain causal mechanisms in-depth, we can often not be sure if their results are generalizable. Large-n studies analyze patterns in a large number of cases, which can lead to a generalizable result, but often lacks an in-depth analysis. They can assess how frequent a theory is applicable to a case, but then fail to answer the 'why' question. A small-n study constitutes a middle ground between these two methods (Blatter and Haverland, 2012, p. 5-6).

Through this method a thick description of each case can still be achieved, compared to larger studies. As Hall (2003, p. 384) argues, recent theoretical approaches 'are built implicitly or explicitly on ontological assumptions that make it reasonable to turn to case study research.' There lies a fundamental theoretical relevance in 'timing, interaction effects and contexts' that underlie causal mechanisms (ibid.). An in-depth description of cases allows for a holistic approach, combining various characteristics and specific knowledge about each case, without neglecting local contexts. Taking in mind the theory-testing and -expanding character of this thesis, a small-n study can provide these

advantages. The spiral model along with the additional literature described in the theoretical framework combines many characteristics and interactions, most of which can only be studied in smaller, in-depth analyses.

At the same time, combining analyses of multiple cases can provide a diverse insight into the mechanisms at work. Cases, in this case states, can either have similar contexts and characteristics, yet show different outcomes, or vice versa. Studying these cases on their own can provide the sufficient background knowledge on all relevant causal mechanisms and characteristics. However, then comparing these insights across cases can lead to new insights.

The within case-analysis will be based on a review of existing academic literature on the development of each state's national REDD+ strategy to provide a thick description, drawing on the strategies themselves, research reports, comparative studies, stakeholder statements, policy briefs and media publications. All of these documents will be analyzed with regard to the (non)compliance to the central norm of indigenous participation and FPIC and the underlying causal mechanisms as defined in the theoretical framework. Process-tracing allows opening the 'black-box' of causation, focusing on pathways and combinations of causes in tracing a sequence of events leading up to an eventual outcome (George and Bennett, 2005). In this regard, this method is an excellent method for providing a theoretically oriented narrative (Beach and Pedersen, 2016, p. 3).

3.2. Case selection

While large-n studies ideally use a random selection of cases, this does not have to be the case for small-n or single case studies. As Seawright (2016) argues, electing specific cases on their outcome can greatly enhance the probability of learning from their results. This thesis will compare three cases at state-level concerning the development of their national REDD+ strategies.

Since this thesis aims to research the question why states do or do not comply with the norm of indigenous participation and FPIC, taking the comments from Seawright into account, the cases will differ on the level of compliance with the central norm. Furthermore, variation across dimensions of theoretical interest, especially the ones highlighted at the end of the theoretical framework, can provide explanation for these differences in compliance. The spiral model puts forth several hypotheses on the likelihood of compliance to occur. To test whether these hypotheses still hold in the case of the indigenous participation and FPIC, a logical case selection strategy that would follow from this is what Gerring (2008, p. 571-574) defines as most-similar cases. Here, cases are similar on various factors of theoretical interest but differ on their outcome, which provides opportunities to assess if additional factors explain this variation. The most-similar approach is therefore, useful for both exploratory and confirmatory analysis.

As Gerring (2008, p. 573) argues, a potential disadvantage of this selection strategy is 'nonrepresentativeness'. If employed in a qualitative fashion, potential biases in the chosen cases can arise, since case selection is never truly random (ibid.). Although not entirely unavoidable, this effect is hopefully limited in this thesis as the cases outcome on compliance is relatively well-spread from non-compliance to relatively better compliance, thus covering a large spectrum of other cases, without resorting to extreme outliers.

To this end, the three cases that are selected are those of Indonesia, Peru and Costa Rica. This thesis analyses indigenous participation and FPIC in the process of the formation of states' national framework on REDD+ projects. As Mukisa et al. (2020, p. 120) argue, obtaining FPIC before the implementation of specific projects is critical in ensuring the REDD+ safeguards, which in turn guarantee other human rights. Each of these states is participating in one or more REDD+ projects and thus had to develop a national strategy, for which following the REDD+ safeguards indigenous participation and consent is required. All states are operating under the same REDD+ international framework, receive similar external funding, have all signed multiple international treaties on indigenous rights and to a certain degree can be considered democracies. But each case also shows a different trajectory of REDD+ policy formation with varying outcomes, which can more or less be ranked hierarchically.

In Indonesia, serious efforts were made to involve indigenous peoples' representatives in various stages of the process (Ituarte-Lima et al. 2014, p. 294; Scheyvens and Setyarso, 2010). However, these procedures then received mixed responses, with claims from indigenous groups that their views were not taken into account ranging to other indigenous leaders claiming the opposite (ibid.; Radin-Syarif, 2011; Mulyani and Jepson, 2013). As Fay and Denduangudee (2018) state, indigenous participation in Indonesia follows 'an uneven path'. In Peru, the level of indigenous participation is described mixed as well. On the one hand indigenous networks have created their own Indigenous Amazonian REDD initiative, but on the other there still have to be found synergies with the central government programs and Peru's fragmented institutional forest governance (Dupuits and Cronkleton, 2020). Finally, the case of Costa Rica at least from the surface seems a more successful approach, highlighting a wide range of initiatives from different groups to involve indigenous voices in the REDD+ process (Wallbott and Florian-Rivero, 2018, p. 516; Baker, 2014, p. 1). However, also here indigenous peoples protest against REDD (REDD-Monitor, 2016). Despite their varying outcomes, none of the cases shows full norm compliance. Thus, the cases separately are also more or less likely, or a 'most-likely' case according to Gerring (ibid.). All showing non-compliance with the central norm, while according to the spiral model one would expect them to do so. All cases are more or less democratic states with a fairly centralized governmental system and although not

perfect, have quite a strong 'rule of law'. Thereby they all receive economic incentives through the often conditional REDD+ financing schemes that are connected to the REDD+ safeguards, which also guarantee indigenous participation. These external funds are critical to national REDD+ programs worldwide. Finally, the protection of indigenous rights has gained an ever more important position internationally, of which UNDRIP and ILO Convention 169 are important examples. All of these factors are compliance-improving mechanisms in the spiral model. Still, none of the cases are even close to norm-compliance.

3.3. Hypotheses and sub-questions

Following the central research question, compliance with the central norm can be reflected in a spectrum between either being a failure ($Y=0$) or successful ($Y=1$). As outlined in the previous chapter, Risse et al. have defined various social mechanisms and scope conditions that can push a state from norm commitment to compliance. However, as will be further elaborated in the next chapter, despite many of these factors being present in REDD+ states this is not the case. The social mechanisms will serve as the basis on which the hypotheses are defined. For the sake of adequately assessing whether the scope conditions do apply for the norm of indigenous participation and FPIC, this thesis will incorporate these into these social mechanisms. However, as to add an extra 'layer' of explanatory power to these hypotheses, the key concepts of the social mechanisms and scope conditions will be operationalized with the knowledge on the practical implications of indigenous participation in environmental projects, as described in the theoretical framework.

However, the formulation of the hypotheses will not directly follow from the social mechanisms. As already indicated in the section on the history and development of the central norm, the right to participation and FPIC has thus far not been subjected to legal enforcement under any law or treaty if violated. There is no international court that can directly accuse states on the count of violating this norm. Furthermore, recent history has shown that thus far no serious military action has been undertaken to protect the rights of indigenous peoples as the result of norm violation through environmental projects. Therefore, testing the first social mechanisms of raw force and legal pressure makes little sense.

This however does not provide sufficient explanation for the absence of norm compliance. As Risse et al. (2013) argue, comparable cases exist where legal or military enforcement does exist, but where human rights violations take place anyways, and similarly there are cases that show the absence of this social mechanism, but where states comply with human rights norms anyways. A very clear example provided by the authors of the first situation is the return to methods of torture by the United States in the war on terror, despite clear prohibitions for such practices in nearly every human

rights law and treaty (ibid.; Clapham et al, 2014, p. 407). Therefore, the first hypotheses will be derived from the second social mechanism, with an additional hypothesis being formulated at the end.

The first social mechanism concerns changing incentives. Assuming that states are rational actors, they base their decision to either comply with or violate a norm on a cost-benefit calculation. These calculations are derived from incentives that can either be positive, stimulating a state to comply, or negative, threatening states if they do not comply. If domestic or foreign actors can sufficiently provide stimulation or pressure to a state, one would expect that state to move towards compliance, leading to the first hypothesis.

Hypothesis 1: if external actors can provide either enough positive or negative incentives, states are expected to comply with international norms.

Persuasion and discourse have a more long-lasting and stronger effect on norm-compliance, since they make states voluntarily change their interests towards norm compliance. The most influential mechanism within this process is states' fear for reputational damage if they do not comply with a norm.

Hypothesis 2: if external actors are able to create a strong discourse and raise sufficient persuasive arguments for states to comply with international norms, the latter are inclined to do so.

The final social mechanism of capacity building assumes that states are often not unwilling, but rather unable to comply with certain norms, since they either lack the sufficient resources, knowledge or control over their own territory to comply with norms. This mechanism is also closely related to most of the scope conditions that Risse et al. have defined. These concepts will be connected in the operationalization.

Hypothesis 3: The more 'capacity' states have to move towards compliance, the more they are expected to follow international norms.

The testing of these three hypotheses can determine the extent to which the predictions of the spiral model do apply to the cases. However, as already explained, additional factors are likely to be influencing non-compliance with the central norm. This section will make up the inductive part of the analysis, generating new insights on norm compliance, based on the four concepts outlined in the theoretical framework that might contribute to the lack in compliance, in the form of sub-questions:

- Does a lack of in-depth knowledge of indigenous practices, knowledge and culture prevent compliance from occurring?
- Are there different perceptions between states, NGOs/TANs and indigenous peoples themselves who is entitled to participation (who is indigenous)?
- Is there too much ambiguity within, or even a clashing between international norms at the national level for their implementation to happen effectively?
- Do centralized implementation processes at the state-level in the case of indigenous rights actually not contribute to norm compliance?

These concepts will be further elaborated upon in the operationalization, and studied in the analysis additional to the three hypotheses as to see how they might fill in possible gaps in the explanation of the spiral model from case to case. The analysis will be loosely structured based the order of the hypotheses. Most of the additional concepts are closely connected to existing factors within the social mechanisms of the spiral model, and will thus be expanded upon in the same sections.

3.4. Operationalization

After the conceptualization of the causal mechanisms as described in the theoretical framework, we can now translate these theoretical expectations into case-specific preconditions of what observable manifestations each of the parts of the mechanism should have if the mechanism is present in the cases. This section will also elaborate on several key concepts and relevant actors. Risse et al. themselves do not place too much effort on thoroughly conceptualizing their theory into practical measurements. The main part of the operationalization will follow the social mechanisms on which also the first three hypotheses are based, under which the scope conditions are divided.

3.4.1. Indigenous participation and FPIC

The topic of interest to this thesis is the degree indigenous participation and FPIC in the formation of each states' national strategy and similar documents on REDD+, the REDD+-readiness phase. In the process of becoming a REDD+ state, each state must present a national framework of rules, safeguards and outlines of future projects. This is a highly political process with many actors involved, of which most importantly for this thesis are the indigenous peoples. While REDD+-readiness is meant as a preparation phase, this does not mean that pilot projects are not implemented already, which is the case in most states.

Inherent to the second sub-question, defining what exactly constitutes indigenous participation and FPIC in this regard is no easy undertaking. As Eimer and Bartels (2020) show, it is important to distinguish between the 'quantity' and 'quality' of participation. This thesis will make use of a

combination between the two most notable documents on indigenous rights, the ILO convention 169 and UNDRIP; and the UNFCCC's reference to UNDRIP in Annex 1 of decision COP16 – the Cancun Agreement, the last one as it expresses that indigenous rights such as FPIC also apply in the context of REDD+ (ILO, 2020; UNDRIP, 2007; Anderson, 2011, p. 18)³. 'Free and prior' means that indigenous consent has been sought and given prior to any authorization and commencement of activities, implying no coercion, intimidation or manipulation (Anderson, 2011, p. 16). 'Informed' implies that information is provided covering at least the outlines, reasons, duration, locality and preliminary assessments of a project (ibid.). Finally, consent implies participation, establishing dialogues between chosen representatives, most importantly including the option of withholding consent, whereas consent implies that indigenous peoples have reasonably understood the subject. FPIC can be seen as the ideal situation of indigenous participation, which this thesis regards as 'full' compliance with the central norm. Of course, participation in practice is far from perfect and will be assessed from case to case using the description of FPIC above as a framework.

3.4.2. Relevant actors

The spiral model describes various actors able to influence the process of compliance. First and foremost are governmental actors. These are both individuals and government agencies responsible for legislative and executive tasks, operating on the national, regional and local level. These are the actors primarily responsible for the formulation of the REDD+ national strategies. Various actors can influence these governmental executives, such as NGOs. These non-state actors can operate both internal and external to a state. The first concerns domestic organizations such as local indigenous advocacy groups. At the international level, NGOs can also cooperate in transnational advocacy networks, pressuring states 'from the outside' (Risse et al., 1999, p. 16).

Other external actors capable of pressuring states are other states, and supranational and intergovernmental organizations such as the UN, UNFCCC, ILO, the World Bank and other REDD+ monitoring agencies. Since REDD+ projects regularly depend heavily on carbon markets, which will be explained in the next chapter, private sector actors responsible for project execution and trading carbon credits will also be considered relevant actors in influencing compliance.

This thesis' definition of indigenous peoples themselves will follow the description given in the theoretical framework. Besides external NGOs, indigenous peoples are often represented by their own, local representatives in negotiations. This thesis will carefully consider their role in the formulation of the national strategies, both in terms of their own position in the indigenous

³ The ILO convention 169 has been signed by all cases except Indonesia, UNDRIP has been signed by all states, as is the Cancun Agreement.

community as well as in the broader structure of national negotiations with government actors. At the same time this assessment will be embedded in the larger discussion of the second sub-question about exactly who is entitled to participation. For instance, if the government does not recognize indigenous actors in the first place, this will have important consequences for their participation. This will be assessed through existing research, externally observing different perceptions of who is 'indigenous', or through statements by indigenous representatives or organizations who feel excluded because of differences in indigenous identification.

3.4.3. Providing incentives

Incentives can be both negative and positive, either providing costs to non-compliance or benefits to compliance. As Risse et al. (2013, p. 14) argue, it is important to see the effect of this mechanism in the context of the other social mechanisms, since the combined effects of these mechanisms can lead to a stronger total output. A state is for instance more prone to be follow incentives if these are combined with persuasive arguments, which will be described next. Thus, it is not possible to exactly describe a certain threshold for when incentives are 'sufficient enough' to induce compliance. However, as the spiral model describes, especially positive incentives are key in achieving 'voluntary compliance' (ibid.). In the case of environmental projects, these most prominently present themselves in the form of conditional funds, often pivotal to the financing of projects, which can come from NGOs, international organizations, other states and private actors (Clark et al. 2018; Ayers and Huq, 2009). At the same time as Ayers and Huq (ibid.) and Huq and Burton (2003) argue, financing climate change adaptation projects and demanding social development through these funds has always been a tense issue, which makes it interesting to analyze this in the case of REDD+. Therefore, this thesis will give special attention to the role of external funding for REDD+ projects in the formulation process of national strategies with concern to indigenous participation. The scope condition of material vulnerability can also be considered to be most closely related to this. The more states depend on external funding for REDD+ projects, the more vulnerable they are to possible additional conditions connected to these funds.

3.4.4. Discourse and persuasive arguments

This mechanism might be more difficult to analyze in a small-n study mainly leaning on existing literature. Studying a policy discourse on a specific topic such as REDD+ requires an in-depth analysis of relevant actors and opinions, something which in these cases might not always be readily available through existing studies. However, through following the formation of the national REDD+ framework in each state and by combining research, observations can be made on governmental actors changing their position throughout the process. This might then be linked directly to

discussions and arguments between the government and other relevant actors, both internal and external.

Similarly, analyzing the dominant discourse on indigenous participation and FPIC in each state could deserve its own thesis. The spiral model however links a dominant discourse directly to states' fear of reputational damage in case of non-compliance, and the use of this fear by other actors to persuade the government into complying with a norm. Therefore, the main tool of assessing this mechanism will be through analyzing to what degree non-governmental actors use reputational damage as a way of pressuring the government, both on the national and international level. If governments are persuaded by these forces to comply with the central norm, they can be considered more socially vulnerable, the fifth scope condition. For this condition specific attention will be directed towards international pressure possibly affecting the international legitimacy of a state.

As Risse et al. (ibid.) argue, democratic states are more likely to be affected by this pressure. Assessing this assumption requires two observations. First is the level of democracy in each state, to which both large quantitative lists and case-specific studies can serve. Second is the degree in which the issue of indigenous rights is embedded in the national population's minds and is considered an important issue, since it is the population that can put pressure on policy makers (ibid.).

3.4.5. Capacity building

Following the lessons from the theoretical framework on indigenous participation and environmental projects, this is arguably one of the most important aspects of the spiral model to be critically assessed. As argued before, the two remaining scope conditions are most closely related to this mechanism, and will be used as the primary indicators to measure compliance.

Naturally a national strategy requires some form of a centralized approach, thus already partially influencing the assessment of the centralized versus decentralized condition. However, as West (2015) argues, many different forms of REDD+ implementation exist. Thus, centralization will be assessed from case to case, based on the type of implementation. As a central rule, the more authority and decision making participation is delegated to local (indigenous) authorities in this process, the more decentralized a state's REDD+ formation is considered to be. While Risse et al. (2013) argue that centralization serves effective norm implementation this thesis will also assess the opposite argument. This will be done by analyzing existing assessments of REDD+ implementation, and through presenting the perceptions of indigenous communities themselves.

Assessing consolidated versus limited statehood demands a distinction between unwillingness or lack of interest from governmental actors to have indigenous peoples fully participate and on the other

side them being incapable of doing so. Limited statehood is not confined to fragile states (Risse et al., 2013, p. 15). The spiral model defines capacity as education, training and the building up of administrative capacities. A useful way of analyzing this assumption would be to look at previous, comparable processes of rule implementation concerning indigenous peoples, to see if states were able to properly implement policy in indigenous territories, be it with or without their consent.

3.4.6. Ambiguity within or the clashing between norms

Finnemore and Sikkink (1998, p. 891) describe a norm as a 'standard of appropriate behavior'. However, as van Kersbergen and Verbeek (2007, p. 218) argue, norm vagueness and elusiveness are persistently neglected in this approach. Through regime theory, they show that norms are often adopted because they mean different things to different actors with different degrees of norm compliance as a result. To test this assumption, the analysis will first focus on the international level where the central norm is formed to see if it follows similar patterns as described by Van Kersbergen and Verbeek (*ibid.*, p. 232). Main elements of interests are international organizations and rulebooks relevant to REDD+ financing and policy formation. These insights can then be connected to case literature to see if vagueness, if present, trickles down to the national level, preventing norm compliance. This will be traced by assessing whether relevant actors either adopt different meanings of the central norm between themselves, or one that significantly differs from international definitions, such as UNDRIP and ILO Convention 169. Evidence will be retrieved from written statements, interviews and official documents. The clashing between norms will be measured based on existing academic literature, the description of interviews, statements and official documents by relevant actors that might provide evidence that they perceive the central norm to be clashing with other international norms, such as climate protection.

3.5. Data collection

Since its start, REDD+ has been relatively thoroughly studied by scholars in many different fields and disciplines, with indigenous participation often being one of the primary research topics. However, the question of international norm dynamics and non-compliance has not yet been assessed properly. This provides opportunity for linking this existing research to the central question of this thesis. Furthermore, this thesis will make use of official policy documents on REDD+ and its respective national strategies. Various think tanks and research institutes have contributed to a great number of policy reports on REDD+, most notably the Centre for International Forestry Research (CIFOR). Official statements by NGOs and media publications will be used to assess the pressuring of governmental actors. To assess the legal status of indigenous participation and FPIC in a state this thesis will draw on relevant legislative documents as well.

4. Analysis

Although this analysis will mainly focus on the national cases and the development of their respective national strategies, all of these strategies are based on the same REDD+ global framework, its institutions and funding mechanisms. Analyzing the national contexts requires an understanding of this framework, which will be presented in the following section in a concise manner, specifically focusing on the rights of indigenous peoples.

4.1. REDD+ and indigenous peoples

The history of the '*United Nations Programme on Reducing Emissions from Deforestation and Forest Degradation*' (UN-REDD) starts with the adoption of the Kyoto-protocol in 1997, which first mentions sustainable forest management as a practice to enhance reservoirs of greenhouse gasses (Holloway and Giandomenico, 2009, p. 5). The real take-off of the REDD process was with the adoption of the Bali Action Plan at the 13th Conference of Parties in 2007 (COP-13) by the United Nations Framework Convention on Climate Change (UNFCCC) (UN-REDD, 2015, p. iv). International concern with deforestation and forest degradation increased, particularly related to its global greenhouse gas (GHG) emissions (Houghton, 2005; Le Quéré et al. 2009). At the same time, the land use sector 'provided opportunities for quick and meaningful gains in both adaptation and mitigation (of GHGs)' (Morgan et al. 2014). This led to the development of UN-REDD, defining two methods to achieve this goal:

- Reducing emissions from deforestation
- Reducing emissions from forest degradation

These capacities were soon expanded in the Cancun Agreements during COP-16 in 2010, which redefined REDD+ as 'Reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries' (UN-REDD, 2015, p. iv). The main goal and scope of REDD+ were defined as an umbrella initiative 'for developing country parties to contribute to mitigation actions in the forest sector' (UN-REDD, 2015). The first two methods of UN-REDD were then extended by three additional goals, hence the '+':

- Conservation of forest carbon stocks
- Sustainable management of forests
- Enhancement of forest carbon stocks

Regarding indigenous participation, the core concern of this thesis, the Cancun Agreements form an important turning point. Since 2007 REDD 'pilot projects' were being implemented, serving the further expansion of the REDD+ strategic framework while being supported through a combination of

expertise from various UN institutions⁴. The pilot projects stumbled upon various challenges and negative side-effects, mainly with regard to the social development and participation of local stakeholders such as indigenous peoples. This is why the Cancun Agreements saw the establishment of seven REDD+ safeguards (La Viña et al. 2016, p. 16). These safeguards were the first step towards REDD+ not only addressing environmental criteria, but also human rights, social well-being, transparent governance and most importantly the respect for the knowledge and rights of indigenous peoples and local communities, requiring their ‘full and effective participation’ (ibid.; REDD+, 2020). These safeguards are monitored and reported on through national-level ‘safeguard-information-systems’ (SIS).

4.1.1. Financing

COP 17 and 18 in 2011-2012 further elaborated on the financing system for states participating in REDD+ (La Viña et al. 2016, p. 17). Regarding the source of funding, REDD+ is primarily financed through classic public funding, mainly from developed countries to the Least Developed Countries (LDCs) (UNFCCC, 2011). An example of this is the Green Climate Fund (GCF), which is meant to distribute a yearly budget of over 100 billion dollars to the LDCs for climate change adaptation and mitigation (CMW, 2013; Britta and Jonas, 2017). Many funds are distributed through the World Bank⁵ and involve multilateral cooperation. But also individual states, most notably Norway, contribute heavily to REDD+ financing through direct state-to-state agreements. On the other hand, REDD+ utilizes a market based financing approach through offset credits from forestry and land use change activities. In short, this concerns the trade in credits for carbon (CMW, 2013; IFC, 2016, p. 2). Emission reductions are translated into credits, that can then be sold on an international carbon market. It is often also allowed for these credits to be traded by private sector parties financing REDD+. This method however is not undisputed, with the major criticism that it is an easy way for developed countries to buy themselves out of expensive mitigation measures they would otherwise have to implement.

Thereby, REDD+ operates a results-based financing mechanism called payment for ecosystem services (PES). PES aims to guarantee that saving forests becomes more economically viable than destroying them. Government- and subnational institution-financing of environmental projects becomes conditional, and will only be delivered after results have been booked by project executives, which can be both environmental as well as social (Hall et al. 2016, p. 169).

⁴ Most prominently featuring the Food and Agriculture Organization (FAO), UN Development Programme (UNDP) and the UN Environment Programme (UNEP)

⁵ Main financing programs: Forest Carbon Partnership Facility (FCPF) and the Forest Investment Program (FIP)

4.1.2. Final framework

These developments finally resulted in the current 'Strategic Framework' of REDD+, in which all the fundamental elements of REDD are considered completed (La Viña et al, 2016, p. 17; UN-REDD, 2015). The Strategic Framework explicitly mentions indigenous stakeholder participation and FPIC multiple times, describing it as 'delicate issues' and 'of great importance' (UN-REDD, 2015, p. v, 5, 20, 22, 26). These statements, and the fact that every participating REDD+ state recognizes the Strategic Framework indicate that the central norm of indigenous participation and FPIC has reached the final stage of the norm life cycle by Finnemore and Sikkink, norm internalization.

4.2. Indonesia

In terms of diversity in species, Indonesia's forests rank third worldwide, spanning over thousands of islands (Forestdeclaration, 2019). At the same time, the deforestation rate is one of the highest in the world as well, making Indonesia the third largest emitter of greenhouse gasses in the previous decade (ibid.; World Resources Institute (WRI), 2020). The WRI depends that 50-60 million Indonesians directly depend on forests for their livelihoods (ibid.). Indonesia's National Land Bureau recognizes over 330 cultural groups of thousands of ethnic and sub-ethnic groups, spread all over the archipelago (Radin-Syarif, 2011, p. 62).

Indonesia has been described the 'epicenter' of REDD+ activities (Scheyvens and Setyarso, 2010, p. 3). It was among the first states to embrace the REDD+ framework, both in international negotiations as well as at the national level, with president Yudhoyono already declaring in 2007 that its strategy to reduce greenhouse gas emissions would rely heavily on avoiding deforestation and emission reduction from peatlands, showing significant rhetorical presidential backing of REDD+ in its early phase, which was also present at the sub-national governmental level (Moeliono et al, 2014, p. 10; Luttrell et al, 2012, p. 67). This strategy was combined with official statements that expressed the governments' commitment to include all relevant stakeholders and facilitate indigenous participation in setting up a national REDD+ framework (ibid.). To facilitate this, a special 'REDD+ Task Force' (later REDD+ Agency) was created. Assessing Indonesian REDD+ policy-making activity, Moeliono et al. (2014, p. 10) state that this process has been characterized by considerable public consultation, including the involvement of representatives from various major indigenous rights organizations⁶ (Ituarte-Lima et al. 2014, p. 294).

The final National Strategy, formulated in 2012, explicitly mentions indigenous stakeholder involvement, calling for transparency, participation, consent and information-sharing (Indonesian

⁶ Among which: the Alliance of Indigenous Peoples of the Archipelago (AMAN), the Association of Indonesian Forest Concessionaires (APHI) and the National Council on Forestry (DKN).

REDD+ Task Force, 2012). Exactly how these goals will be distributed in terms of responsibilities however is unclear (Ituarte-Lima et al, 2014, p. 298). All these actions indicate that Indonesia is well beyond the first four stages of the spiral model and the norm has gained a prescriptive status, where international treaties are signed and domestic practice has been adjusted to the norm. In total however the final phase of rule-consistent behavior, or compliance with the norm of indigenous participation and FPIC, has not yet been reached.

Indigenous leaders expressed mixed views on this process afterwards, with some stressing that their input was taken 'into good consideration' whilst others claimed that their views were not taken into account (ibid.; Radin-Syarif, 2011; Mulyani and Jepson, 2013). Indonesian NGOs⁷ furthermore expressed concerns over the lack of key information in early REDD+ drafts, limiting the possibility of indigenous peoples to engage 'in an informed, effective and self-determined discussion' (Scheyvens and Setyarso, 2010, p. 9). This highlights that mere consultation not necessarily equals informed consent.

In total, although governmental intentions, policy discourse and the initial structural set-up for REDD+ in Indonesia seemed to facilitate indigenous participation, the actual results of this process are received with mixed reactions with hard measures such as FPIC lacking. This evolvement of indigenous participation seems to move along similar lines as described by Eimer and Bartels (2020). Despite participation and consultation increasing, this process fails to translate into any national policy making that is consent-driven by indigenous peoples. This results in limited norm-compliance. The following sections will assess various explanatory mechanisms described in the theoretical framework that can influence compliance.

4.2.1. REDD+ funding incentivizing indigenous participation in Indonesia

In Indonesia, similar to most national frameworks, REDD+ was conceptualized as a mechanism of economic incentives for emission reduction, and later social development (Ekawati et al, 2019, p. 2). Only if certain goals are achieved, which can be environmental but also related to social development, funding will be released⁸. Ideally, this type of funding guarantees that projects are achieving their goals, and limit side-effects such as corruption (ibid.).

Indonesian REDD+ projects depend heavily on this external funding. While deforestation used to generate substantial income to Indonesia, REDD+ now enables states to do so through exactly the opposite (Wright, 2011, p. 127). Some of the most significant funds are coming either from the World

⁷ Aliansi Masyarakat Adat Nusantara and Sawit Watch.

⁸ This is the PES/results-based payment mechanism

Bank⁹, the Green Climate Fund (GCF), UN-REDD, the Forest Investment Program (FIP) and the government of Norway (GCF, 2019, p. 8-9). Each of these actors has their own set of priorities and demands linked to the results-based funding, often in turn connected to the REDD+ safeguards, of which indigenous participation is a major aspect. An early example of this is the cooperation between the World Bank and Wilmar International, one of the world's largest transnational palm oil trading companies, to support forests and ecosystems. Any World Bank investment in downstream processing or trading had to be equaled through upstream effects of such investments, such as indigenous participation (Pye and Bhattacharya, 2013, p. 254). This way international actors can use their funding to apply pressure on domestic governments or organizations. However, there is no direct effect between external norm pressure and the actual improvement of this norm. The following section will explain why besides fostering indigenous participation, this same mechanism can also create the opposite effect.

As Luttrell et al. (2014, p. 71-72) argue, REDD+ in Indonesia indeed reflects many international priorities, incentivized through external pressure. Most notably among these is the protection of the rights and livelihoods of indigenous peoples. Both national and subnational government levels do indeed perceive these priorities to be externally driven (ibid.) This however has led to severe resistance by state officials (ibid.). Their first criticism concerns the impact on the national economy, with many officials fearing that these mechanisms may drastically affect its direction, but not by choice of the government itself. Second and most importantly is the associated threat to national sovereignty (ibid.). Various political movements have raised concerns regarding the perceived influence from outside actors through these economic incentives, which in turn translates to low popular support for tackling 'international' issues such as climate change and increasing indigenous participation (ibid., p. 67, 72). As will be explained in the next chapter, this lack of popular support has important consequences for other mechanisms that normally increase norm compliance.

Furthermore, as Wong et al. (2016, p. 2-8) illustrated in 2016, long after the finalizing of the Indonesian National Strategy, key developmental areas for REDD+ results-based finance were still revolving around exactly what qualifies as *performance* in REDD+ implementation. How can non-carbon benefits such as indigenous rights be integrated in the mechanism? Although payment for results seems an attractive mechanism initially, setting reference levels for these benefits at the national level can have incredibly important consequences (ibid.). If results are only measured at the national level, which is the case for many funds, regions with low opportunity costs are more likely to be selected by local authorities to participate in reforestation projects. This results in REDD+ projects taking place where forests are least-threatened, or where additional costs for facilitating indigenous

⁹ Through the Forest Carbon Partnership Facility (FCPF)

participation and consent are low (ibid.). A national framework might thus recognize the importance of indigenous participation, but may not result in its implementation where it is most needed, and therefore not benefit indigenous participation and FPIC at all.

One of these funds setting a fixed national-levelled price for reduced emissions is the Norwegian REDD+ aid. Recently, Indonesia has received over one billion dollars in REDD+ funds from Norway, the deal of which was already signed in 2010, before the adoption of Indonesia's national strategy (Jong, 2019). Following the argument of Wong et al. mechanisms such as these can have great influence on how the formation processes of such a strategy take place, potentially even negatively influencing indigenous participation. This links to another major critique of PES and its assessments, concerning its consistent lack of focus on evaluating and fostering human, social and institutional capital in the local context, too often adopting a one-size-fits-all approach (Hejnowicz et al. 2014, p. 97).

Concluding, Indonesia's REDD+ framework heavily depends on external funding. These funding mechanisms as an economic incentive can support indigenous rights and participation if the latter are adopted in its results-based conditions. However, as this case also indicates, the crux is in the details. If these remain underspecified, these mechanisms can even lead to a backlash effect resulting in less indigenous participation.

4.2.2. Social pressure and discourse

The case of Indonesia has a surprisingly positive presidential discourse on promoting indigenous participation. Social pressure at the international level seems to be more effectively explain this, as the following section will explain. Risse et al. (2013) argue that for naming and shaming, an influential tool for social pressure, either the target actors, in this case the Indonesian government, or an audience central to the change process have to believe in the social validity of the norm. Thereby, the more democratic a state, the more susceptible the government is to this mechanism. In a democratic state, a very relevant target audience would be the general population, being able to influence policy simply by casting a vote (ibid.).

Global democracy assessments point out that Indonesia can be considered a 'flawed democracy', however with a fairly strong electoral process (EIU, 2019). Nevertheless, despite the general public being able to apply pressure through elections, significant domestic pressure seems to be absent. As Luttrell et al. (2014, p. 71-72) describe, indigenous rights have thus far just not nestled themselves into the broad public interest well enough. The latter can thus not be leveraged to influence the government on this topic, since the indigenous rights do not hold enough salience.

Looking at case-specific studies, one comes to a similar conclusion for indigenous movements. Since the transition to democracy began two decades ago, social movements aiming to represent marginalized and disempowered groups are becoming ever more important in Indonesia's political landscape (Aspinall, 2019, p. 187). At the same time however, extreme inequality among citizens is leading to political inequalities, with an oligarchic character of Indonesian politics as a result (Winters, 2013, p. 11). The horizontal organization of social movements such as indigenous representations clash with the hierarchical vertical linkages that connects them to wealthy and powerful politicians, which are inherent to this system. This leads to extralegal and informal networks as methods to achieve political outcomes (Aspinall, 2019, p. 189). As Aspinall (ibid.) argues, this influences how grassroots social movement organizations cooperate with each other, since these vertically arranged networks splinter their horizontally oriented networks and can thus diminish their effectiveness. The hierarchical system limits the possibility for cooperation between movements.

Nevertheless, governmental elites, the presidential and subnational offices, do seem to support a discourse favoring indigenous rights and participation in REDD+ (Moeliono et al, 2014, p. 10; Luttrell et al, 2012, p. 67). One would expect them not to, since domestic pressure seems limited. The scope condition of social vulnerability, Indonesia's vulnerability to international social pressure, might hold more explanatory value for this phenomenon. Since its democratic transition, the government has signed many international treaties on indigenous rights, including UNDRIP (2007) and ILO convention 169 (ILO, 2020; Butt, 2014, p. 1). However, Butt (ibid.) argues that while Indonesia appears to be legally dualist in practice, there is evidence of monism, with the government leaving the international community believing that ratified treaties have automatic application domestically, while simultaneously claiming that these have no domestic application until incorporated into its own legal instrument.

An in-depth analysis however requires looking beyond the laws on paper to how various actors can use this international and national legal framework to support indigenous rights. Indonesia's sheer size and its public disinterest in fostering indigenous rights seems to fit into the hypothesis of Risse et al. (2013) that larger states are less susceptible to international social pressure. Johnstone (2010) however, also illustrates that at the same time indigenous communities strategically influenced and played off the UN Convention for the Elimination of Racial Discrimination (CERD) committee against the Indonesian state to influence proposed REDD schemes and re-frame conventional conceptions of rights (ibid., p. 111, 122). They did this through legal fora, supported both by domestic and international NGOs, but most importantly making use of 'well connected transnational alliances and networks' (ibid.). Although directly influencing the Indonesian state proved difficult, these international networks were able to bring the issue of indigenous rights to national and global

attention, and influence CERD, which in turn puts pressure on individual states. Thereby the pressuring originated from grassroots organizations, directly connecting local needs to international bargaining, which ensured that these needs could be directly translated to the international agenda's (ibid., p. 110). This limits the possibility of conflicting agendas at multiple levels. However, as a representative of the Batak people of Sumatra stated, for these issues once implemented in international law to then be translated back to real changes on the ground is far more difficult (Mihlar, 2008, p. 7).

4.2.3. The capacity for indigenous participation

As West (2015) argues, a decentralized approach to implementing policy concerning indigenous peoples can benefit their participation. A decision-making experiment in Indonesian villages conducted around the same time as Indonesia's REDD+ National Strategy formation confirmed this theory for Indonesia's context (Olken, 2010, p. 243). Direct election-based plebiscites yielded significantly higher satisfaction, knowledge and perceived benefits among villagers than more centralized representative-based meetings. Especially adequate knowledge on policy-content is often cited as a major benefit to successful REDD+ projects (Scheyvens and Setyarso, 2010).

However, these assumptions on decentralization only seem to be partly true for Indonesia. REDD+ developed in a time of governmental decentralization in Indonesia, in which indigenous peoples played a significant role, and even fostered this process (Ardiansyah et al. 2015, p. 40). Although it might not directly ensure effective participation and FPIC, decentralizing policy implementation can indeed facilitate their further involvement (ibid.). This whole process created renewed attention for indigenous land titling in forest areas, for which also their participation was required (ibid., p. 72). Specifically Constitutional Court Decision 35 of 2012, which recognizes customary as separate from state forest estate, is viewed by many scholar and activists as a starting point for recognizing indigenous rights in forest management in Indonesia (ibid. p. 90). The central government furthermore allowed local authorities to create regulations recognizing both indigenous peoples and their customary laws, which provided both opportunities and challenges for indigenous peoples to secure their rights.

These challenges partly link to research assessing (indigenous) village head elections in Indonesia. Despite these elections being competitive, a rural rich elite dominates this system, since vote-buying is critical (Aspinall and Rohrman, 2017, p. 31). This system taps into the hierarchical bureaucratic system of Indonesia, where only the local elites with better links to higher state officials are able to obtain projects, better convey their interests and hence win political support (ibid. Winters, 2013). Aspinall (2019, p. 289) directly links the Indonesian rule of law to the effectiveness of participation by

social movements, which suffers under the hierarchical and clientelistic patterns of civilian bureaucracy and decision-making processes. As Wright (2011, p. 130) states, without the domestic legal system to protect their rights, indigenous peoples will have to settle with the precarious position of partly relying on international actors to protect their interests, while the interests of these same actors are not generally aligned with their own. Despite the process of decentralization, REDD+ remains a centralized program, and even if representatives manage to effectively engage in policy formation, this would still require them to spend a major part of their lives disconnected from their communities (Brugnach et al. 2017).

The process of decentralization therefore proves to be a double-edged sword in Indonesia. It indeed fosters participatory processes, but simultaneously requires central legislation and strong rule of law to prevent corruption and clientelistic patterns to rise up and flaw this process. REDD+ both taps into and fosters this process of decentralization, but nevertheless requires much top-down decision-making.

4.2.4. A lack of Indigenous recognition

Setting up a more decentralized decision-making and consultation structure for indigenous peoples might benefit overall participation, public knowledge and satisfaction, but becomes even more difficult considering the Indonesian government's position on who is considered 'indigenous'. The government operates at least four different definitions of indigenous peoples (Ompusunggu, 2018). Nowadays Indonesia recognizes approximately around a thousand ethnic groups, totaling between 50 to 70 million people as indigenous (Varagur, 2017). However, efforts to accurately map indigenous communities have only started recently. Up to 2012, after the national strategy formation, the government even denied the existence of indigenous peoples (ibid; UN, 2012, p. 1-4). In a response on the UN Periodic Review, concerning recommendations for Indonesia on indigenous communities, the government responded that 'all Indonesian's are indigenous' and therefore no-one can make demands for any specific rights or laws, ignoring the right to self-identification (ibid.; Johnson, 2010, p. 112). Naturally this has consequences for the domestic implementation of treaties such as UNDRIP and its rules on indigenous participation (Ardiansyah et al. 2015, p. 88). Various indigenous groups have long pushed for recognition and special laws protecting their rights, thus far to little avail (Ompusunggu, 2018).

4.2.5. Environmental protection and indigenous rights

Immense global pressure on states such as Indonesia to deliver effective and timely climate change mitigation measures results in indigenous rights to be among the first to fall of the agenda

(Johnstone, 2010, p. 122). The REDD+ safeguards and its information-system (SIS) clearly identify some indigenous rights. But the fact that the Indonesian negotiations on its national REDD+ framework already started before the implementation of these safeguards in 2010, or even before the whole international REDD-framework was finalized, highlights the importance of the point made by Johnstone (*ibid.*). Indigenous consultation and negotiation can be a lengthy and sometimes expensive process, one which threatened to collapse under the widespread call for climate change mitigation in Indonesia.

Furthermore, 'by favouring a global view on the problem of climate change, mitigation measures tend to underplay considerations regarding the local specificity and situational aspects associated with their implementation' (Hulme, 2010; Brugnach et al, 2015, p. 20). Brugnach et al. argue that multi-scalar negotiations, blended knowledge and power-sharing structures are all necessary to include indigenous communities. This connects to the argument on economic incentives, where conditional funds for REDD+ in Indonesia seem to operate under a one-size-fits-all approach towards measuring how safeguards for indigenous peoples are implemented. This mechanism fails to specifically address local circumstances of indigenous rights and needs (Hejnowicz et al. 2014, p. 97).

4.2.6. Conclusion

The process of indigenous participation on the development of the REDD+ national policy framework in Indonesia received mixed response, including serious criticisms on the information-sharing process, consent-seeking and unclear operationalization of safeguards in the final National Strategy. At the same time however, the higher governmental offices did seem to gradually move towards a more open and positive stance on indigenous rights and REDD+ did put indigenous interests stronger on the agenda.

Economic incentives in the form of external funding do seem to have influenced this position, but can simultaneously negatively affect indigenous rights such as participation and FPIC, depending on their design. Although this does seem to follow its assumptions on incentives, the spiral model fails to account for the latter, negative effect of incentives.

The strong governmental discourse supporting indigenous rights could not be explained through domestic pressure, given the low salience of these rights in public discourse. Alternative explanations following transnational pressuring of the Indonesian government however do yield limited results. Following the arguments by Risse et al. Indonesia's sheer size would make it partly immune to external social pressure.

The major part of Indonesia's lack of indigenous participation however needs to be found in its structural aspects. Its clientelistic and informal political networks prevent major bottom-up pressure. The organized networks of NGOs and representatives, powerful actors in the spiral model, fail to effectively cooperate under the hierarchically ordered system that is prone to corruption and weak rule of law. This chapter also finds strong evidence supporting that decentralization benefits participation and FPIC instead of preventing it. Furthermore, the Indonesian case indicates that for effective compliance not only a norm itself is important, but also to who exactly it applies, highlighting a gap in the spiral model. As strongly implemented as FPIC might be, compliance will fail as long as its recipients remain unrecognized.

In its general arguments the Spiral Model's mechanisms and conditions do seem to largely apply, but often underspecify or leave out important concepts, as outlined above, that are critical to explain for norm compliance to occur.

4.3. Peru

Peru is a major forested country with 60 percent of its territory covered by over 67 to 73 million hectares of forests (Organización para Estudios Tropicales, 2011; Che Piu and Menton, 2014, p. iix). In the past few years, deforestation rates average 106 000 hectares per year, already showing a significant drop compared to previous decades (Che Piu and Menton, *ibid.*). However, in the past decade the government has set the ambitious goal to reduce the deforestation rate to zero in over 75 percent of its primary forest territories, mostly in the Amazon rainforest (*ibid.*). Therefore, it has initiated REDD+ at both the national and subnational level.

Compared to the large income generated from deforestation in Indonesia, Peru's forestry sector makes up just over 1 percent of its Gross Domestic Product (Che Piu and Menton, 2014). Its deforestation is instead driven by agriculture, mining and energy, sectors which to some degree pressure for a continuation of deforestation (*ibid.*). Like Indonesia, Peru joined REDD+ relatively early, in 2008, with 41 pilot projects already being developed by 2012 when the global REDD+ Strategic Framework was published (Menton et al. 2014, p. 145). A 'Readiness Preparation Proposal' was published in 2011 by the government (MINAM, 2011). The REDD+ national strategy was finalized in 2016 as the National Strategy for Forest and Climate Change (ENBCC in Spanish) (Lozano Flores, 2018, p. 6).

Also in terms of relevant actors, Peru differs from Indonesia. The Peruvian government, more specifically the Ministry of Environment (MINAM), is responsible for its REDD+ policies (Che Piu and Menton, 2014, p. iix). At the same time however, there have been issues with insufficient coordination between MINAM and other government institutions relevant to REDD+, most notably

the ministries of Agriculture, Finance and Mining (Perla et al. 2014, p. 2). This has led to biased and ineffective government regulations, with policies of different ministries clashing continuously (White, 2014, p. 666). International donors and environmental NGOs (national and international) furthermore play an important role in national policy formation, with the World Bank as one of the most notable actors in financing REDD+ (ibid., p. 3; White, 2014, p. 657). Similar to Indonesia's REDD+ Task Force, Peru has created its national REDD+ Group, which has been characterized as an essential multi-stakeholder platform concerning REDD+ dialogue (Perla et al, 2014, p. 1).

Finally, and most interesting, is the highly organized character of Peru's indigenous communities. The Inter-Ethnic Association for the Development of the Peruvian Rainforest (AIDESEP) represents over 1500 indigenous communities and 67 local organizations and is the main negotiating partner for the government in its REDD+ readiness process (White, 2014, p. 658). Then there is the Confederation of Amazonian Nationalities of Peru (CONAP), representing over 30 local federations. Besides the policy input of AIDESEP at the national level, several REDD+ roundtables were organized at the regional level, such as the indigenous roundtable on REDD+ in the Amazon (Sefert-Granzin, 2016, p. 152).

The status of indigenous participation in Peru seems less contested than in Indonesia. However, the response of indigenous organizations about their participation in Peru's REDD+ readiness phase remains sceptic. On the one hand, the REDD+ national negotiations have helped indigenous peoples, mainly through AIDESEP, to put several long-standing issues back on the agenda, such as land tenure problems (White, 2014, p. 657). The process of constant interaction between the government and AIDESEP required by a deforestation program of this size has made the REDD+ governance structures, and therefore the government's general interaction with indigenous communities, more inclusive to indigenous representation (ibid.). This process seems one step beyond the Indonesian case, in that indigenous participation has moved from mere consultation and information-sharing towards active citizen participation and programmatic control (ibid., p. 658).

Nevertheless, AIDESEP has stated various concerns regarding the REDD+ framework (Perla et al, 2014). Among other issues, the organization has expressed concerns with the tendency of 'centralizing' authority by the government through REDD+, and the worsening of land rights issues that have been playing for decades (ibid.). Furthermore, governmental offices have expressed a lack of concern or even disregarded indigenous rights (Espinoza Llanos and Feather, 2011, p. 15). This was combined with reforms favoring industrial development on indigenous lands. After widespread protests and international pressure these reforms were partly repealed. A new law of prior consultation of indigenous communities was proposed, but did not endorse the principle of FPIC (ibid., p. 17). Furthermore, defending human rights remains a high-risk activity, with organizations

estimating that 87 activists have been killed since 2011, and 800 cases of protests have been criminalized (IWGIA, 2019).

For long there has been only limited room in Peru for Indigenous voices. Participation however has increased over the last decade, especially through REDD+. Although these developments have thus far reportedly failed to considerably improve the well-being of indigenous communities, the narrative expressed by indigenous peoples has changed from a disapproving discourse towards a more favorable position toward REDD+ (Lozano Flores, 2018, p. 24, 41). Nevertheless, AIDESEP continues to express its concerns over various obstacles.

4.3.1. Incentivizing indigenous participation in Peru

Similar to other cases, REDD+ in Peru is heavily dependent on external funding, which can serve as an economic incentive to foster indigenous participation. The funds are often conditional and connected to the REDD+ safeguards, which can ensure indigenous rights. Nevertheless, the funding's framework for the implementation of these safeguards matters significantly, which will be illustrated through two cases representing the primary funding mechanisms active in Peru.

White (2014, p. 658) argues that the World Bank is one of major stakeholders in Peruvian REDD+ negotiations, being mainly involved in implementing funding mechanisms¹⁰ It applies a 'co-benefits perspective' (ibid., p. 662), aiming for REDD+ to generate win-win-win impacts for carbon stocks and other environmental and social benefits, among which are indigenous rights. However, specific safeguards preventing negative externalities are often not included in this perspective. Partly as a result of this, these social benefits were not yet systematically operationalized at a programmatic level by time of the national strategy formation (ibid.). This aspect of the World Bank's approach clashes with the more rights-based indigenous REDD+ perspective by AIDESEP, which stresses the downsides of carbon emission-based approaches (ibid., p. 663). AIDESEP also expressed concerns with the centralized approach to the development and control of safeguards by the World Bank's funding mechanisms. As the case of Indonesia indicates, this can have negative effects to participation and social benefits of REDD+, as regions with low opportunity costs on these aspects are more likely to be selected for REDD+ projects. Only after enduring protests by AIDESEP and other NGOs the FCPF provided options for case-specific conditions. White (2014, p. 670) argues that while discussions on the World Bank's funding mechanism did enhance indigenous participation, adequate social rights had still not been ensured.

¹⁰ In particular the FCPF and FIP programs.

However, there are also more positive examples. Besides through international institutions and the global REDD+ framework, individual developed countries also directly support REDD+. This is the case for the Peru-Norway-Germany Agreement (JDI) signed in 2014 (Lozano Flores, 2018, p. 19). The partnership's main goals are to reduce GHG emissions while contributing to Peru's sustainable development. The JDI is a typical example of results-based financing, with Norway's and Germany's commitment respectively being US\$ 300 million and 20 million, with further funding contingent on progress towards the main goals (ibid.). The REDD+ safeguards system is an important indicator for the non-carbon sustainable development goals. Based on interviews with non-state actors and close observations of the funding process, Lozano Flores (2014, p. 27) concludes that the JDI negotiation process heavily contributed to participatory processes for indigenous peoples. The main difference with the state-to-state funding from the Indonesian case and the World Bank's funding, which both yielded less positive results, seems to be the concrete application of safeguards in the JDI (ibid.). By creating a causal model operating at a regional level, the JDI facilitated a better distribution of responsibilities between the national and regional governmental level (decentralization) while clearly outlining requirements for specific projects. This way incentives to choose projects where the cost of indigenous participation is low no longer exist, instead incentivizing states to foster participation as it is included in the results-based mechanism.

The two cases indicate that economics incentives through external funding can both improve and set back participatory processes, depending on case- or region-specific conditions on social benefits and whether a more decentralized approach is applied, as is the case with JDI. Nevertheless, even in the first case funding mechanisms still serve as a discussion platform at the national level.

4.3.2. Persuasion and discourse

Before the introduction of REDD+, Peru has had a history of limited participation of its indigenous peoples in the formation of government policies. In 2007, Peruvian president Alan Garcia (2006-2011) expressed his view on the growing protest by indigenous peoples: *'there is too much unproductive land in the hands of people without education and resources...the progress of Peru will not be held back by a minority who are not the most advanced in this country'* (Espinoza Llanos and Feather, 2011, p. 15). REDD+ however seemed to have changed this discourse in the government's higher offices. Despite a lack of producing concrete measures protecting indigenous rights up until the formation of the national strategy, it does seem to have altered the government's perception of indigenous participation and its necessity to effective forest governance.

For long, AIDSEP expressed harsh criticism of REDD+, its international donors and the Peruvian government (Che Piu and Menton, 2014, p. 48). It considered REDD+ as a threat to the land rights of

indigenous peoples, and doubted the validity of its GHG-emission mitigation and market-based approach. Its major criticism however revolved around their lack of involvement in determining the program's structure, which is why it kept away from the early REDD+ development process (ibid.). But the period from 2010 onwards shows increased awareness from the Ministry of Environment to involve AIDSESEP, which resulted in a joint adoption of the proposal in March 2011 after several of AIDSESEP's proposals were incorporated (ibid., p. 45). This was one of the earlier steps of REDD+ through which both parties seemed to realize that successful implementation required support from both parties (White, 2014; Lozano Flores, 2014). MINAM started including AIDSESEP, while the latter traded some of its points for concessions on others from the government, a position it also did not consider earlier.

This change from the government towards a more pragmatic relationship could have been incentivized through domestic pressure. As Risse et al. (2013) this effect is more likely in more democratic states. Peru is considered a 'flawed democracy' by the EIU, scoring even stronger than Indonesia on its electoral process, which has largely recovered from several earlier setbacks (EIU, 2019; Maldonado et al, 2019, p. 25). Thereby its public opinion more strongly emphasizes the importance of democratic values than other Latin-American states, which seems to originate from Peru's conflict-ridden past in the 1980s and 1990s (Maldonad et al. 2019). At the same time, the influence of indigenous organizations at the political stage is limited compared to neighboring states. Bolivian and Ecuadorian indigenous organizations produced broad and powerful pan-ethnic coalitions capable of becoming indigenous parties (Paredes, 2019, p. 179). In Peru, these coalitions were not formed, and indigenous groups have failed to produce considerable electoral influence.

Media coverage similarly fails to increase awareness on indigenous rights. Assessing the news coverage on REDD+ and deforestation in Peru, Alvarez et al. (2014) conclude that REDD+ failed to reach a large audience, with only meagre media coverage even in the regions with the largest number of projects. The authors in particular highlight the absence of a discourse about REDD+ and indigenous peoples (ibid., p. 33) Although equity and co-benefits are central themes in Peru these do not directly link to participation (ibid. p. 42). Therefore, it can be concluded that both at the political stage as well as through the media or public opinion, indigenous organizations fail to produce significant domestic pressure as described by Risse et al.

Moving to social pressure at the international level, AIDSESEP similarly booked progression while working together with other NGOs. Although international NGOs could be considered external actors, these typically serve a supporting role to local organizations in Peru (White, 2014, p. 661). International NGOs mainly support local actors through sustaining the flow of information about

environmental and indigenous issues, both nationally and internationally (Perla et al. 2014, p. 7). As Paredes (2019, p. 181) states, 'the internationalization of indigenous movements has set forth an agenda centered on environmental justice, territorial autonomy and the political implementation of collective and international rights'. AIDSESP's approach towards participation and FPIC therefore heavily focusses on the full recognition of indigenous rights according to international laws and treaties¹¹ that Peru has signed, which reach further than its national laws (ibid., p. 667). This is an interesting position given the fact that AIDSESP at the same time is one of the strongest critics of REDD+ mechanisms. .

Concluding, there has been a significant shift at the governmental level in terms of the discourse on the participation of indigenous organizations in policy-making. From the president's statements prior to the REDD+ process on indigenous peoples' 'backwardness' and 'incapability of economic development', indigenous organizations are now included to participate in roundtables and REDD+ policy formation (Paredes, 2019, p. 182). However, this might not so much be the result of pure domestic pressure from the Peruvian population or indigenous peoples specifically, but rather from the latter's use of international protective frameworks such as UNDRIP. Similar to what Risse et al describe, information flows are critical to international support for indigenous rights. Finally Peru, being a 'smaller' state, does seem to be more vulnerable than Indonesia to domestic and international criticism when it does not adhere to its obligations under various treaties and the REDD+ safeguard system.

4.3.3. The institutional capacity for indigenous participation

A major problem in Peru is the inconsistency of authority and law-making between government authorities. On the one hand indigenous peoples are negotiating land rights under the framework of REDD+ with MINAM, while at the same time the government had 72 percent of territory belonging to these same communities under concession to petroleum and gas exploration (Paredes. 2019, p. 180). Although within the framework of REDD+ and MINAM indigenous peoples can rely on certain participatory principles, this has not been the case for other ministries and their industries such as mining and oil, which equally impact indigenous territories (Che Piu and Menton, 2014). Thereby legal frameworks on private investments in infrastructure have progressed significantly, but laws on social and environmental safeguards have not grown at the same speed. It is feared that REDD+ can negatively impact on indigenous rights as participation and consultation is often a mere formality. Forest planning and coordination will therefore have to 'see and act beyond the forest and environmental sector' (ibid., p. 26).

¹¹ Most notably UNDRIP and ILO convention 169.

Beyond synergies at the national level, in the previous decade Peru started a new decentralization scheme distributing responsibilities among three government levels: national, regional and local (ibid.). Following the findings of the theoretical framework, one would expect these developments to benefit indigenous participation. AIDSEP and other NGOs always stated their strong preference for a decentralized approach and fear for the centralizing tendencies of REDD+, especially on safeguards, which they argue needs to be checked and balanced (White, 2014, p. 666, 670). The government's decentralizing program was extended to REDD+, with Peru supporting a nested approach in which subnational spaces play a central role in the national policy framework formation (ibid., p. 28). However, this process remained incomplete by the time of the REDD+ national framework formation, with subnational authorities lacking significant financial means to carry out their duties (ibid.). White therefore concludes that in Peru a stronger coordinated implementation of decentralization is necessary for it to work effectively. This indicates that while decentralization is supported by indigenous organizations and ultimately improves their participation, it nevertheless also needs higher authorities to guide its effective implementation in Peru.

4.3.4. Indigenous peoples, their recognition and representation

Similar to Indonesia, Peru also faces issues over the recognition and representation of indigenous peoples, though these originate from a slightly different nature. As explained, indigenous peoples in Peru are highly organized into two organizations, of which almost all lowland indigenous communities are members: AIDSEP and CONAP (Lozano Flores, p. 16). There are other, Andean and coastal indigenous communities, but these are considerably less affected by REDD+ than the Amazonian groups (ibid., p. 15). Thereby, various deep divisions from previous conflict still exist between the Andean and Amazonian indigenous organizations (Paredes, 2019, p. 197). Throughout Peru's national REDD+ policy formation process, both AIDSEP and CONAP have actively participated, but AIDSEP has been more prominent. Initially the organizations were unified, but ended up in a division after internal conflicts prevailed. Although both represent the same goal, forwarding indigenous rights in Peru, this indicates that even indigenous organizations themselves do not always directly represent the interests of every community (White, 2014, p. 666). According to White, one critical cleavage is the level of assimilation with 'western/industrialized society' of some indigenous groups, with others are still living in complete isolation.

There have also been issues surrounding the government's recognition of indigenous peoples. Census data indicates that the indigenous population in the Amazon is over 300.000 with 60 different peoples and 17 language families (Espinoza Llanos and Feather, 2011). However, in 2011, at the height of national REDD+ negotiations, there were over a hundred communities not recognized as

'existing', and over 700 communities not legally titled to the lands where they are living (ibid., p. 10). This connects to the harsh criticism expressed by AIDSESP on land tenure policies in Peru. Compared to Indonesia, Peru does recognize indigenous people to a further extent, but fails to acknowledge their land rights, which limits the potential for indigenous participation in projects concerning their living areas.

4.3.5. Clashing and ambiguous norms

As White (2014, p. 658) argues, international pressures to advance REDD+ projects in Peru seriously conflict with the prolonged time periods that are usually required for stakeholder participation and discussion. Similar to Indonesia, Peru has also experienced that the current momentum of environmental protection initiatives and safeguarding indigenous rights often clash with each other. Rushed timelines pressure funds such as the World Bank's FIP and FCPF to deliver early outcomes on climate goals (Griffiths and Martone, 2009, p. 11). Combined with many government's scrambling to access these funds, REDD+ policy concepts are drafted without proper participation schemes, lacking FPIC of indigenous peoples, or often even mere consultation (ibid.). This also gets clear when one studies the chronological development of REDD+ in Peru. Already in 2012, Peru had 41 pilot projects up and running, just after the publication of its first readiness proposal and even four years before its national strategy was finalized with the indigenous stakeholders' opinions (partly) considered (Menton et al. 2014, p. 145; MINAM, 2011; Lozano Flores, 2018, p. 6). The rushed character of these projects clearly seems incompatible with indigenous participation and FPIC. Despite the Peruvian law being revised on FPIC, benefitting indigenous communities, the implementation of this principle has been inconsistent at best (White, 2014, p. 669).

4.3.6. Conclusion

Peru operates largely under the same REDD+ framework as Indonesia, with both states' REDD+ strategies being developed at the same time. However, one clear difference is the degree of cooperation within indigenous communities. AIDSESP and CONAP represent nearly all Amazonian Indigenous communities, and can thus easier operate within a centralized government system than separate indigenous representatives in Indonesia. Nevertheless, both AIDSESP and CONAP have repeatedly stressed the importance of decentralizing forest governance, believing that this will improve their ability to influence policy implementation and thus participation. This counters the argument made by Risse et al., which favors centralization to foster norm development. On the other hand, such large organizations seem to risk not always directly representing the interests of every member, as the division between AIDSESP/CONAP indicates.

Again, external economic incentives have been found to strongly benefit indigenous rights, if implemented sustainably. This means that first, implementation processes should greatly consider slowing their speed to facilitate proper consultation, while second they should clearly define case- or region-specific conditions regarding social benefits. The spiral model fails to clearly specify that incentives, if not implemented regarding the points above, can also negatively affect a norm.

The case of Peru seems to confirm the argument of Risse et al. that if an issue has a low profile in the minds of the general public this limits the possibility of external social pressure. This effect is strengthened in Peru as the World Bank's perspective on social benefits for indigenous peoples clashes with that of AIDSESEP. Nevertheless, a significant shift in discourse from the higher governmental offices regarding indigenous participation can be witnessed, which has translated to stronger participatory processes. This indicates that while indigenous rights might not be a dominant discourse for the general public, this can still change within in the government, and subsequently lead to changes on the ground.

In terms of structural, capacity-related factors, REDD+ as a platform improved participatory processes in two ways. First is that indigenous participation is simply necessary for its well-functioning, both in terms of efficiency and because it is required by its global framework. Second, despite far from complete, REDD+ requires the creation of better synergies between the policy-making of different ministries, which can improve indigenous participation and rights. As the spiral model implies, strengthening these structural mechanisms can indeed foster norm compliance.

In total, it can be concluded that the spiral model in many regards is of use explaining the Peruvian case. However, it tends to oversimplify social mechanisms and scope conditions, failing to recognize that besides fostering norm development, they can also negatively affect this. Thereby the condition of centralization can even be argued to work exactly opposite in the case of indigenous participation.

4.4. Costa Rica

Costa Rica has been one of the frontrunners of REDD+, contributing as early as COP 11 in 2005 to its design and is often praised for its efforts in forest conservation (Lederer, 2012, p. 109; WRM, 2012). Its REDD+ program is one of the most progressed worldwide (BIC, 2014)

There are eight distinct indigenous groups in Costa Rica, making up 2.4 percent of the population (ibid.; IWGIA, 2020). Although these groups live in around 7 percent of the national territory, most of these lands have been occupied by non-indigenous settlers despite legislation prohibiting this (Wallbott and Florian-Rivero, 2018, p. 504). Therefore, similar to Peru, land rights are a prominent issue and indigenous communities remain among the least developed groups in economic terms.

Communities are represented through multiple organizations, without any of them dominating this system (Kaltmeier et al. 2015, p. 75). Thereby, multiple platforms exist outside REDD+ managing indigenous relations with public institutions, such as the National Indigenous Council (CONAI).

This case will be described slightly different from the first two, as it will focus on one specific aspect of REDD+: payment for ecosystem services (PES), in which funds are conditional and will only be released upon the achievement of certain environmental goals, setting an economic value on environmental resources (Hall et al. 2016, p. 169). PES has a long pre-REDD+ history in Costa Rica. The National Fund for Forestry Financing (FONAFIFO), which also develops the REDD+ national strategy, developed internationally acclaimed expertise on the topic (Wallbott and Florian-Rivero, 2018, p. 502). However, the design of the original national PES system in the 1990s never consulted indigenous peoples, and under 5 percent of total PES funds have been allocated to these communities (ibid., p. 502, 505).

This analysis might provide interesting results on top of the existing evidence on the mechanisms of economic incentives and capacity building. Costa Rica provides a unique case to study how REDD+ can tap into, and possibly alter, existing mechanisms and institutions, turning them in favor of indigenous participation. Thereby it is a forerunner on these programs, setting precedents for other cases, which could yield societally interesting results.

4.4.1. PES in Costa Rica for indigenous peoples

Costa Rica's PES program was the first of its kind worldwide, compensating forest owners for providing 'environmental services and public goods' (Corbera et al. 2011, p. 320). To finance the program, FONAFIFO administered and allocated PES funds from a mix of taxes, international funds and other donations. Costa Rica's 'entrepreneurial' role in promoting REDD+ is even argued to be incentivized by the prospect of further financial gains for its strongly institutionalized domestic forest governance setting (Wallbott and Florian-Rivero, 2018, p. 502).

Besides extra financial gains, Costa Rica's expertise and influential international position on PES frameworks probably also increased its enthusiasm in discussing REDD+. As Risse et al. (2013) argue, states often try to conform themselves to international standards of appropriate behavior to maintain or better their international standing. Costa Rica is no exception, having great interest in retaining its high profile in REDD+ discussions, which demands that they also pay considerable attention to the REDD+ safeguards at the international level (Rosendal and Schei, 2014, p. 81).

With regards to indigenous rights at the national level in Costa Rica, the central question is: where does the money come from? The original 1990s PES framework formation failed to consult

indigenous peoples. This changed in the 2000s, when World Bank loans were made conditional on greater participation of indigenous communities. The government created Indigenous Integrated Development Associations (ADIIs) to represent indigenous peoples vis-à-vis FONAFIFO, an example of how international actors can pressure indigenous rights to be adopted (Rosendal and Schei, 2014, p. 78). However, indigenous organizations argue that the ADIIs were imposed on them, not respecting traditional ways of organization (ibid., p. 79). Furthermore, there were concerns about the lack of information indigenous peoples had on PES programs, indicating that the process of participation could still use much improvement by the time REDD+ got introduced. Nevertheless, this system remained in place for the remainder of the REDD+ preparation phase.

4.4.2. REDD+ and PES: creating new opportunities

As illustrated in the previous cases, REDD+ can create new possibilities in this regard as it often provides a platform for indigenous issues to be articulated. By applying for REDD+ funds such as FIP and FCPF Costa Rica also committed itself to the REDD+ safeguards on indigenous rights, which subsequently had to be discussed at the national level as well (ibid.). This is clearly visible in the process of REDD+ policy formation in Costa Rica.

In 2008 the government started an early dialogue on REDD+ with representatives of each of the ADIIs (Wallbott and Florian-Rivero, 2018, p. 505). However, this process received much criticism from indigenous groups as their perspectives were not sufficiently reflected in subsequent policy documents. This resulted in the drafting of a preliminary REDD+ consultation plan with all communities, which was finally approved by 19 of the 24 indigenous territories of Costa Rica (ibid.; BIC, 2014). The five remaining territories disapproved since they also wanted to include non REDD+ topics on the agenda, such as energy, water and education. So although they do not participate in the consultation plan, REDD+ effectively expanded on their discursive power base to broaden the scope of articulations on socio-ecological matters (Wallbott and Florian-Riveo, 2018, p. 506).

The consultation plan is basically a consultation process about consultation. This is an exceptional feature of the Costa Rica case, which resulted in a process-oriented methodology, focusing on how input should be obtained and processed (BIC, 2014). The plan was divided in three phases: information, pre-consultation and final consultation, and was approved by the participating indigenous territories. It furthermore identified five priority issues for indigenous peoples regarding REDD+, among which was a PES program specifically adapted to indigenous territories. The indigenous peoples' previous negative experiences with these programs spurred the development of a version rooted deeper into their communities, this time including their consultation (ibid.; Rosendal and Schei, 2014, p. 78). Although the concept of PES remains alien to indigenous peoples, as they

reject putting monetary value on environmental assets, the negotiation platform it provided through the ADIIs and the consultation plan was deeply appreciated (Wallbott and Florian-Rivero, 2018; BIC, 2014).

It can be concluded that the indigenous communities in Costa Rica have been able to open new lines of dialogue with the government, built upon the existing structures of the ADIIs. This is how REDD+ has developed into a more open process than former initiatives (Lederer, 2012, p. 110; Wallbott and Florian-Rivero, 2018).

4.4.3. REDD+ and PES: The other side of the coin

Nevertheless, despite all its precautions and preparation phases, even in Costa Rica indigenous peoples still express feeling excluded from the designing process of REDD+ frameworks, not knowing where its structures originated and how participatory processes were exactly formed (Mosley, 2018, p. 56). They feel too distanced from the abstract international negotiations and alien concepts such as PES. This relates back to arguably the most important barrier to participation, a lack of sufficient knowledge by indigenous communities for FPIC to be obtained (Scheyvens and Setyarso, 2010).

This phenomenon highlights an important crux in norm development on indigenous participation. On the one hand, indigenous rights have to be implemented internationally. This is often the only governmental level in which these are embedded in existing treaties and law, through which domestic and international actors can link up to pressure states. However, this approach seemingly always risks to not sufficiently connect to the pace and customs of local indigenous structures.

Thereby, also in Costa Rica PES programs risk applying a one-size-fits-all approach on environmental regulations. Despite the formation of indigenous PES programs, these often still feature general and underspecified payment conditions. While many indigenous territories overlap with protected areas, PES protected area management often prohibits agriculture and hunting completely, thus also affecting harmless indigenous practices (Wallbott et al. 2019, p. 23). This connects to the earlier expressed criticism by indigenous representatives that their traditional knowledge and way of living was never respected in the policy formation-process, a problem clearly still in existence (Mosley, 2018). Also the distribution of the funds often remains poorly planned, which can lead to tensions within indigenous communities. One example is the Ngöbe ethnic group, in which several millions in funds have been distributed, but were managed very subjectively by its leaders showing favor to families closest to them instead of consolidating indigenous territories (Rozas, 2012). This connects to the argument of Van Leeuwen et al (2019, p. 19) that also communities themselves can have elitist illegitimate tendencies.

4.4.4. Conclusion

This shorter chapter mainly focused on the mechanism of capacity building and the question how existing structures and practices can benefit or decrease indigenous participation. Contrary to reports from the previous cases, it can be argued that Costa Rica does have suitably strong governance institutions and capacity to set up, implement and monitor REDD+ (Lederer, 2012, p. 109). As Risse et al. (2013) argue, this largely avoids negative externalities of corruption, fraud and hierarchical relations found in both Peru and particularly Indonesia, but which seem less prominent in this case. Costa Rica's REDD+ approach thereby also facilitates a more decentralized approach to consulting indigenous peoples through the ADIs and the consultation plan, especially the latter of which was appreciated by indigenous communities.

This process of increased participation seems to be spurred largely by lessons learned from previous experiences with programs such as PES. Instead of implementing an entirely new policy framework, REDD+ could more easily be integrated in the existing PES programs, giving the Costa Rican authorities more time to create consultation mechanisms (Wallbott and Florian-Rivero, 2018). Nevertheless, even here time restraints forced the first two phases of the consultation plan to take place at the same time (*ibid.*, p. 506).

The case of Costa Rica thereby indicates that a decentralization of the implementation of consultation mechanisms can further benefit indigenous participation. Not only were consultation mechanisms integrated in the REDD+ policy framework, based on lessons from earlier experiences indigenous peoples themselves were able to coordinate and structure this process. The importance of this is highlighted by the reactions from indigenous communities that they often feel excluded from the designing phase of participatory processes. Even programs that aim to foster indigenous rights often feel too 'international' or alien to indigenous culture or traditional power structures. This clashes with the mechanisms of international pressuring described by Risse et al., as these do not mention that these same mechanisms can also fail to connect to the groups they aim to help.

In the case of PES again the specification of conditions on environmental and social indicators proves problematic. Either the programs' conditions are too general and therefore discriminate indigenous communities, or they fail to sufficiently connect to indigenous knowledge and power structures, as the example of corruption within communities indicates.

In total, it can be concluded that procedures on consultation, and especially consent, still have to be specified further and that its implementation has to be rooted in indigenous communities (BIC, 2014). Although the consultation process in Costa Rica has developed significantly from its initial framework prior to REDD+, it nevertheless fails to adhere to FPIC. Thereby, additional issues such as

land insecurity continue to be a problem, signaling that mere consultation does not automatically yield results on the ground (Wallbott and Florian Rivero, 2018).

5. Conclusion

This thesis aims to answer the following question: *why do norms on indigenous participation and FPIC fail to translate from international commitment to national practice in REDD+?* Three cases of national REDD+ implementation were analyzed, Indonesia and Peru over the whole spectrum of the spiral model, Costa Rica specifically on economic incentives and capacity building. Each of these states signed multiple international treaties on the protection of indigenous rights indicating international commitment to the norm of indigenous participation and FPIC. However, despite the REDD+ Safeguards, national laws, and institutional initiatives to involve indigenous peoples their participation can be assessed as moderate at best, with the principle of FPIC never being achieved.

The spiral model by Risse et al. aims to explain for the absence in domestic norm compliance by states, to which end it proposes various social mechanisms and scope conditions. This thesis tried to critically assess these mechanisms while exploring a number of additional explanatory variables or changes in the original model. To this end the findings can be divided in two parts. First, the analysis indicates that Risse et al. often too easily assume that the proposed mechanisms and scope conditions only work one way in improving norm compliance, while this is not always the case. Second, indeed a number of additional variables seem relevant to consider in the spiral model, especially given the unique character of indigenous rights norms.

5.1. Social mechanisms and scope conditions assessed

This section will assess the applicability of the spiral model to the central norm of indigenous participation and FPIC in REDD+ in Indonesia, Peru and Costa Rica through its social mechanisms and the hypotheses that were subsequently formulated. The additional explanatory variables are articulated through four questions in the methodology-chapter. These are either discussed under the three hypotheses, as they are closely connected to their mechanism, or at the end of this section in a separate discussion.

To start with the mechanisms and the extent to which they account for compliance with the norm of indigenous participation in REDD+, neither UNDRIP nor any other commitments by states on indigenous rights are legally enforceable, and the prospect of states using military pressure to enforce these rights seems unlikely. This is why the first social mechanism of 'coercion' was not critically assessed. Comparing contemporary examples, it was however argued that the absence of this mechanism in itself cannot sufficiently explain non-compliance.

5.1.1. Changing incentives

Moving to the second mechanism, ‘incentives’, this thesis mainly looked at how the results-based financing of REDD+ provided economic incentives for states to comply with UNDRIP and the REDD+ safeguards on indigenous participation, resulting in the following hypothesis:

If external actors can provide either enough positive or negative incentives, states are expected to comply with international norms.

Given the high dependence of REDD+ on external funding, combined with the significant political and economic capital invested by most governments in deforestation, it can be concluded that each state has a relatively high material vulnerability to external pressure, the fourth scope condition. As Risse et al. predict, this indeed resulted in significant changes in the protection of indigenous rights in each state. These external actors are often international institutions such as the world bank, or western donor countries that strike individual agreements with REDD+ states, in these forms fund, through their granting or withholding, can work both as negative or positive incentives.

However, Risse et al. fail to describe how this pressure can also work the other way around in REDD+. If the mechanisms of assessing the degree to which compliance with rights such as indigenous participation and FPIC is achieved remain underspecified, this can even lead to less compliance with this norm. When social well-being through REDD+ funding is only measured at a national level, states are likely to implement the program in areas with relatively low opportunity costs for time-consuming processes such as indigenous participation. Even in Costa Rica, where the PES system was already significantly developed prior to REDD+, this lack of specific social or environmental conditions continued to exist. The spiral could be enhanced by taking account of these potentially negative side-effects. The first hypothesis can therefore only be partially confirmed, since just providing ‘enough’ incentives does not automatically lead to more compliance, as Risse et al. assume.

5.1.2. Persuasion and discourse

The third social mechanism ‘persuasion and discourse’ focusses on national and international actors putting social pressure on states to adopt and comply with a norm. This is a powerful mechanism, since it aims to change how a norm is perceived domestically, rather than just forcing a state to adopt a norm. The following hypothesis was formulated to test this mechanism:

If external actors are able to create a strong discourse and raise sufficient persuasive arguments for states to comply with international norms, the latter are inclined to do so.

As Risse et al argue, the mechanism of persuading a state into norm compliance is rarer in practice. The analysis assessed both Indonesia and Peru to have a significant positive governmental discourse on indigenous participation. Both states are (flawed) democracies, with a relatively strong electoral processes. According to the first scope condition, this would mean that they are more likely to give in to social pressure through their own populations. This however turned out to not be the case given that indigenous rights protection as a topic had not nestled itself in the general public's mind at the time of the REDD+ strategy formation. This does not prove that the democratic condition is irrelevant, but further highlights that it requires additional factors to be of influence on norm compliance. This relates to the fifth scope condition of social vulnerability, which both states were to a lesser degree given that their populations are unlikely to pressure their governments on a topic that failed to gain prominence in their minds, let alone be displayed in a positive discourse.

International social pressure however was exerted. As all three cases highlighted, UN institutions and international NGOs often cooperate with local indigenous representative organizations, who were critical in providing information both on environmental and social factors. If not directly influencing processes on indigenous participation and FPIC, they were often at the least able to put indigenous issues on the agenda. This largely confirms the assumptions of Risse et al. on the influence of transnational advocacy networks. The second hypothesis, based on the assumptions of the spiral model, can therefore also be confirmed, although it is important to place three side notes, the first two of which are also recognized by the authors.

The first side note confirms the assumption by Risse et al. that besides the scope conditions of democratization and social vulnerability, also the size of a state matters. As the first two cases indicate, Indonesia, due to its sheer size, is less susceptible to external social pressure than Peru, as it seems to occupy a more autonomous and stronger international position. Second, as witnessed in Indonesia, although external pressure can significantly influence the policy agenda on indigenous rights, government officials there also perceived this pressure as a threat to their political sovereignty and economic agenda, which led to a backlash effect instead.

Third and final, the spiral model puts much emphasis on how international actors can influence states to adopt internationally internalized norms. However, Risse et al. fail to recognize that for indigenous peoples especially this international character of norm development often alienates them from exactly this. This was particularly highlighted in Costa Rica, where despite the intentions of the World Bank and other foreign actors to enhance participation, these processes failed to connect to local power structures and indigenous understanding. This highlights a crux in the spiral model.

International influence is critical to successful compliance, but at the same time can estrange a norm from the people that it aims to help.

5.1.3. Capacity building

Most explanatory value however is to be found in the fourth social mechanism of ‘capacity building’, which was translated to the following hypothesis:

The more ‘capacity’ states have to move towards compliance, the more they are expected to follow international norms.

It can be argued that the spiral model is very state-centered. Risse et al. focus on states as the primary actors responsible for implementing and observing a norm and its compliance. This hypothesis therefore implies that changes in the ‘capacity’ of states to do so strongly influence the degree of indigenous participation and FPIC. The analysis indeed shows that Indonesia’s, Peru’s and Costa Rica’s strength of institutions, rule of law and level of corruption heavily influence the level and kind of indigenous participation. In each state it is ultimately the state government that decides on how REDD+ participatory processes are designed and implemented. However, another factor was found to be of great importance to this, the capacity of indigenous peoples themselves to sufficiently participate, respond to and take the opportunities REDD+ offered them to participate. Each of the cases had a different setup of participatory processes prior to REDD+ and a different kind of organization among its indigenous peoples. In Peru, the highly organized indigenous communities were better able to communicate and negotiate with central government authorities than representatives in Indonesia, who were hindered by the hierarchical and clientelistic government structure they had to deal with. Costa Rica proved to be a more positive example, since there REDD+ was able to build upon existing PES structures and experiences from indigenous participation.

In all three cases REDD+ created a new platform for indigenous peoples to discuss long-standing issues. It contributes to governments’ perceptions on the necessity of indigenous participation to successful forest governance. Furthermore, as REDD+ forces various government branches to cooperate, it serves as a tool for eliminating contradictory and rivalling government policies that often negatively impact indigenous participation. All these findings correctly reflect the spiral model’s assumptions on capacity building as a compliance-strengthening mechanism, however, the model could be greatly improved by one critical aspect.

The model wrongfully assumes centralization of government authority to benefit norm compliance. REDD+ has been widely argued to have centralizing tendencies. These were found to have profoundly negative impacts on indigenous participation and FPIC, and indigenous communities in all

three cases expressed their grave concerns about the centralization of government authority under the REDD+ top-down implementation system. Although centralization might benefit human rights compliance in the research of Risse et al. this was found to be only partly true for indigenous peoples.

In total, this hypothesis is still valid in itself, since capacity greatly matters. However, the spiral model would benefit from incorporating the organizational structure of norm recipients vis-à-vis governmental actors. Thereby the model's assumptions on centralization as compliance-improving only can be refuted, its explanatory value may instead be strengthened by incorporating that this condition can also decrease compliance. Overall, the spiral model would benefit from assessing not only governmental ability to implement policy, but also by looking at how the recipients of norms, in this case indigenous peoples, are influenced by the degree of 'statehood'.

5.1.4. Ambiguity within and the clashing between norms

Van Kersbergen and Verbeek (2007) argue that norms, after their international adoption, continue to be redefined and contested. This thesis findings partly support this argument. When it comes to indigenous participation, its vagueness and illusiveness depends on the form of participatory processes. The exact meaning of FPIC was found to be largely uncontested by local stakeholders, as the norm is clearly described through international treaties. This turns out to be already different for 'consultation', which can take various forms as the cases illustrated. However, in all cases, not so much the norm itself or its validity is contested, but rather to whom it applies. Moving to the concept of norms in itself, this thesis did not find convincing evidence that the norm of indigenous participation and FPIC is contested as described by Van Kersbergen and Verbeek. No stakeholders were found to doubt or criticize the meaning of the norm, which is fairly clearly established through UNDRIP, especially FPIC. However, not so much the norm in itself is contested, but rather the elements connected to it. The case of Indonesia clearly indicates how states can limit their obligations by simply ignoring the existence of indigenous people as a separate group, which constitutes a violence of other principles of UNDRIP, such as the right to self-identification. Also between indigenous communities themselves potentially obstructing factors for participation can arise, such differences in representation, as is the case with AIDSEP and CONAP in Peru. Again, the spiral model could therefore pay more attention to groups to who norms or rights apply, rather than just focusing on the actor responsible for implementing a norm.

Finally, this thesis highlighted the importance of an additional force not yet featuring in the spiral model which influences norm compliance, pressuring by other international norms. Environmental protection has gained unprecedented momentum in the international community. Climate change

mitigation is evolving rapidly, and results are expected even faster. This puts tremendous stress on time-consuming processes such as indigenous participation and FPIC in both Indonesia and Peru. Risse et al., while theorizing norm evolution do not seem to consider that these exact same norms can clash. Which nevertheless proves to be a considerable influence on compliance.

5.1.5. Final findings and societal relevance

All in all, indigenous participation and FPIC in REDD+ has proven to be an interesting case to explore within the spiral model, which is in theory more focused on 'classic' human rights norms. Despite this norm posing some specific challenges to the model, by re-evaluating the social mechanisms and proposing additional explanatory factors this thesis hopefully contributes to the further understanding of how norm compliance occurs. Proper indigenous participation and FPIC serves as a critical element in ensuring other human rights for indigenous peoples, and it is therefore of great importance to understand the driving forces behind this process. The spiral model can explain large parts of this, but also lacks depth in explaining all facets of its social mechanisms and scope conditions, which can be strengthened by the suggestions of this chapter.

This thesis' findings indicate that the successful development of national compliance with indigenous rights norms demands a two-way process. Top-down pressure, especially from the international level has proven critical to enhance participation. REDD+ is a clear example of how an international program can act as a new platform for indigenous communities to express their concerns and opinions. At the same time however a decentralized grassroots process of setting up participatory frameworks is highly recommended. As all three cases show, merely consulting indigenous peoples about programs they have little to no information about and without regard of local power structures never accomplishes true FPIC and can even decrease participation. Costa Rica's indigenous consultation plan, in which indigenous communities themselves designed participation frameworks, forms a good starting point, yet is also far from complete. Achieving proper consultation and consent takes time, a rigid methodology for assessing these procedures and the constant participation of indigenous peoples throughout the process.

5.2. Critical assessment and future research recommendations

This thesis has combined theoretical insights on norm development and a small-n study to trace the non-compliance with the central norm of this thesis in three national cases. The spiral model combines a great number of mechanisms fostering norm compliance, all of which are worth studying separately in single case studies. However, only multiple cases can highlight how these factors exactly influence compliance, based on their unique national context. The methodology provides

explanation on the benefits of operating a small-n study, but naturally this also means sacrificing some of the in-depth insights only a single-case study can provide. Nevertheless, sometimes to generate new insights one must apply a broader approach, be it by only extending the analyses with a few extra cases. The enormous amount of data and analyses on REDD+ implementation allowed for such a broad analysis. The insights gained in this thesis as outlined above would nevertheless definitely benefit from being studied more closely, using data obtained through first hand observations instead of through existing studies. This recommendation for further research would especially be useful in two cases. The first is the clashing between norms, a concept that in this thesis seems to be greatly influencing norm compliance, yet does not occupy an important position in mainstream norm theory. Second, and perhaps most importantly is the unique nature of norms regarding indigenous rights, which challenges existing perceptions on human rights norm development such as the benefits of a centralized state system. If again researched in an even more rigid manner, these concepts could greatly strengthen the spiral model of Risse et al., and perceptions on norm development beyond that. If this thesis has shown one thing, it is that norms are not always inherently similar by nature, uncontested between actors and can even clash, even if they all seem to be 'good' in themselves.

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