

**The Guarayo Justice System and Neo-colonial Pressures in Bolivia: Indigenous Resistance,
Cultural Survival, and Futurities**

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THESIS ABSTRACT

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After decades of Indigenous organizing, in 2010, Bolivia passed the Law of Jurisdictional Demarcation to clarify the system of legal pluralism that was established in the 2009 Plurinational Constitution of Bolivia. This law established the existence of an Indigenous jurisdiction that would operate at the same level as ordinary (or state) and agro-environmental justice. However, it was not until 2023 that the Indigenous Justice Tribunal was active and functioning in the lowland Indigenous Guarayo nation. While the passing of this law and even the ratification of the new constitution, among other reforms, may seem historic and “progressive” – this case of stagnation in effectuating the rights outlined in this law point to significant structural and systemic barriers in Bolivia, erected by the state, that intend to maintain Indigenous subjugation and weaken self-governance. This exploratory study argues that said barriers are the product of neo-colonialism under the state, given the ways in which they work to maintain colonial socioeconomic hierarchies based on race. Through semi-structured interviews with research collaborators from the Central Organization of Native Guarayo Peoples (COPNAG) and two experts, three main barriers impacting the Guarayo nation and their justice system were revealed: neo-colonial continuities in the guise of reform, state sponsorship and reliance upon extractive industries, and the disruption of Indigenous solidarity. While these neo-

colonial obstacles are significant, this thesis also highlights how the Guarayo peoples, and Indigenous peoples throughout Bolivia, have persisted in their resistance and enacted futurity—utilizing tools that are at their disposal, through everyday communal practices, to dream and realize the wishes of ancestors, current kin, and future relatives. Struggles aside, research collaborators emphasized their hope that the Indigenous jurisdiction could eventually benefit the community and their commitment to enacting this possibility. This thesis contributes to broader discussions on Indigenous rights and decolonization by examining the neo-colonial dimensions of state action and reforms in Bolivia, with the aim of encouraging critical assessments of other decolonial projects and their capacity to genuinely serve Indigenous peoples from the perspectives of these peoples themselves.

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Table of Contents

Chapter	Page
I. Introduction	9
II. Historical Context	12
Colonial Histories of Race-Based Oppression of Indigenous Peoples	
in Bolivia.....	12
Post-Colonial State Building.....	14
The Plurinational State of Bolivia and Colonial Legacy	17
III. Literature Review.....	19
The Nation-State and Plurinationalism	19
Indigenous Self-determination	21
Legal Pluralism	22
Neo-colonization and Extractivism	24
IV. Methodology and Research Design.....	27
Relationships and Accountability.....	30
Research Design	32
V. Indigenous Resistance and A New Bolivia	37
Neo-liberalism and Resistance	38
VI. The Many Faces of Neo-colonialism	44
Founding COPNAG and the Neo-colonial Character of Reforms.....	45
Extractivism in Bolivia and Evo Morales.....	51
Divide and Conquer: State Strategies to Fragment Indigenous Solidarity	57
VII. Indigenous Justice and Neo-Colonial Barriers	66

The Neo-Coloniality of Legal Pluralism in Bolivia.....	67
Extractivism vs. Jurisdiction in Guarayos	73
Parallelismo and Divisionism: Hurdles to Self-governance	76
VIII. Guarayo Futurities	82
IX. Conclusions	88
Bibliography	92

List of Figures

Figure	Page
Table 1. Research collaborators and the location of the interview	34

I. Introduction

After decades of Indigenous organizing for more rights and protections for land, people, and culture, Bolivia made the historic transition into plurinationalism. Bolivia's new Constitution – ratified in 2009 - marked a significant step toward recognizing the rights of Indigenous peoples based in their pre-existence (Merino, 2018). As part of this shift toward pluralism, the constitution also formally acknowledged Indigenous justice systems. This historic shift sought to validate pre-existing systems of governance and justice that had long operated in parallel to the state's colonial framework. In 2010, the Bolivian government passed the Law of Jurisdictional Demarcation (*Ley de Deslinde Jurisdiccional*), which was intended to clarify the areas of validity between the country's three recognized systems of justice: ordinary (state), agro-environmental, and Indigenous. This law was a crucial step in defining the limits and intersections of these systems. For Indigenous communities, the law provided an important legal foundation to assert the equal standing of their justice system within Bolivia's broader legal framework. The law enabled Indigenous authorities to exercise their jurisdiction according to their customs and traditions, as long as these did not conflict with constitutional principles or human rights standards (Hammond, 2011).

However, the law also underscored the challenges faced by Indigenous justice systems in navigating a legal landscape still shaped by colonial power dynamics. While it granted formal recognition and sought to ensure equal hierarchy among the three jurisdictions, its implementation has often constrained Indigenous sovereignty. This tension highlights the paradox of legal pluralism in Bolivia: while the state recognizes Indigenous justice in theory, its practice often remains subject to state oversight and control (Hammond, 2011). Additionally, no fiscal or organizational support is provided to Indigenous communities who want to establish a

justice system by the state. These peoples are then tasked to expand upon systems that have already existed and been respected within communities to meet Western, state-wide standards for recognition by the state itself (Yrigoyen Fajardo, 1999). It was these hurdles that caused such a significant delay for the Guarayo Indigenous Justice Tribunal to form in 2023.

My thesis research questions were designed to explore why the right to an Indigenous jurisdiction took so long to be effectuated in Guarayos and whether it can serve the community. Specifically:

- 1) How have Indigenous justice systems become formally recognized and utilized in Bolivia?
- 2) Does the Indigenous justice system serve the Guarayo people? If so, how? If not, why?

This thesis examines the challenges and possibilities of Indigenous justice within the Plurinational State of Bolivia through the case of the Guarayo nation. The responses by my research collaborators illuminated how colonial and neo-colonial structures continue to shape the conditions under which Indigenous governance systems are recognized and practiced. My findings point to neo-colonialism as a central factor—not only in the initial difficulty of gaining formal recognition for the Guarayo justice system, but also in the persistent barriers the community faces in exercising autonomy. Despite constitutional reforms and international legal frameworks affirming Indigenous rights, state institutions continue to constrain Guarayo self-governance. The Indigenous-led justice system in Guarayos functions as both a site of resilience and a mechanism for navigating the layered realities of colonial and state-imposed structures. This study highlights the role of the Central Organization of Native Guarayo Peoples (COPNAG), detailing their efforts to organize and defend their land against significant

opposition from external interests, ensuring its preservation for future generations and enacting futurity (Harjo, 2018).

This thesis begins with a review of the history of the formation of racial hierarchies beginning in the colonial era and how they have impacted Indigenous communities over time, followed by an examination of relevant literature. I then will break down the methodology I employed during my project and explain how it impacted my research design. In my next section, I will pull from the conversations with my collaborators to establish essential context to understanding the issue at hand and to analyze the three neo-colonial pressures I have identified as being the largest barriers to imagining and enacting justice for the Guarayo nation: neo-colonial continuities in the guise of reform, state sponsorship and reliance on extractive industries, and the disruption of Indigenous solidarity. Finally, I highlight the role of Guarayo leadership, particularly COPNAG, in navigating state constraints while defending land, culture, and sovereignty for future generations.

II. Historical Context

Colonial Histories of Race-Based Oppression of Indigenous Peoples in Bolivia

The foundations of state-making in Bolivia are characterized by the systematic perpetuation of race-based oppression and territorial dispossession of Indigenous peoples. In the colonial era, racialized difference was generated in part through “long-term extractivist patterns of development that tore native peoples from their lands, exploited their labor, and denied them full membership in the polity,” (Postero, 2017, p.136). Bolivia was home to the Spanish colony’s richest silver and gold mines in the highlands (Farthing, 2009) and expansive forests of rubber trees in the Amazonian lowlands (Sturtevant, 2022), all residing on Indigenous lands. The Spanish imposed the mita system of a forced “temporary” labor draft in 1573 onto the Indigenous populations, based on an analogous mit’a Incan system, which was contrarily introduced for public works projects (Robins, 1964). The mita system was avoidable in two major ways: men could leave their homes and take up residence in another community, becoming a forastero or foreigner, and forfeiting their right to cultivate on communal lands or they could pay an absurdly high ransom to the local leader to avoid the often deadly conditions of which they were about to endure (Robins, 1964). Expectedly, people fled from the land they had lived with since time immemorial to begin lives in unfamiliar places with next to nothing, where they had no capacity or access to prosperity. By the 1680s, 82 percent of the inhabitants of the district of Cochabamba were forasteros (Robins, 1964). In addition to the mita, the Spanish imposed tribute taxes on the native people to fund their empire. The amount of the tribute taxes paid were based on how many Indigenous people lived in a single community (Robins, 1964), thus, punishing the very existence of a native person on their own land. If a man decided to return to his community following his mita, he would often be faced with tribute payments that

stacked during his absence and, likely, a reallocation of his land and belongings (Robins, 1964). Conversely, if the man decided to stay and continue to work in the community he had been forced to move to as a forastero, he would be able to pay less tribute (Robins, 1964).

Mitayos, laborers who came to a place under mita, faced extreme abuse and dangerous work conditions. An account from Friar Martin de Murua from around 1610 described the way workers would enter the mines in Potosi as, “through so many . . . dark and tenebrous places, that even the very experienced lose their sense and their way. There are some narrow places such that a man on his stomach can barely fit. In sum, what happens in the mine is a portrait of hell, in darkness and confusion,” (Robins, 1964, p.100). Many writings would utilize the idea of hell to portray the conditions of the mines and, yet, they would still hold firm that the mita is necessary. It is extremely doubtful that colonists such as Friar Martin de Murua ever truly understood the state of precarity that the mitayos existed in. The mitayos who did not die or continue to work, returned home broken by the horrors they had faced or sick from exposure to liquid mercury (Robins, 1964).

While these practices displaced the Indigenous peoples of their land and wealth, they were also concurrently assimilating communities and inducing the formation of racialized social identities that persist to this day. The ritual-economic-political systems, language, and culture of the established Indigenous communities were violently replaced by Spanish Christian practices. Through a concerted effort to erase Indigenous people, their genetic pool was diminished and yielded a growing population of mestizos (Robins, 1964). Three identities were thus formed: indio (Indian), q'ara (white), and cholo (mestizo) (Postero, 2017). Through the 1780s, Indigenous-led rebellions swept the Spanish colony in the form of an independence-oriented race war that led to the deaths of thousands of whites and mestizos (Robins, 1964;

Postero, 2017). The Spanish were heavily weakened as the rebellion only exacerbated the decline of communities subject to the mita and made the system difficult to sustain (Robins, 1964).

Liberation movements in America and Haiti served to further inspire revolutionary independence in the region and led to the defeat of the Spanish empire in 1825.

Post-Colonial State Building

After gaining independence from Spain, Boliva began its post-colonial era devastated by war and economic depression. The new republican regime continued this legacy of oppression in various ways including reinstating the tribute tax and exploiting Indigenous labor. The tax on Indigenous people amounted to 60% of government income in the 1800s (Klein, 2003). The mestizo-Creole (in this context, a Spaniard (of Spanish parents) born in America) elite asserted that Indigenous collective landholding was an obstacle to the creation of a modern nation-state, (Postero, 2017) and under the confiscation decree, the state then absorbed all Indigenous property and forced the people to either buy their land back or leave (Klein, 2003). Throughout this time period, Bolivian miners organized for workers rights and formed alliances with factory workers and agricultural workers across the country to resist unjust treatment and land distribution (Postero, 2017; Klein, 2003). The Movimiento Nacional Revolucionario, or MNR, political party worked alongside the peasant organizations in the revolution of 1952 and defeated the military, beginning a total reorganization of Bolivia (Klein, 2003).

The MNR government instituted universal suffrage, universal education, and agrarian reform (Sturtevant, 2022), the main aggravations of the revolution, and promoted the erasure of ethnic differences (Baker, 2021). In an attempt to make a national identity, the government also

pushed for mestizaje (racial mixing). States such as Mexico or Peru had recognized themselves as modern mestizo nations, as well, legitimized through a version of European racial unity (Baker, 2021; Sturtevant, 2022). The government would even officially replace the vocabulary of indio or indian with campesino or peasantry, producing a narrative of Indigenous historicization through the indigenismo movement (Baker, 2021; Postero, 2017). The indigenismo intellectual movement sought to appropriate Indigenous culture and bring it into the nation of Bolivia as part of its history. Thus, indigenous was framed as the past of Bolivia and mestizaje as the present and future. In policy, indigenismo is seen in the expected assimilation to the mestizo norm as a means of obtaining citizenship for Indigenous peoples. Indigenous people were entirely uninvolved from belonging within the nation-state, and all of the political and economic benefits that carries, if they did not adopt a modern (industrial) lifestyle and the Spanish language (Baker, 2021).

Beginning in the 1960s, a re-ethnicisation movement called Katarista took place in Bolivia, fueled by the challenging of state discourses of mestizaje by Aymara thinkers (Baker 2021). The Katarista Tiwanaku Manifesto (1973), declared that Indigenous people were “economically exploited and culturally and politically oppressed.” The movement worked to make visible the exclusion of Indigenous people and argued for territorial autonomy and cultural rights, building the foundation for the multicultural and plurinational demands that later come out of Bolivia. The 1980s-90s saw the rise of a national Indigenous movement in Bolivia that was largely supported by a wider international indigenous movement. During the Unified Confederation of Rural Workers of Bolivia in 1983, members called upon the Bolivian government to formally recognize indigenous self-governments and nations within the country's constitution. Subsequently, in 1990, the first March for Territory and Dignity was organized by

indigenous groups from the lowlands of Bolivia. These peoples embarked on a 650-mile journey to the capital city of La Paz, demanding sovereignty over their ancestral territories and natural resources, along with greater respect for the lowland indigenous people, communities, and cultures (Strobele-Gregor et al., 1994). One notable outcome of this march was the designation of thousands of hectares as "Tierras Comunitarias de Origen" (TCOs) in Bolivia, as part of a 1996 agrarian reform bill influenced by the marchers' demands (Strobele-Gregor et al., 1994).

The Movimiento al Socialismo, or MAS, party began gaining traction in a similar way the MNR party gained traction, through a federation of peasant worker unions. Indigenous organizing continued into the early 2000s and demarcated a time period of profound rethinking of neoliberal economic models and neocolonial patterns of territorial dispossession based on Indigenous understandings (Postero, 2017). The MAS party and their frontrunner for the 2005 presidential campaign, Evo Morales, took advantage of this shift and structured their agenda as revolutionary and for the people to win the 2005 election. The Morales administration focused on three goals: promising to make the Bolivian state more participatory, to reverse neoliberalism, and to promote national sovereignty free from US influence and neoliberal capitalism (Postero, 2017). Morales's administration did bring Indigenous issues to the center of national politics, increasing visibility and some rights, such as land reform and cultural recognition, largely through the 2009 Constitution. The early 2000s saw widespread Indigenous mobilization calling for the re-drafting of a new constitution. Bolivian Indigenous organizations, in collaboration with NGOs like the Center for Juridical Studies and Social Investigation (CEJIS), demanded a participatory and representative constituent assembly through a March for Popular Sovereignty, Territory, and Natural Resources in 2002, among other methods (Hindery, 2013). When Evo Morales was elected, his administration created a constitutional assembly, however, it mostly

consisted of MAS party members (Hindery, 2013). While some more progressive drafts of the constitution were presented to the assembly, the final version was considerably watered down and maintained the supreme authority of the state in many ways.

The Plurinational State of Bolivia and Colonial Legacy

The 2009 constitution declares in Article 2:

“Given the precolonial existence of the Indigenous originary peasant nations and peoples and their ancestral dominion over their territories, their self-determination is guaranteed within the framework of the unity of the State, and consists of their right to autonomy, to self-government, to their culture, to the recognition of their institutions, and to the consolidation of their territorial entities, in conformity with this Constitution and the law.”

The constitution managed to maintain certain initiatives that stemmed from the various Indigenous movements that put the MAS party into power including, “branches of government (with) a plurinational character, deepening intercultural policies (such as intercultural education and health), incorporating designated seats in Congress and the Supreme Court for indigenous representatives, and establishing new language requirements for state employees, amongst other measures,” (Merino, 2018, p.782). However, the implementation of Bolivia's new constitution and the Morales administration’s actions have reproduced racist colonial structures of power in the state. The new constitutional design allowed the state dominion over natural resources and only provided Indigenous peoples consultation in state development projects (Merino, 2018). Morales justified this through asserting the need for industrialization to decrease Bolivia’s dependency on outside forces.

In his first inaugural address in 2006, President Evo Morales rejected future foreign aid from Europe and the United States, asserting that Bolivia would overcome its long-standing

poverty by taking control of its own natural resources through nationalization and industrialization. While this stance attempted to emphasize sovereignty and economic self-reliance, it also deepened the country's reliance on extractive industries—particularly oil, gas, and mining—as the primary engines of development. By positioning natural resource exploitation as the pathway to national prosperity, Morales's approach reinforced Bolivia's structural dependency on volatile global commodity markets and extractive capital (Kohl and Farthing, 2012) Bolivia's state-sponsored extractive industries became, for the most part, consolidated to the lowlands and, often, occurred on land that Indigenous peoples were constitutionally given sovereignty over (Postero, 2017).

Bolivia has a long history of creating racialized differences that have embedded themselves into the formation of the state. Indigenous people and their lands have historically been exploited and Othered through this ongoing colonial process. However, the resilience of these people is evident through the continual resistance to colonial power despite the fluctuations in their status of belonging.

III. Literature Review

The Nation-state and Plurinationalism

Since the Peace of Westphalia in 1648, the nation-state has been used as a tool of violence, categorization, and dispossession. Post-colonial scholars have critically examined the role of the state in a long-term, exclusionary project that manifests physically (Fanon, Butler, Spivak, Anzaldua) and discursively (Foucault and Anderson). According to Judith Butler, the state is “the legal and institutional structures that delimit a certain territory,” (2007) but it is also, a “source of non-belonging.” Benedict Anderson would depict the nation-state as an “imagined community”; a social-construction of a singular community bound and connected by the bordered limits of the state (Anderson, 1983). The nation-state has asserted itself as a normative concept (Keating, 2001), and “is neither more nor less ‘natural’ than others, and is constantly made and remade in the course of political experience,” (Keating, 2001). Hannah Ardent argued that the nation-state requires a homogenous populus to ensure its legitimacy, which, in turn, made certain that there was no room for any minorities that do not qualify for “national belonging” (Ardent, 1951). Indigenous communities have inhabited the land that we now demarcate as “nations” since the beginning of time and have been portrayed by colonial powers as hurdles to establishing these imagined communities. These communities challenge the nation-state with their history of pre-colonial independence and self-governance (Merino, 2018). Indigenous peoples therefore exist in a space beyond the lines drawn by the state, beyond the qualifications of belonging. In response to the violent exclusions produced by the nation-state, Indigenous communities and their allies in Bolivia have advocated for alternative frameworks that reject singular national identities and centralized authority structures.

Keating's work maintains that competing historiographies have led to differing versions of sovereignty to exist under the state, such as that of Indigenous peoples, which creates a need for a modified state model to accommodate these opposing realities (Keating, 2001).

Plurinationalism is 'the coexistence within a political order of more than one national identity, with all the normative claims and implications that this entails,' (Keating, 2001, p.27). In countries like Spain and Scotland, plurinationalism has served as a working solution to issues that persist when the forced convergence of peoples occurs. Keating claims that "sovereignty is not an absolute concept, or vested exclusively in states. Rather there can be multiple sites of sovereignty or 'normative order' below and above the state," (Keating, 2001, vii).

Plurinationalism allows for sovereignty and self-determination to be re-contextualized outside of the authoritative guise of the nation-state and with a consideration of Indigenous epistemologies. The plurinational vision of the Indigenous peoples of Bolivia thus reflects not only a political restructuring but also an epistemic shift—one that values diverse ontologies, temporalities, and knowledge systems outside the Eurocentric rationalities of the modern state. Through Indigenous organizing, plurinationality was embedded into the 2009 Constitution of Bolivia and, with it, came new rights for Indigenous peoples. Though, as Silvia Rivera Cusicanqui argues, plurinationalism could run the risk of reproducing colonial hierarchies unless it is grounded in Indigenous ways of knowing and forms of autonomy that resist state co-optation (Cusicanqui, 2012). The MAS government, despite claiming that they represented decolonization and Indigenous rights, heavily strayed from Keating's definition of plurinationalism. They effectively maintained many of the colonial characteristics of a nation-state and this study will further explore the neo-colonialism that persists despite alleged reformations.

Indigenous Self-determination

The Universal Declaration on Human Rights from 1948 established that all people had the inherent right to self-determination, the fundamental right to shape one's own life, outside of the guise of the nation-state. In fact, in the International Bill of Human Rights, states were called upon to respect and promote this right to self-determination. Constructions of self-determination became intrinsically linked to the idea of new statehood, secession, and sovereign control over a territory. The international community quickly “deemed Indigenous peoples ineligible for the right of self-determination largely due to its presumed tie to statehood and the fear of states like the United States and Canada that Indigenous self-determination would lead to mass secessionist movements,” (Lightfoot, 2021, p.974). In 2007, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) pledged a global commitment to safeguarding Indigenous rights and freedoms after the extensive work of various activist groups around the world. UNDRIP became the minimum international standard of Indigenous peoples’ rights (Lightfoot, 2021) which recognized, in Article 3, the right to self-determination. A hesitation to vote yes on UNDRIP from states like the US and Canada, who both played a major role in colonization and dispossession, was mostly grounded in an unimaginative, state-centered conceptualization of the goals of Indigenous peoples. Lightfoot argues that “the meaning of self-determination must expand to include multiple possibilities for Indigenous–state relationships and the right of Indigenous peoples to negotiate their political status in and with the states where they live,” (Lightfoot, 2021, p.973). Importantly, self-determination is not a monolithic concept; while international law often frames it within the boundaries of existing states, Indigenous perspectives frequently view it as a reclamation of land, knowledge, and governance entirely outside the state apparatus (Alfred, 1999; Coulthard, 2014). For various Indigenous communities, “self-

determination is formulated as a form of shared sovereignty, in which Indigenous peoples are given a formal sphere of authority in the political system, within the framework of a single nation,” (Robbins, 2010, p.259).

The tension between state-centered interpretations of self-determination and Indigenous articulations of sovereignty is central to understanding how Bolivia has approached the recognition of Indigenous justice systems. While Bolivia’s 2009 Constitution, influenced by international frameworks such as UNDRIP, positioned Indigenous self-determination as a cornerstone of the Plurinational State, its implementation reveals how the state continues to mediate, constrain, and reshape the possibilities of Indigenous governance. In the case of Guarayos, this dynamic is especially visible: the formal recognition of their justice system is celebrated as a step toward autonomy, yet its practice remains circumscribed by state institutions and legacies of colonial control. Thus, the Guarayo experience exemplifies both the potential and the limits of self-determination as framed within international law and national reforms, while highlighting the ways Indigenous peoples themselves continue to reimagine and enact it on their own terms.

Legal Pluralism

The 2009 Constitution of the Plurinational State of Bolivia established a new system of legal pluralism as one of the major changes made to grant new rights to Indigenous communities. Following this, in 2010 the Law of Jurisdictional Demarcation was passed, clarifying the jurisdictions of the three types of justice in the state: Ordinary justice, Indigenous justice, and Agro-environmental justice. Following the new plurinational character of the state, this 2010 law recognizes the Indigenous jurisdiction as being equal in authority to the state’s justice (more on this later).

Much of my understandings of how legal pluralism might be able to serve Indigenous communities comes from the work of Kirsten Anker's work. More specifically, her book titled *Declarations of interdependence: a legal pluralist approach to Indigenous rights* (2014). Anker claims that authentic Indigenous perspectives would not be able to be represented in the monist law system as the state has historically utilized this unequal system to dispose, exploit, and employ violence against Indigenous peoples (2014). Legal monism is rooted in a mode of thought—or even a worldview—that favors seeing the world as a unified, hierarchical system governed by a singular organizing principle (Ankler, 2014). This mindset can be traced from the influence of monotheistic religious traditions, which have arguably shaped secular ideas of sovereignty, to scientific frameworks that prioritize universal explanations and singular notions of objective truth (Ankler, 2014). Through its system of justice, the state establishes itself as the “one law, one knowledge, and one truth,” without acknowledging the methods with which it gained such supremacy (Ankler, 2014). Her book reiterates the work of early ethnographers, Boas, Malinowski, and Mauss, who stated that law cannot be identified or defined because there is no universal understanding of law. As such, her vision of critical, discursive legal pluralism “makes a multitude of other perspectives legally cogent,” (Ankler, 2014) and takes into account the fluidity of the concept of law, especially among fundamentally different epistemes.

Hoffman agrees that, “Contemporary legal orders (both national and international) are ill suited to protect multiple worlds.” (2021) Studies of Indigenous legal traditions highlight that every justice system is shaped by a particular worldview or way of life. As Canadian Indigenous scholar Aaron Mills puts it, legal orders are “genealogical, storied, and entirely wrapped up in culture” (Mills, 2016, p.652), emphasizing the deep cultural and historical roots from which they arise (Hoffman, 2021).

With that being said, it is important to note that legal pluralism does not come without its faults. The restructuring of Bolivia to a plurinational state still maintained the colonial, imposing structure of statehood. Under a system of legal pluralism, Indigeneity, justice, and authority are still defined by the state (Thomas, 2016), continuing to put limits on the sovereignty and self-determination of Indigenous peoples who are seeking formal recognition of their justice system. These critiques resonate strongly in the Guarayo case. Although the Constitution and subsequent laws symbolically elevated Indigenous justice to the same level as state courts, in practice the recognition of Guarayo jurisdiction is mediated through state-centered definitions of authority. The Guarayo justice system, like many others in Bolivia, operates in the space between the state's proclaimed commitment to pluralism and its persistent reliance on monist logics of law. This tension illustrates both the possibilities and the limits of Bolivia's model of plurinationalism: while it provides a legal opening for Indigenous-led justice, it also reproduces structures that circumscribe its reach.

Neocolonization and Extractivism

Colonial powers saw Indigenous populations as both a hurdle and a threat to their ultimate authority and expansion. However, scholars argue that colonialism was not just a single moment in time, but an ongoing project that attempts to protect, legitimize, and reproduce itself in a multitude of ways. Kwame Nkrumah, the former Prime Minister, then President of Ghana and political theorist wrote the book, *Neocolonialism: The Last Stage of Imperialism*, in which he utilized the term neo-colonialism, coined by Jean-Paul Sartre, to more accurately characterize the “decolonization” of African countries. Nkrumah argued that former colonies, despite their independence, will always be shaped and influenced by the colonizing state. According to

Nkrumah, there is a major lack of incentive under the capitalist system for the Global North to support the development of the Global South. As such, he claims that neo-colonialism is the continuation and solidification of economic domination by a few at the expense of many through a cycle of dependency, resulting in a sort of second-class sovereignty (Nkrumah, 1965).

In the context of Indigenous territories, this often manifests as development-based displacement: land is reclassified for infrastructure, conservation, or economic opportunity, and communities are either forcibly removed or subtly compelled to abandon their ways of life in favor of promised inclusion in the national economy. Arturo Escobar (1995) contends that development is not a neutral or benevolent enterprise, but a discursive apparatus that constructs the Global South—and Indigenous peoples in particular—as sites of deficiency in need of intervention. This framing not only legitimizes external control over Indigenous land, but restructures Indigenous subjectivities to align with liberal economic rationality. In Bolivia and other plurinational states, this tension is acutely visible: while Indigenous identities are increasingly recognized, their territories remain vulnerable to resource extraction, conservation programs, and settlement by outsiders seeking economic opportunity. Neo-colonialism thus operates simultaneously through land seizure, labor displacement, and epistemic domination, replacing Indigenous legal and cultural orders with state-sanctioned development logics.

In her 2017 book titled *The extractive zone : social ecologies and decolonial perspectives*, Macarena Gómez-Barris highlights the inextricable link between colonialism and extractivism, positing neoliberal development as a new form of colonialism. The book calls Indigenous lands that are highly biodiverse and rich with what we now consider to be natural resources “extractive zones”. According to Gómez-Barris, these extractive zones were first constructed through the ability of the colonial project to portray the human and more-than-

human as extractable commodities. One of the methods with which the European colonizers justified colonization was through the concept of *terra nullius*, or “no man’s land”. This Latin expression was utilized in international law to render land that was occupied by Indigenous peoples as vacant so that, once “discovered”, the land could be titled and claimed. Gómez-Barris explains that some of the impacts of this was the dehumanization of Indigenous people and the othering of nature. The success of the colonial project, therefore, was contingent upon the transformation of the Global South into “a region of plunder, discovery, raw resources, taming, classification, and racist adventure.” (Gómez-Barris, 2017). This colonizer/colonized relationship is reproduced by high income countries and corporations who take advantage of financially precarious conditions and effectively erect economies that are dependent on extractive industries.

These critiques are central to understanding the Guarayo case. The Guarayos’ struggle to exercise an autonomous justice system unfolds in the context of ongoing neo-colonial pressures on their lands, which are persistently framed by the state and private interests as resources for exploitation. Just as UNDRIP and Bolivia’s Constitution ostensibly guarantee rights to self-determination and justice, the continued encroachment of extractive industries demonstrates how neo-colonial logics undermine those very rights.

IV. Methodology and Research Design

Historically, white academics have conducted research on, not with, Indigenous peoples and often without their active participation or consent. Instead of engaging with Indigenous communities as collaborators, researchers have often exploited, coerced, or forced them into becoming subjects of study, prioritizing the advancement of Western academia over the well-being and perspectives of the communities involved. Since the time of first contact, Indigenous peoples have been the primary holders of the knowledge being extracted. As such, they should be at the forefront of any research concerning their communities—both human and more-than-human—ensuring that investigations are conducted ethically and in alignment with their worldviews and priorities (Kovach, 2021; Wilson, 2008; Smith, 2012). It is essential to recognize that Indigenous peoples have been conducting research since time immemorial. Knowledge creation, transmission, and application have always been integral to Indigenous ways of life, embedded in oral traditions, land-based practices, and intergenerational teachings. The issue is not with research itself, but with the colonial foundations of Western academia, which have historically framed Indigenous knowledge as inferior, extracted it without consent, and weaponized it in ways that contributed to the dehumanization and dispossession of Indigenous peoples worldwide. Decolonizing research, therefore, does not mean rejecting inquiry and knowledge production but rather reclaiming methodologies that honor Indigenous epistemologies, uphold sovereignty, and prioritize ethical, reciprocal relationships.

In early 2023, I started volunteering with an organization called the Coalition for Indigenous Rights and Environmental Justice (CIREJ) in Bolivia. This organization works collaboratively, remotely and in-person, on Indigenous-led projects with communities that are primarily located in the lowlands of Bolivia. We are made up of students, professors, lawyers,

community members, and Indigenous leaders from both the United States and Bolivia. It was through this group that I began to form relationships with Indigenous peoples in Bolivia who joined our weekly meetings to guide our projects and share the goings on of their communities. I was consistently inspired by the resilience and resistance of these people and their stories. I have continued to volunteer with this organization and have worked on projects that range from raising money for wildfire relief to bringing Indigenous leaders to UO. When the time came to define my master's thesis, I was certain that I wanted to work alongside a community with whom I had already established a relationship. More than that, I wanted my research to be purposeful—something that would contribute to the community's well-being rather than simply fulfill academic requirements. For the first eight months of my volunteering, I heard from my, now, friend, Community Leader 2 (assigned descriptive code) describe the barriers that the Guarayo nation had to overcome in order to have their justice system acknowledged and accepted as the judicial authority of their TCO by the state. In November of 2023, he announced to us in a meeting that the justice system was, at last, recognized and that they would be able to begin utilizing it, under the 2010 Law of Jurisdictional Demarcation, to protect their community from continual threats to their land. I was equally frustrated and hopeful by this news, as he had made clear that this was no easy task and there are significant obstacles still to come for the Guarayo community as they navigate the early implementation of this system. I told him about how I was hoping to choose a topic that would be relevant and beneficial to a community, and we discussed the possibility of focusing on the Guarayo justice system. I was excited by the opportunity to explore this topic more and we began to plan my travels down to Bolivia.

While my data collection occurred during July of 2024, the real process and application of my methods began much earlier. My approach has largely been informed by the work of

Linda Tuhiwai Smith, Margaret Kovach, and Shawn Wilson. As a non-Indigenous researcher, I understand the limits of my understanding of many facets of Indigenous methodologies due to the epistemic difference in my own Western upbringing (Kovach, 2021). With this in mind, what I have ended up with is an approach that bridges decolonial methodologies with Indigenous methodologies, with relationality as a core tenant from start to finish in this process (Kovach 2021; Wilson 2008; Smith 2012). Kovach clarifies that, “Indigenous methodologies is less about identity than it is about relationship and responsibility,” (Kovach, 2021, p.39). Thus, relational accountability (Wilson, 2008) must be the foundation of this project for me to truly say that the work is guided by Indigenous methods. Wilson clarifies that for relational accountability to be present, “the methodology needs to be based in a community context (be relational) and has to demonstrate respect, reciprocity, and responsibility (be accountable as it is put into action)” (Wilson, 2008, p.99). It is important to note, that methodologies are not always drawn from textbooks or rigid academic frameworks. Rather, they can be shaped by our values, epistemologies, lived experiences, and relationships—with people, land, and more-than-human beings. Research is not merely a technical process but an ethical and relational one, guided by our understanding of the world and our responsibilities within it. While the scholars I have referenced have significantly influenced my methodological choices, my primary commitment has been to conduct this research in a way that is ethical, respectful, and accountable to the community it involves. Smith, Kovach, and Wilson echo this sentiment heavily in their work. Doing this work in a good way (Kovach, 2021)—one that upholds the principles of relationality, reciprocity, and Indigenous self-determination—has remained the most important guiding force throughout this project. Accordingly, I have divided this chapter into two sections to best present my methodology: Relationships and Accountability and Research Design.

Relationships and Accountability

As a researcher and, especially, as an outsider to the Guarayo community, building trust was essential. The Guarayo people are no strangers to the exploitative nature of Western research and have had negative experiences over the years. While I had been building a relationship with a few members of the community and developing the goals and ideas of the project, I had yet to present my proposal to the elders of the community, the *fundadores*, the founders of COPNAG, the governing organization for the Guarayo community. Smith, Kovach, and Wilson all emphasize the importance of community-led, participatory research that involves the community from start to finish to ensure that they had a say in how the research was conducted and how it will be presented. This was not something that I was able to do before my travels as I was told that it would be “best” to present my project in person when I arrived in Ascension de Guarayos. I also did not have the majority of my participants pre-selected, as this decision was made by the community after my presentation.

It was an unusually chilly morning the day that we walked over to the President of the *Fundadores*’ house in Ascension de Guarayos for my presentation. South America was facing a climate-change-induced cold front at the time of my visit. We were greeted by the group of founders sitting outside of the President’s home and I went around and met each of them, shaking hands and introducing myself. After they covered their business, planning for the 37th anniversary celebration for COPNAG, I was able to come up and present my project. I answered questions and made sure that my ideas and intentions were clear and the group seemed to be excited, sharing the names of individuals I should speak to and even graciously extending an invitation to the anniversary celebration. After this, I felt confident that I could move forward in a way that maintained relational accountability.

During one of my interviews, a founder shared a telling experience about a researcher who had come to Urubichá to study the Guarayo people. This researcher presented a history he had written independently—without community input—assuming an authoritative stance despite not being a member of the community. His approach reflected the pervasive issue in academia where outsiders claim expertise over Indigenous histories and realities, disregarding the lived knowledge of those who have been the true keepers of this wisdom for generations. In response, the founder refused to collaborate, rejecting a project that failed to respect the community's sovereignty over its own history. Hearing this story reinforced the importance of conducting research in a way that prioritizes respect, relational accountability, and the recognition of Indigenous peoples as the primary authorities of their own knowledge. I was humbled that he chose to share his experiences with me, and even more so that he felt I approached our conversation with the respect and deference due to his role as an elder and knowledge holder in the community.

Reciprocity is a key aspect of decolonial and Indigenous methodologies, as previously established. In conducting this research and producing a thesis, I will be gifted an abundance of knowledge and eventually receive a Master's degree. It was imperative that my research be valuable to the community as it would be incredibly valuable to me. My friend, the founders, and the Indigenous judge emphasized to me the importance of this project in my conversations with them, with and without the microphone on. Having their stories of resistance, struggle, and triumph be told in a good way that they could direct and contribute to was very important to the people I spoke with. I also learned that the documents that chronicled some key parts of this story had been destroyed or compromised by the *Movimiento al Socialismo* (MAS), or

Movement for Socialism, party and their supporters. Therefore, giving back the data that I would collect would serve the community and their goals.

Outside of these more concrete decisions that I made to align with my personal values and methodological choices, there were also many smaller ways in which my relationships with these people grew. We shared many things during my time in Ascension, from stories and meals to drinks and dances. I left with an indelible impression in my heart for the people who opened their homes, hearts, and minds to me and from whom I have learned so much. I know that these relationships will not end with the conclusion of this project and I am certain that there is much to come in our future collaborations.

Research Design

My project was designed to be largely exploratory as I knew that it would be guided by the suggestions, knowledge, and priorities of the Guarayo community. As I have mentioned previously, most of my participants were not identified until I was able to present my project to the founders. Essentially, I employed both purposive and snowball sampling. As I learned about the justice system, I knew that there were key actors that I needed to speak with including the current President of COPNAG and the President of the Indigenous Justice Tribunal - the community's judge. Their involvement in the justice system and their experience serving the community in a leadership position were major points of inclusion criteria. Through my volunteering with CIREJ, I developed excellent working and personal relationships with people in Bolivia that specialized in indigenous rights and environmental justice. I reached out to two with the idea for my project and they were excited to give feedback and do interviews on the subject. One had years of experience with Indigenous and environmental law and the other, a professor, had direct experience working with the Guarayos for years. Their inclusion criteria

relied on their expertise and experience working with Indigenous communities. See Table 1 below for the full list of collaborators.

Table 1. Research Collaborators

Descriptive Code	Location
President 1	Yaguaru
Founder 1	Ascension de Guarayos
Founder 2	Ascension de Guarayos
Community Leader 1	Ascension de Guarayos
Community Leader 2	Ascension de Guarayos
Community Leader 3	Urubichá
Judge	Ascension de Guarayos
Judicial Secretary	Ascension de Guarayos
Professor 1	Santa Cruz de la Sierra
Lawyer 1	Santa Cruz de la Sierra

In July of 2024, I conducted 10 key informant, semi-structured interviews. These interviews ranged from being 15 minutes long to 2 hours long, depending on the time that the participants were gracious enough to give me. I came into the interviews that I conducted with the Guarayo people with an idea of covering four main topics: the Indigenous justice system, what barriers were present in the recognition process, how can it mitigate the colonial pressures the community is facing, and what they hope it will accomplish. The semi-structured style, however, allowed for the conversations to flow more organically and not be limited by my perception of what the answer to my research questions should be. It was important that these interactions were not extractive, but a part of a mutual, co-production of knowledges as is fundamental in decolonial and Indigenous methods. Some of these conversations would go in different directions based on the stories that the participants wanted to share, further

encapsulating the semi-structured format. While I did have some questions written before, I tried my best to let my collaborators speak about what was important to them as I felt that would be more illuminating. My interviews with the professor and lawyer were more tailored to their experiences of working with Indigenous communities, plurinationality and legal pluralism, and the history of Indigenous rights in Bolivia. These interviews were audio-recorded and later transcribed and translated from Spanish to English by me to be analyzed. It is vital to include here that translation from Spanish to English might alter the meaning of some quotes as there might not be direct translations for certain words or phrases. I attempted to give plenty context and clarification through my analysis to get to the core intention of my collaborators, despite the barriers that translating might create. Due to limitations set by the UO Institutional Review Board (IRB), I was not allowed to give participants the choice to have their names associated with their words due to the perceived danger to the participants through potential targeting by the state. I chose to give them descriptive codes that might still highlight their position and contributions to their community.

In addition to these interviews, I also did a great deal of observation and listening. As a non-Indigenous researcher and an outsider to the community, there were many instances in which the most appropriate way for me to contribute to a certain situation or meeting was to listen. Through observation, I was able to learn much and more about environmental degradation, cultural divisions, and resistance. I used this observation time to also be present in place as much as possible, to respect the land that I was working on and consider it an active research participant.

While it would have been more ideal to have a larger sample size to more thoroughly answer my research questions, including community members, there were certain limitations that

were present during the data collection phase. The biggest were financial constraints that caused my time in Bolivia to be quite short. This made my schedule quite strict and did not allow me to speak with as many individuals as I would have liked. However, I believe that with the Indigenous Justice Tribunal in Guarayo being so new, the stories from the leaders I spoke with provide an important specialized and systemic perspective from individuals who are directly involved in the formation and distribution of Indigenous justice in Guarayos. Incorporating the perspectives of the greater the community could be an exciting prospect for future research as only time can illuminate the concrete ways in which the Indigenous Justice Tribunal serves the Guarayo nation.

After I collected and organized this data, I utilized the program Dedoose to thematically code the conversations that were had and the observations I made in the field. I have produced these codes based on the prevalence of the subject matter in the data and their relevance to answering the guiding research questions:

1. How have Indigenous justice systems become formally recognized and utilized in Bolivia?
2. Does the Indigenous justice systems serve the Guarayo peoples? If so, how? If not, why?

Through this qualitative approach, patterns began to emerge pointing to neo-colonialism as a central force shaping both the formal recognition and the everyday functioning of the Guarayo justice system. These findings reflect the ways in which legal reforms, while promising on paper, are frequently undermined by broader structural dynamics that continue to limit Indigenous self-determination. However, it would be incomplete to focus solely on the structural barriers without acknowledging the consistent and strategic resistance of the Guarayo people

themselves. Despite the significant challenges they identified, many community members remain undeterred in their efforts to defend their rights, strengthen their justice system, and assert their autonomy within—and often against—the constraints of the state.

V. Indigenous Resistance and A New Bolivia

“We wanted the State to recognize us as a people, because previously we were not recognized in the political constitution of the State. We did not exist for the State. But with all the movement and struggle we have done, we have managed to gain recognition from the State.” - Founder 1

Indigenous organizers across the country sought out rights and citizenship through various modes of protesting and creating strategic alliances with national and international NGOs. It was not until the 90s that the Indigenous people of Bolivia were formally recognized by the state. A limited, initial step in broader legal and constitutional reforms in favor of greater Indigenous rights. It is through Indigenous resistance alone that Bolivia has progressed in the manner that it has, bringing us to where we are today. The conversations I had in the field painted a more complete picture of how Bolivia came to the point of creating an Indigenous jurisdiction, but also, why there was such a significant delay in the recognition of the Guarayo system. I found these insights troubling, inspiring, and profoundly important to holistically answer my first research question, “How have Indigenous justice systems become formally recognized and utilized in Bolivia?”, prompting me to incorporate this, perhaps, more contextual chapter in my findings.

In the lowlands of Santa Cruz, where agribusiness and settler expansion have rapidly increased in the past 70 years, Indigenous ancestral lands have been encroached upon by both state-sanctioned development and private industry, both legally and illegally. In response, the Indigenous inhabitants have not remained passive. Through grassroots organizing, legal advocacy, and coalition-building, they have continuously asserted their right to self-

determination and territory. However, despite these steps forward, the state continues to erect barriers that I have identified as forms of neo-colonialism. Neo-colonial pressures have continued to impact this community in a variety of ways, whether those be discursively, economically, or physically, but all for the same purpose: to maintain the absolute power of the Bolivian state. The findings highlight that a functioning, autonomous Guarayo government and justice system is one of the most important tools the community has to protect itself from the continued encroachment of neo-colonial forces; a tool that the community would not have access to if not for the continued efforts of dedicated organizers.

This chapter seeks to adequately portray the political landscape leading up to the recognition of the Guarayo justice system and the persistence of neo-colonialism in a myriad of ways, despite alleged reforms. While this chapter is not wholly representative of this time period, what it adds to this thesis is critical. My interviews illuminated the importance of this context to set the scene before delving into Indigenous justice more specifically, therefore, this shorter chapter discusses Indigenous resistance as the catalyst for change in Bolivia.

Neo-liberalism and Resistance in Bolivia

In the neo-colonial period of the 20th century, as established by Nkrumah, there was a global push for neoliberalism, the new mechanism with which the Global North would exert influence and superiority over the Global South. During the “golden age of neoliberalism” in the 80s and 90s, the state of Bolivia took on considerable debt through the Structural Adjustment Program (SAP) with the International Monetary Fund (IMF). The IMF’s conditional loan agreement program required countries in economic distress, such as Bolivia, to implement neoliberal policies, often through privatization, devaluing currencies, and taking down barriers to

trade for “developed” countries, in order to receive funding that often was accompanied by absurd interest rates. The SAPs effectively put many previously colonized countries in a deeper cycle of debt despite the goal being promoted as ending poverty and helping these primitive countries become modern and developed. This is, undoubtedly, a form of neo-colonialism. For Bolivia, many of their extractive industries became privatized, causing major cuts to jobs and even forcing highland Indigenous peoples to move to the lowlands to find work or land to support themselves. The privatization and dismantling of state-owned mining companies left 35,000 miners and their families without livelihoods. Progressive labor laws were repealed, the already meager minimum wage was eliminated, and thousands lost their jobs as state-run social institutions shut down. The government made no attempt—symbolic or otherwise—to reach consensus with trade unions or social organizations (Strobele-Gregor et.al, 1994). Forms of organization and values, like the *ayllu* and union, migrated with the highland peoples. However, these epistemes clashed heavily with lowland ideas and traditions of community leadership and land use (McNeish, 2013). This was a pivotal moment in this ongoing project by the Bolivian state to sow disdain amongst the highland and lowland Indigenous peoples, something I will further explore in this chapter.

The booming agriculture industry and the cheap cost of land made Santa Cruz a magnet for both domestic and international migration, threatening the land and security of Indigenous communities in a rapid and dangerous way. This embracing of neoliberalism inspired road-building projects across the country to expand extractive industries, including the construction of a major highway in the 80s that connected the departmental capitals of Beni and Santa Cruz. Mining operations, loggers, and cattle ranchers, among others, utilized this increased accessibility to clear land and extract resources from territory that had been historically

considered to be part of Indigenous communities (Dockry and Langston, 2018). Despite the fact that these projects and growing industries were directly affecting their traditional land, Indigenous peoples were excluded from decision-making processes as there was no formal recognition of or rights for Indigenous people at the time. The first march for Territory and Dignity occurred in 1990 and was organized by the Confederation of Indigenous Peoples of Bolivia (CIDOB). This organization was founded in 1982 by the Chiquitano/Mokox, Ayoreo, Guarayo, and Guarani people to better organize themselves in the face of state exclusion (Dockry and Langston, 2018). Through this group, lowland Indigenous communities came together and unified under a collective threat to land and culture. Professor 1 has worked extensively within CIDOB and explained,

“Well, this organization, from the 90s until 2005, was the most important organization, not only for the indigenous peoples of lowlands, but in the country. There is a full recognition by all Bolivians of the importance of CIDOB, because, as I mentioned, it contributed to several legal reforms in the country, not only for the indigenous peoples, but for all Bolivians.”

The 1990 march from Trinidad to La Paz captivated the nation and forced a national dialogue about their demands, which centered around traditional authority structures being given legal effect and rural lands being protected from encroachment by large landowners and corporations (Goodale, 2002). According to Professor 1,

“It is important to understand that in the case of indigenous peoples, everything they have achieved in terms of rights, social recognition, has been a struggle of these indigenous nations. And a very particular struggle, unlike the working sectors, for example, who go on strike, paralyze production, etc., demanding their rights. In the case of indigenous peoples and nations, their mechanism of struggle is basically marches. So, it is a movement of self-sacrifice

to sensitize governments and the population so they can, to some extent, fulfill the rights established for these nations.”

This initial protest resulted in supreme decrees by President Paz Zamora, attempting to address the march’s demands to create Indigenous territories and to respect and incorporate their worldviews, especially those regarding land, into policy (Dockry and Langston, 2018). These transformed into various legal reforms including the 1994/5 constitutions and the 1996 INRA (Instituto Nacional de Reforma Agraria) law, among others.

Both Lawyer 1 and Professor 1 explained to me in their interviews that the legal incorporation of Indigenous peoples began after the state adopted the International Labor Organization Convention 169, an important piece of international law that was inspired by Indigenous organizers around the globe. Adopted by Bolivia in 1991, ILO Convention 169 is a binding international treaty that recognizes the rights of Indigenous and tribal peoples to maintain their cultural identities, institutions, and territories. Crucially, it obligates states to consult Indigenous communities on matters that affect them and to recognize their rights to land traditionally occupied or used. In Bolivia, this ratification marked a turning point by providing an international legal framework that Indigenous groups could use to pressure the state for land recognition and protection. It helped pave the way for policies such as the 1996 INRA Law, which created a legal mechanism for titling collectively held Indigenous territories, known as *Tierras Comunitarias de Origen* (TCOs). Although the implementation of these policies has often been uneven and contested, ILO 169 offered Indigenous peoples a powerful legal tool to demand formal recognition of their ancestral territories within a state framework that had historically denied their autonomy and rights. As Lawyer 1 explained to me,

“That is why when the Indigenous people request that their economic, social, cultural, and territorial rights be incorporated, regarding natural resources, the State cannot oppose. Although those who govern the State may not agree with the Indigenous peoples, it is already established in the country as something mandatory to incorporate the rights of Indigenous peoples. That is why it is important that in Bolivia, the convention 169 was incorporated...When it was incorporated in 1991, changes began to occur in Bolivia - in the laws, in the structure of how the state is organized.”

To be clear, this monumental change did not occur without the continued resistance and organizing efforts of the Indigenous nations of Bolivia. And it is important to repeat, once more, that all of the Guarayo participants shared with me a history of reluctance from all levels of government to holistically support the Indigenous nations of Bolivia in exercising the rights laid out for them, either in legislation like Agrarian reform laws or even the various iterations of the constitution from the 1990s-present day. One of the first ways in which this occurred, during this new era of Indigenous rights and recognition, was through the land titling process. Lawyer 1 explained that,

“... the state must demarcate, measure, and provide them (Indigenous nations) with a property document. This is regulated as stated in the constitution in article 171 of the 1994 constitution. It is regulated through the agrarian law, through the law called INRA, of the National Institute of Agrarian Reform. There it is regulated how the process to obtain title will be carried out.”

Despite obtaining more rights within the framework of the state, Indigenous nations were still not the primary authority in demarcating their territories. As evidenced by the information I received from Lawyer 1, it is clear that the state maintained ultimate control over the ability to

allocate and define territory and ensured that it would be done on their terms. All of this is incredibly important to understand the actions that led to creation of an Indigenous jurisdiction.

VI. The Many Faces of Neo-colonialism

The Guarayo people have faced generations of structural violence at the hands of the Bolivian state, including land grabs, economic marginalization, and political exclusion. This reality was echoed in every interview I conducted and is a story that is shared in Indigenous communities around the globe, underscoring the importance of its place in this thesis. This chapter seeks to explore the ways in which Indigenous interactions with colonial entities did not cease with the liberation of Bolivia from the Spanish empire.

In my research process, I uncovered three major ways in which neo-colonialism continues to impact Indigenous communities in Bolivia: neo-colonial continuities in the guise of reform, state sponsorship and reliance upon extractive industries, and the disruption of Indigenous solidarity. To explore the neo-colonial undercurrents in Indigenous rights reforms, I will share the history that was shared with me by Founder 1 of the creation of COPNAG and how the Guarayos, specifically, have historically interacted with neo-colonialism as they attempt to consolidate. I will then discuss the relationship between Bolivia and extractivism, incorporating the unique perspective of the Guarayo people. Finally, I will explain the ways in which the state has intentionally fabricated barriers between Indigenous peoples throughout Bolivia and within the Guarayo nation. It is my intention that this chapter provides a background, shared with me by experts, that will usher in greater understanding of these three complex ways in which neo-colonialism affects Indigenous communities and, more specifically, Indigenous justice, the subject of my next chapter.

Founding COPNAG and the Neo-colonial Character of Reforms

In response to the growing threats to territory and culture in the 80s that I previously outlined, a group of 12 Guarayos, now called the Founders of COPNAG, began organizing in 1982 in Ascension de Guarayos. After I proposed my project to the group of founders in Ascension, I was directed to speak with Founder 1 as the group relayed to me that, of the living founders, his memory of their struggle was the strongest and that he would be the best person to share this with me. I walked to his home in Ascension one morning to speak with him about the formation of COPNAG and his hopes for his people. Founder 1 shared with me that COPNAG,

“...was consolidated in 1987 as the Organization of the Native Peoples of Guarayos. And from 1987... to 1990 we have worked to demand the TCO and to claim the territory from the state.”

One of the most important features from the 1996 INRA law was mapping out the 11-step process of collective land titling for Indigenous communities in the form of a Native Community Lands (TCO). “This type of property is inalienable, indivisible, collective, non-mortgageable and tax free, which implies limitations to private property rights and thus to accumulation,” (Fontana, 2014, p.301). The attempts of the Guraryos to organize and form a TCO was met with retaliation along the way from actors that would benefit economically from the continued subjugation of Indigenous communities and dispossession of their territory. Agribusiness interests in the contested land led to competing land claims and violent confrontations. As Founder 1 continued to tell me his story, he explained,

“The six towns concentrated here (Ascension de Guarayos) to tell the authority that we are organized as the native people of Guarayos, but, unfortunately, the logging and cattle

ranching businessmen confronted us. They stoned us. It has been a tough fight for us. Because the businessmen, the ranchers did not want us to organize. When they, the ranchers and logging businessmen, they ruled because they had money. And we, as the poor, native Guarayos, we couldn't defend ourselves because the authorities protect those who have money, not the poor. So, for that reason, we organized ourselves to defend against the businessmen, ranchers, and also against the authorities.”

Despite these major hurdles and threats, the founders continued their work. Founder 1 asked me if I had had the opportunity to visit Urubichá yet, one of the municipalities within the TCO. I answered that I had, just a couple of days prior, taken the hour-long trek on a dirt road deeper into the Amazon to visit friends and colleagues and conduct interviews. He replied,

“When we started organizing. On foot, I used to walk from Urubichá to here (Ascension). Walking for eight hours. That's how we used to go. So, if we had some funding to be able to mobilize, we could do it as soon as possible, right?”

Hearing this shocked me and I was reminded of the resilience of these people, how they were able to change so much with so little. I expressed this shock to him and quickly agreed with his statement. The ethnic recognition that came from the reforms of the 90s, while admittedly addressing some of the demands of the marchers, was simply not enough to bring about effective change to these communities. In simply becoming a “multicultural” state, Bolivia failed and continues to fail to address the colonial remnants of cultural and economic domination based on race. Nancy Postero coined the term “neo-liberal multiculturalism” (2007), a form of multiculturalism wherein, in order to be a good citizen, the people must adopt neo-liberal individualism and take more responsibility for their own welfare. While they might have the right to organize themselves culturally, what can that accomplish without, say, the financial

backing to support their initiatives? Whilst political rights are extremely important, that does not negate the essentiality of civil rights. Postero's work on neo-liberal multiculturalism is extremely important, however, exploring further is not necessarily in the scope of this project, but would be an interesting avenue to examine this subject in the future. What I have found to be striking, however, and a subject I will continue to reference, is the maintenance of colonial era racial and economic hierarchies despite alleged multicultural reform.

A major part of the INRA law was a process called "*saneamiento*", or regularization, which left pockets of land on Indigenous territory in the hands of non-Indigenous individuals. This portion of the law required INRA to hear other land claims from individuals that had legitimate documentation and to determine whether the land was being used according to a state-determined social or economic function (FES). Lawyer 1 explained:

"(Saneamiento is) the procedure to obtain the property of the land. It is measured and if there is a livestock owner here, if they work the land, they must prove how they work the land according to the law, the livestock owner, and if they work according to the law, they stay. But if they don't work, they leave, do you understand? Then, the indigenous people were asking for land, territory, without others. But the State told them, we will respect those who are there. And the indigenous people said, but they have taken our land. And the State told them, yes, but they have rights, because the State has given land to them. So, when the regularization is done, the land titling, it respects those who are not indigenous."

This aspect of the INRA law, essentially, allowed for the legitimization and protection of property rights for actors that had, by definition, dispossessed Indigenous people of their lands, solidifying within itself a loyalty to the colonial project that has always sought to do just that. It also managed to create a legal definition of productivity that provided rights to those that worked

on Indigenous land and encouraged those individuals to continue to work the land in order to keep it. The FES is based on the idea that the land should not stay idle and has been subject to interpretation and manipulation over the years (Larson et.al, 2018). These features are inherently colonial as they effectively maintain state authority over demarcating, distributing, and appropriating land – reinforcing Indigenous subjugation for state interests. Lawyer 1 continued on this topic stating,

“So, if the State has given them a property document stating that they should work as ranchers, as owners who have livestock, cows, when the INRA arrives, they must demonstrate that they are ranchers, that they are not just people with a paper, but that they work the land. So, in agrarian law, the way the titling process will be carried out is incorporated, respecting those who have rights. Then you will find some indigenous territories in Bolivia where it is like... a cheese with holes and those holes are the non-indigenous that have remained within what the indigenous people requested, so... there are very few indigenous territories where there were no holes, there were no private owners, third parties.”

To demarcate a TCO, The Vice-Ministry of Indigenous and Original People's Affairs (VAIPO) conducts a spatial requirements assessment for indigenous communities, taking into consideration factors including the group's historical occupation of the area, the nature of their livelihoods, and the possibility of population expansion (Larson et.al 2008). Founder 1 shared some insights on what this process was like in order for them to be able to title the full 2,205,000 hectares that was identified by the group as their ancestral territory.

“They conducted a census. And in the census results, there are 16,000 Guarayos. Because some of the Guarayos said, I am a peasant. They did not say, I am an indigenous Guarayo. We were few, only a few who identified themselves as such. I am an indigenous

Guarayo. The others said, I am a peasant... Because they did not agree with us as an organization. They did not agree. identifying themselves as the native Guarayo people... They do not want to. That is why they say we are farmers, but they are the same as native Guarayo. So that has been a problem. And the government says 16,000 Guarayos, in 50 years, how many Guarayos will reproduce? With that study, they have already studied how many will be born, how many children, grandchildren, great-grandchildren. So they have told us, well, we will give you 900,000 hectares. But we gathered again with the six towns, and made another document saying, well, that they should give us one million and a half hectares. We made another proposal, and then the government said, we will give you 1,349,000 hectares and based on that we accepted 1,349,000 hectares... We have done regularization, we have done titling. The TCO is now fully titled. In its entirety, it has gone a little beyond 1,350,000 hectares.”

Here we can see a couple of clear examples of colonial authority being exerted onto the Guarayo people. First, it is important to understand the state’s process of formally being recognized as Indigenous in Bolivia. To be considered legally Indigenous, a person has to meet three requirements:

“One, self-identification first. You cannot force anyone to identify as indigenous. Or not indigenous? Second... being a direct descendent. And third, to maintain some of these elements, you see? Culture, language, etc. Many in Bolivia wanted to say, but you have to meet all the requirements, that is, everything, language, culture, clothing, right? The convention does not say that. Anyone can say that. Anyone can say that. Any of those elements. Self-identification, being a descendant, and third, any of those ‘real’ elements. Then, from that is how one can process their application to be recognized as indigenous by the State.” (Lawyer 1)

Stating whether or not a person identifies themselves as Indigenous comes with more considerations, however, than simply meeting those three requirements. In fact, this choice comes with generations of history of exploitation, de-humanization, and violence based on such classifications. The classifications themselves “constrain and mold a definition of the “indigenous” emphasizing its minority status and static, unchanging nature, expressed in a series of external forms: dress, dance, ritual, always associated with the rural and anchored in a space of production (agricultural-livestock-ritual cycle).” (Cusicanqi and Freeland, 2015, p.86) Many Indigenous people preferred to refer to themselves as peasants for these reasons, relying on the historic preference of this social class by the state. The judicial secretary elaborated:

“many people when the indigenous movements started did not want to be indigenous because they feared being discriminated against by white people.”

As the TCO process continued, the Guarayo people were subjected to different state manufactured requirements, including somehow calculating the growth of the native population into the future to determine how much they “needed”, to have the land titled (IWGIA, 2002). Despite clearly outlining their ancestral territory, the reviews done by INRA and other governmental agencies shrank the final titled territory in half from what was originally requested. This could only have been done for the benefit of the state and other stakeholders that might have interests in the land. It was extremely illuminating to me to hear every participant that mentioned this hypocrisy identify the main motivator of the state in dodging its responsibilities and forming loopholes for itself as an economic one, creating a political preference for businesses and development.

Extractivism in Bolivia and Evo Morales

In Bolivia, as has been the case for many previously colonized countries, the foremost method of economic development has been extractivism. Extraction-fueled colonialism of the region translates today into an extraction-dependent economy where the country's natural resources fill the pockets of national and foreign elite while condemning the majority Indigenous population "at worst to die (as millions did in colonial-era mines), and at best to live in poverty and suffer from a legacy of environmental contamination," (Kohl and Farthing, 2012, p.225). Understanding this relationship is important to comprehend how extractivism might be a barrier to Indigenous justice in Bolivia, a subject I will elaborate on more specifically in the following chapter. In this section, I intend to make clear how extractivism and neo-colonialism are inextricably linked in this story and the ways in which they impact Indigenous peoples and self-governance.

The Department of Santa Cruz has historically been the target of extractive industries including agriculture, logging, and mining; holding 66% of the cultivated land of the entire country (Rodríguez et.al, 2023). When I asked about the major issues impacting the Guarayo nation, my conversations pointed to the social and environmental impacts of resource extraction. Founder 1 shared, with a somber and serious expression,

"Right now there is destruction of the forest, destruction of the rivers, destruction of the lagoons. So, we are already experiencing quite a drought. We no longer live as we did before here in Guarayo. Before, before... we all took care of nature. In the forest, there are all kinds of animals, right? Yes. Because before that, our grandparents lived off fish, from the animals in the wild. That is what they fed on. But now there is no longer enough, it is already scarce. Due to the

destruction of the forest. It is coming to an end. The rivers are drying up. and there is no more fish.”

Similarly, Founder 2 explained,

“If they (settlers and businesses) destroy it (the forest)... we will not have water, ... we have to take care of our forest. So, we are poor Guarayos, but we have to take care.”

This sense of urgency and necessity was widespread in my interviews as my collaborators listed to me the very real consequences of ever-expanding extractive industries. According to the Global Forest Watch, deforestation rates in Bolivia have increased 259% over the past eight years (2023). Besides listening to stories, a large part of my research was also to observe the world around me. On the bus ride from Santa Cruz out to Ascension de Guarayos, the freeway was lined with agricultural and ranching plots of all sizes, from cattle to soybeans. I saw, with my own eyes, the success of the neoliberalization of the lowlands of Bolivia as I rode along freeways that were built with the intention of connecting departments and neighboring countries to better facilitate trade and “development”. On my ride out to the more rural municipalities of Urubichá and Yaguaru, I lost count after seeing at least 20 trucks full of logs heading in the direction of Route 9.

Community leader 3 was born and raised in Urubichá. He stated,

“every day, 40, 50 trucks full of logs come out. And if you go and sit there, where the trucks pass, there is no hour that a truck is not passing. Always, always, always. All the time.”

These logging projects, regardless of their legality, have significant impacts on the human and more-than-human community. The land was able to speak to me for itself, brandishing obvious scars from clear-cutting projects and unregulated development. While in Urubichá, I

visited the Rio Blanco, once an essential source of sustenance, now dangerously contaminated by runoff. Members of the community I met even told me that this pollution tragically led to the death of several children in the past few years. In the heart of the municipality of Yaguaru is a lagoon that has been incredibly important to the livelihoods and culture of the Guarayo people. Deforestation and climate change have damaged the lagoon so significantly that it has been slowly dying. The current President of COPNAG shared with me during his interview in Yaguaru,

“Recently, there have been significant and concerning changes in the environment. Many communities today suffer longer periods of drought, when it’s hot, it gets extremely hot, and when it’s cold, lately it gets very cold, which was not seen in previous times. The maximum cold used to reach 15 to 18 degrees, right? Today it can reach as low as 13, 10 degrees, right? So, there is a change there. When it’s hot, I believe it can reach up to 45 degrees Celsius. So, there is quite a change we are experiencing. And in nature, there are rivers that are contaminated. There are lagoons, right?, that are not well cared for...Nature and the environment are important for our people. It is always important because, as I said, for us as an indigenous people, the forest, nature is considered our big house. Because from there we gather fruits to feed ourselves. Our parents go there to hunt some animals for the family's sustenance. From the rivers, we catch fish to also feed the family. So in the Guarayo world, in this case, the environment, the nature is important.”

As mentioned in this quote, the Guarayo consider the forest to be their *Casa Grande* or Big House. Ontologically, the Guarayo people have historically prioritized reciprocity within their Big House. By taking care of the forests, rivers, and lagoons, the land takes care of them – providing food and medicine and shelter. However, this relationship is at risk due to the

seemingly limitless extraction occurring on their lands and the prioritization of Western colonial ontologies that have vastly different understandings of land-use and management (Gambon and Bottazzi, 2021). These projects are not only the product of multinational corporations, but also small farmers moving from the highlands or from other countries and even some Guarayos themselves, drawn to richness of the land as a means to escape the poverty that was imposed on them from colonial socioeconomic hierarchies. I will touch upon this more in my next section.

Although Evo Morales rose to power as Bolivia's first Indigenous president with a platform grounded in Indigenous rights, environmental justice, and anti-imperialist sovereignty, his administration's heavy investment in extractive industries revealed a stark contradiction between discourse and practice. Morales frequently invoked Indigenous worldviews such as *Buen Vivir*—a concept rooted in harmony with nature and community well-being—to frame his political vision. *Buen Vivir* or Living Well is a Spanish manifestation of different indigenous expressions from Andean states in South America that describe a worldview that interconnects human life with the material, spiritual, and social world (Peredo, 2019). *Buen Vivir* directly opposes Western hegemonic conceptions of nationhood and instead pursues a conception of reality that incorporates a consideration of nature and coexistence. When applied to governance, *Buen Vivir* “presupposes an economy that shuns capitalist principles and instead upholds foundational principles such as solidarity, sustainability, reciprocity, integrality, interrelatedness, complementarity, responsibility, sufficiency (and efficiency to some extent), cultural diversity, identity, equality and more democracy,” (Acosta and Abarca, 2018). Above all, *Buen Vivir* is a philosophy born out of resistance to an unethical, exploitative system that has persisted in South America and around the world for centuries.

Yet, under his leadership, the Bolivian state doubled down on extractive economic models, particularly through the expansion of gas, mining, and infrastructure projects into Indigenous territories. Morales' strategy of resource nationalism included plans to expand cultivated land by 30,000 km² and nearly double the cattle herd by 2025, despite the ecological toll on the Amazon's microclimate and vital ecosystem services (Elliott, 2023). By promoting extractive-led development, Morales perpetuated a long-standing pattern of colonial resource exploitation, albeit under the banner of national sovereignty. While nationalization allowed the state to retain a larger share of resource revenues, it did little to transform the underlying structure of the economy or reduce its dependence on commodity exports. Moreover, Indigenous communities—ironically the political base that had helped bring Morales to power—continued to bear the social, environmental, and cultural costs of extractive expansion (Farthing, 2009; Merino, 2018; Postero and Fabricant, 2018). For Buen Vivir to be put into practice, both the state and the market would have to undergo transformation and operate under regulations aligned with genuine social and ecological needs, something that has been neglected by the MAS party. (Vanhulst and Beling, 2014).

For example, frameworks embedded within Bolivian laws allow the state to define productivity through a lens that prioritizes extraction and commodification, often to the detriment of Indigenous communities (Urioste, 2012). I briefly touched upon this when describing the INRA law in the previous section. The alleged “plurinational” constitution reinforces the rights to private property present in the previous constitution and legal reforms, legalizing the appropriation of “entrepreneurial” lands (Article 315), a real threat to Indigenous territory and sovereignty (Regalsky, 2010). Despite the land titling process that I previously described, Indigenous nations within Bolivia are not granted a full and uninhibited sovereignty

and self-determination over their territory. It is the goal of the Western nation-state to maintain its supremacy and giving up its imagined authority to Indigenous nations could severely impact the capacity for control. In the context of Bolivia, resource governance outcomes, even after the passing of ILO 169 and other legal reforms, have perpetuated epistemic and power differentials between states, people, and Indigenous peoples. In Guarayos, 54% of the proposed territory was demarcated as protected forest area – making clearing forests or settling lands illegal (He et.al, 2017). Nevertheless, deforestation activities continued as INRA continues to allocate land for development usage. There have been various land allocations within forest reserves for agricultural and livestock uses (He et.al, 2017). This pattern reflects a familiar colonial logic in which state institutions simultaneously recognize Indigenous lands while facilitating their penetration by market-oriented extractive activities. Such contradictions not only degrade ecosystems but also erode Indigenous governance systems, subordinating them to the economic priorities of the national and global market—hallmarks of a neo-colonial political economy. These contradictions are rooted in the structural limitation that, under Bolivian law, Indigenous communities hold only surface rights to their territories, while the state retains ownership and control over subsoil resources and ultimate decision-making power. This legal architecture enables the state to override Indigenous governance and open territories to more development, echoing the colonial logic of territorial recognition without genuine sovereignty. In this way, the veneer of rights recognition masks a persistent neo-colonial order through actions that are ontologically identical to the pillaging and dispossession of Indigenous lands that was done in colonial times.

Professor 1 described this in our conversation.

“In those territories, there are resources, but they do not have the right to manage them, because rights are overlapped. And that is what happens. Territory in the indigenous concept is the land, the subsoil and above the land, the airspace. Therefore, in any state, the territory has these three dimensions land, subsoil, and airspace. Thus, all the resources existing in those three dimensions correspond to the holder of those territorial rights. In Bolivia, it is not so. In Bolivia, the State recognizes indigenous territories, in quotes, only the right to the land. The rights to the airspace and the subsoil are not recognized. Therefore, resources, for example, minerals, gas, or whatever exists in the subsoil, are a right of the State. And the right of the State allows it to grant the use of those rights, either directly to the State itself, to its companies, or it can grant those rights to private individuals.”

Far from breaking with the colonial legacy, Morales’ government reconfigured it—embedding extractive capitalism within a plurinational rhetoric, and ensuring that the state, not Indigenous nations, remained the ultimate arbiter of land and resource use. In effect, Morales maintained—and in some sectors deepened—the neo-colonial framework in which Indigenous lands are recognized in name but subordinated to national development priorities. As such, extractivism impacts the ability of Indigenous self-governance, in any capacity, to function for the benefit of Indigenous peoples. This section is important as it highlights the relationship of the Bolivian state to extractivism, setting up my argument that this is, in fact, a neo-colonial barrier to effectuating Indigenous justice.

Divide and Conquer: State Strategies to Fragment Indigenous Solidarity

Despite the claims made by the Morales administration to combat neoliberalism and support Indigenous rights, as stated in my previous section, their actions have proven to maintain the neo-colonial relations in Bolivia. When a group of Indigenous protestors reached the capital

city of La Paz in the 2012 March for Territory and Dignity, in response to the construction of a mining/logging highway through Indigenous territory and TIPNIS national park, they were met with police who sprayed the marchers with water hoses and tear gas (Postero, 2017). The government then swiftly and violently took over CIDOB in Santa Cruz. The MAS military and national peasant union leader Roberto Coraite stated that the “TIPNIS protestors should choose between the road, which would bring them trade and development, or else ‘stay in clandestinity, as indigents, remaining as savages,’” (Postero, 2017). His administration suggested that the lowland communities were acting as obstacles to national development, a sentiment that is present throughout the history of Bolivia. The MAS government has reinvigorated racist tropes against lowland Indigenous people to diminish their claims by asserting that they are not thinking modern enough to be considered citizens because they are too childlike or easily manipulated (Postero, 2017).

This colonial narrative classically frames these specific Indigenous communities as “bad Indians” and the others as “good Indians” (Postero, 2017). Highland Aymara and Quechua communities—long incorporated into the colonial *reducción* system, Christianized, and integrated into the mining economy—were often framed as “good Indians” because they were seen as more assimilated to colonial governance, language, and religion (Strobele-Gregor et.al, 1994). Their proximity to centers of political and economic power in the Andes, and later their role in agrarian and industrial labor markets, reinforced this perception as they pushed forward a modern, state-centric development (McNeish, 2013). In contrast, lowland Indigenous nations, many of whom resisted Christianization and maintained autonomous governance systems in forested regions, were portrayed as “wild,” “uncivilized,” or “backward”—the quintessential “bad Indians” in need of pacification and control (Strobele-Gregor et.al, 1994; Sturtevant, 2023).

This binary classification has persisted to this day and empowered Morales, who saw his position as head of the “indigenous state” as entitling him to defining who is an acceptable decolonized subject (Postero, 2017).

The 1953 Agrarian Reform and subsequent policies under the Military-Peasant Pact (1964–1978) incentivized Aymara and Quechua peasants to migrate to the lowlands through land grants, credit schemes, and infrastructure development in areas like the Chapare, northern Santa Cruz, and parts of Beni and Pando (Sturtevant, 2023). These programs, framed as “modernization” and “integration” efforts, served dual purposes: relieving social tensions in the highlands while advancing state control over territories historically inhabited by lowland Indigenous nations such as the Guarayo, Chiquitano, and Mojeño. Migration corridors were often opened by road construction and resource extraction projects, embedding settler agriculture—especially coca, rice, and later soy—into previously forested regions. The influx of highland settlers, sometimes organized into sindicatos or colonist cooperatives, altered local demographics, placed new pressures on ecosystems, and displaced or marginalized lowland Indigenous communities.

While these colonization policies were presented as anti-poverty measures, they replicated a colonial logic of internal frontier expansion, treating lowland territories as empty or underutilized spaces to be “productively” occupied. They also reinforced the “good Indian” narrative by casting highland migrants as industrious national citizens fulfilling the state’s development vision, in contrast to lowland groups resisting assimilation or defending communal forest use. In practice, these projects not only facilitated agricultural expansion and deforestation but also entrenched new layers of Indigenous inequality—pitting highland and lowland peoples against one another within a broader framework of resource extraction and state territorial

consolidation. Outside of specific colonial projects, the privatization of extractive industries across Bolivia in the 80s and 90s also motivated a large migration to the lowlands, as described in my previous chapter. The regularization process, which opened up different plots of land that were historically Indigenous, attracted migrants due to the cheap cost of land and encouragement by the state that these “unproductive” lands be utilized properly. The Guarayo judge stated:

“unused lands, unworked, become state lands. The government automatically takes that, it goes to the State. But this government has two alliances, two strong allies, the peasants and the interculturals. And they are the ones who are given that piece of land.”

Lawyer 1 gave me more context on this process from an outside perspective, explaining why this might cause further divisions within the region:

“They are free lands, they belong to the State, they are called fiscal lands. Therefore, that is why the government... sends people, Aymara or Quechua, to these lands that are fiscal. But the Quechua and Aymara do not want just any fiscal land. They want the lands that are closer to the roads. They want the lands that are closer to populated areas... So there is a fight, a dispute over the state lands that belong to the government, which are neither indigenous nor third-party lands. That is why it is called colonizers at that time, who came to colonize and then they label themselves as intercultural. They are indigenous people not born in the place, but who come from another place, who have their ancestral culture, we could say.”

The Guarayo people have faced the encroachment of their territories for centuries, whether that be by Franciscan missionaries or “interculturals”. In my conversations, the Guarayo collaborators highlighted this continued colonization as being the largest problem the community is currently facing. The President of COPNAG stated:

“Well, at this moment there is a constant encroachment by settlers, right? Whether they are from other countries like Russian settlers, Brazilians, and also settlers from Bolivia itself, who are people from the highlands, migrating to our communities, our territory, and making illegal settlements. So, that is a problem that COPNAG is currently facing, many lands are being invaded.”

The encroachment of settlers onto Guarayo land, regardless of where they come from, has significant impacts on the environment as many of these individuals seek to participate in some sort of extractive industry. COPNAG has had many interactions with these settlers, attempting to protect their land and territory from incursion and the impacts of extraction. Founder 1 told me about one of these conversations:

“And I told the interculturals, the farmers, brother, I said, you are destroying. You will destroy your lives, because we won't produce, we won't have food. So, it interests you, I told them, to clear all the forest, but they are killing us. They say, some told me, [interviewee name redacted], wow, that's true. Why do you think San Julián has no water? I told him, because he doesn't have a bridge. That's why he can't produce. The same will happen here. So, our concern is that. At least to protect nature again.”

This undeniable support from the state for highland Indigenous groups to, essentially, colonize lowland Indigenous territory facilitated, in part, deep divisions amongst Indigenous peoples in Bolivia. While I was in Ascension, and even in Santa Cruz, there was an obvious and well-communicated separation of identities that carried a bit of resentment with it and it is very clear why. With the MAS party reinforcing the “good Indian”/“bad Indian” divide through a blatant preference for highland Indigenous peoples, it is no wonder that there is such disdain. And, of course these highland migrants, who simply want to survive, take care of their families,

and live with dignity, will happily accept the misplaced support of MAS and its supporters to perpetuate this internal colonization.

While the “interculturals” pose an issue on their own, many of instances of land trafficking are facilitated by Guarayo people themselves for very similar reasons. The rise of parallel organizations, or *paralelismo*, has become increasingly common in Bolivia’s Indigenous territories and political landscape. This pattern intensified after the 2011 collapse of the Unity Pact—the most significant left-Indigenous alliance in the Constitutional Assembly—when CIDOB, the main coalition of lowland Indigenous groups, and its highland counterpart CONAMAQ, withdrew in protest over the controversial TIPNIS road project (Shenkin, 2018). Following CIDOB’s departure, the MAS worked to weaken lowland groups by supporting splinter factions loyal to the government, even accusing CIDOB of being “dividers” aligned with Santa Cruz elites and foreign NGOs. As Walter Arteaga notes, *paralelismo* emerges when the state’s failure to meet basic community needs erodes its legitimacy, or when organizations diverge from the state platform, prompting the government to create rival groups loyal to it. The result is deepened divisions, weakened community solidarity, and diminished capacity to press collective demands (Arteaga, 2015). A parallel COPNAG was formed over 10 years ago, where members of the original COPNAG, who were accused of corruption and land trafficking, left their positions to form a new COPNAG. For the purpose of this paper I will call this the parallel COPNAG. Leader 2 explained:

“Well, the major problems here are currently related to territory, right? Land trafficking by the new leaders who supposedly had to defend. So, that is the biggest problem that exists now, to this day. Well, since the MAS government took office, the land trafficking began with the new

leaders that were elected at that time. So there was a significant problem for the founders, the former leaders” (Leader 2).

Admittedly, I was unable to converse with any of the members of the parallel organization during my time in Bolivia, though not for a lack of trying. The leaders I attempted to speak with said that they were unable to meet with me for an interview which is why there is a lack of representation in my data from the parallel COPNAG.

This newly erected organization was created by individuals who believed that they had a right to the land, including a right to sell it (Castañón Ballivián, 2021). Despite the fact that TCOs are intended to be indivisible and unable to be sold, the parallel COPNAG members participate in and strategically ignore the illegal sale of Indigenous land to outsiders. These leaders have since become acknowledged as the legitimate leadership by the department and state government because of their ability to serve state interests by facilitating access to the land and its many resources (Shelkin, 2018; Larson et.al, 2015). Founder 1 corroborated this:

“The current leaders prefer to ally with the interculturals. So, they commit to giving them land within the TCO. That's how the leaders operate now. We, as founders, have said, no, don't do that. You can't do that. Because the constitution says that we cannot sell it in our territory.”

The MAS party has deliberately sown divisions amongst the Guarayo peoples by promising funding and political support in exchange for access into the territory. Founder 1 stated from his own experience that,

“if the leader is not part of... the MAS political party that is in charge of the government, they cannot have relationships because you are not from their party.”

By inventing ways to separate and disarm COPNAG, the State of Bolivia is able to control the growth and organizing power of the Guarayo peoples. Since even before the formation of the republic, Indigenous peoples of Bolivia have been dispossessed and forced to labor to build upon the wealth of others. This colonial economic divide manufactured poverty in Indigenous communities, making the selling of land or collusion with MAS seem like ideal methods to pull themselves up from the bottom of the socioeconomic pyramid. While it is difficult to hear how these people have sold their lands or supported MAS, in some ways, it is hard to blame these individuals who may just be seeking a better life considering the conditions that Indigenous peoples have endured in Bolivia. Despite their complex motivations, it remains true that this *parallelismo* only serves to harm Guarayo solidarity and the power that comes with it.

It is clear from the history that I shared in the previous chapter and in this one that Indigenous organizing and unity is a powerful thing and can result in monumental changes, including the titling of the Guarayo TCO. It was through this resistance alone that gave Indigenous communities the right to self-governance and to speak their own languages. Even the first March for Territory and Dignity showcased the results of a national Indigenous movement where collaboration and solidarity was emphasized from the Andes to the Amazon. The Judge emphasized:

“That's why I say, the government instead of uniting, divides to reign. Because nowadays... for the government... they want this (COPNAG) to be divided so that there are not many problems, so that people do not claim their rights. Instead of claiming our rights, the government creates this division so that there is no unity and we can recover or claim certain rights that the governments in power have owed to this community.”

It would be within the best interests of the state to not see a strong COPNAG, or any Indigenous organization, for that matter, that can contest them and ensure the dissemination of rights. There are still many Guarayos, however, that have tried to hold firmly onto their homeland – knowing very well the consequences of falling for the temporary solutions offered by the capitalist paradigm of the parallel COPNAG and MAS. Leader 3 told me the story of one of these people, a story that I thought was fitting to end this chapter.

“A man very ill I went to visit because his daughters wanted to sell his plot, his land, a land of 50 hectares. 30,000 bolivianos, which is less than 5,000 dollars. Each hectare costs 30 dollars. That is, very, very little. The price of a dead chicken, like that. Then, the gentleman tells me, no. We are not owners of the land; the land owns us because we come from the land and we will also rest in the land. So please, my children, say goodbye to me because in this life we are only passengers and with the fact that you sell the land, you will not save me... And if they sell it, my grandchildren will be much poorer. The people, the community will be much poorer.”

VII. Indigenous Justice and Neo-colonial Barriers

In 2010, Bolivia passed the *Ley Deslinde Jurisdiccional* or the Law of Jurisdictional Demarcation in order to clarify the limitations of the system of legal pluralism that was introduced with the restructuring of the state and the implementation of the 2009 constitution. The policy established that Bolivian justice would henceforth be split into three equal jurisdictions: Ordinary Justice (or State Justice), Agro-environmental Justice, and Indigenous Justice. From here on out, the Constitutional Tribunal became responsible for overseeing these three jurisdictions and making decisions when the lines blur between jurisdictions. There are restrictions, however, to attempt to prevent incidents where jurisdictions might compete. For Indigenous justice, the parameters are set to material, territorial, and personal. The material scope extends to matters that have been traditionally addressed by Indigenous justice or authorities. The territorial scope refers to relationships or legal events occurring within the titled territory. The personal scope involves individuals who have declared themselves to be part of the Indigenous nation. There are also certain crimes that cannot be tried under Indigenous jurisdiction including sex crimes, tax and customs crimes, and drug and arms trafficking, among others. These cases are under the jurisdiction of ordinary justice and would be dealt with by the state.

When I was informed in 2023 of the implementation of the Law of Jurisdictional Demarcation in Guarayos, I was struck by the 10+ year delay in actualization, but also by the novelty of what the legislation was envisioning. It was with this in mind that I designed two exploratory research questions to guide my project:

1. How have Indigenous justice systems become formally recognized and utilized in Bolivia?

2. Does the Indigenous justice systems serve the Guarayo peoples? If so, how? If not, why?

As described in the beginning of this findings section, my conversations in Bolivia revealed the persistence of neo-colonial barriers that not only delayed the establishment of an Indigenous jurisdiction in Guarayos but also shaped its current limitations. At the same time, these discussions pointed to the potential of a formally recognized justice system to challenge some of these structural obstacles—if implemented in ways that respect Indigenous autonomy rather than constrain it. In the pages that follow, I first examine the neo-colonial character embedded within the Law of Jurisdictional Demarcation itself, then analyze how Bolivia’s dependence on extractivism has restricted both justice and progress for Guarayos, and finally explore how divisions among Indigenous peoples have disrupted both the creation and the effectiveness of this system. Then I will briefly share the ways in which the Guarayo people imagine that this law could benefit their community.

The Neo-coloniality of Legal Pluralism in Bolivia

As is the case with many of the “legal reforms” under Evo Morales, there remains a neocolonial character that intends to sustain state supremacy. The limitations of the jurisdiction, specifically through the three scopes I identified above, pose a significant barrier to enacting justice in Indigenous communities. As previously described, Indigenous communities must undergo a long and intensive process to pursue land titling and autonomy and self-recognition carries with it centuries of race-based discrimination. As illustrated in the previous chapter, these state-instituted processes are not necessarily easy or straightforward, and often do not even result in full autonomous capacity for Indigenous communities. This law, in many ways, reinforces Indigenous subjugation to state-made requirements for recognition – a practice dating back to the colonial era. If all three scopes need to be present at the same time for the crime to fall under

Indigenous jurisdiction, then they would have no authority if, say, non-members committed a crime against an Indigenous person within their territory. Considering the history of this occurring, this is a major loss. The material scope poses both a legal and discursive barrier, as well. It is worth questioning why the jurisdiction of Indigenous authorities is still restricted to the legal matters they are said to have handled “traditionally.” Given the long history of Indigenous legal systems as dynamic and adaptable—shaping themselves to the changing needs and realities of their communities—it seems unreasonable to assume that these authorities are incapable of addressing contemporary or future challenges faced by their people (Barrera, 2011). Portraying Indigenous people as being of the past or as being stagnant is part of a larger colonial project of erasure.

One of the biggest questions for me, since the inception of this project, was why did it take so long to consolidate a justice system in Guarayos after the legislation was passed? While I had read through the law itself and understood the barriers I highlighted in the previous paragraph, the answer to this question was not immediately clear to me until I spoke with the people it directly affected. I asked this to Leader 2 and he replied,

“Because the jurisdictional law that was approved in 2010, no one cared about it, to actualize it, let’s say, right? Like, or more than anything, to say, to put that law into practice, the jurisdictional law, right? So, that is now the strategy that COPNAG is seeking, more than anything the founders, to make it work, to practice it, to make that jurisdictional law a reality.”
(Leader 2)

Outside of the issues that I listed previously, there was a major oversight in socializing the law and informing the community of their rights and how to effectuate them. This was not solely an issue with this specific piece of legislation, but, apparently, there was a lack of

education in rural Indigenous communities on what their rights are with the new Plurinational constitution and the legal reforms that followed. Professor 1 and Lawyer 1 described to me during their interviews the work that they did through NGOs to educate the public on their rights, laying bare the way in which the government neglected to share these changes with the people whose lives were allegedly supposed to be made better by these reforms. Leader 2 explained more of what this looked like in Guarayos:

“Well, the impact it has now is that people are becoming aware of what There is something within the Constitution that can be applied. Because in the majority of the constitution, people, the Bolivian population, seems that they have not read the constitution. Because there are over 300 articles. So neither the State has been able to disseminate the constitution. Therefore, people do not know what is in that constitution. Now, people are somewhat trying to understand. But there is a lack of dissemination of the constitution, and there are many rights that are not applied; people do not know what their rights are, all of that. So through indigenous justice, we want to make known that not only can indigenous justice be resolved, but also other articles, other rights that exist within the constitution, so that the population can know their rights.”

These leaders have taken the responsibility of educating their people upon themselves, knowing that they cannot rely on the state to do this. Member 2 of the Indigenous Justice Tribunal in Guaryos clarified this to me when sharing what his role is.

“Well, the responsibilities are significant, because we have to work with our people, with the indigenous people, who... know very little or almost nothing about their rights. Therefore, for us it is a strong responsibility because we have to guide our people, we have to lead our people in interpreting the different laws that exist in favor of indigenous peoples today.”

Outside of a general lack of knowledge of the contents of these long documents filled with legal jargon, there are other factors that contribute to, perhaps, a sort of reluctance from the community to apply this law. The more conversations I had, the better I could understand the mistrust Indigenous peoples carry toward non-Indigenous authorities, shaped by long histories of discrimination and mistreatment, which would inherently complicate the implementation of this law (Barrera, 2011). Regardless of the title of Indigenous jurisdiction, the idea was still invented by the state and the state sets the barriers imbuing a state-like nature to the system. The Judge explained:

“Look, to be honest, in applying this law, our own people still do not understand it very well. They are very reluctant to apply it and to make this law of great benefit for us... That said, in another way, the day before yesterday, a group that was against me sent me an invitation to resolve a case. regarding the land that is within the TCO. There are two conflicting groups, and the other party invited me to serve as the indigenous judge of the Guarayo nation.”

While there was a great deal of concern regarding public understanding and opinion of the new legislation, hearing stories like this showed a glimpse of how Indigenous justice in Guarayos could operate if people were aware of their rights. It is a huge responsibility, however, for the Indigenous Justice Tribunal of Guarayos to take on, especially considering the sheer size of the titled territory. When speaking about the potential of the system to support the community, Founder 1 stated:

“Yes, I think that by raising awareness, we can do it, listening to and understanding our people. Yes, it can work, but we have to work a lot. Yes, just as we worked to organize ourselves before, it took us from '82 to '87, we worked for about 5 or 6 years, raising awareness among the people, to be able to defend ourselves because organized we can defend ourselves, we can tell

the government, recognize us. We want to have equal rights like those of the middle and upper class. The same work we have to do in raising awareness about indigenous justice. What benefits can indigenous justice bring to the natives? So, what does it favor us? but we have to work on it, we have to raise awareness, and that takes time and also requires spending, because we have to go to each town.”

As noted earlier when describing some of the major barriers of the Founders in creating COPNAG, the issue of funding again resurfaces. Without proper financial support, the task of effectuating justice under this law becomes an arduous one, where the burden is placed on the community. Lawyer 1 explained to me another one of the major differences between the jurisdictions:

“Ordinary justice has a budget and has personnel hired for years to be judges. They must take exams, and they have to study law to become judges. In ordinary justice, agro-environmental justice, or constitutional justice, they must be lawyers and meet the requirements to be judges. In contrast, in indigenous justice, there are no such requirements... It is based on their own norms, whether written or unwritten. It is not mandatory for their norms to be written. It is accepted that their customs and traditions, how they organize themselves, according to their rules, whether written or unwritten, is the accepted form. So, who administers justice? They define who administers justice.”

Having the capacity to determine who administers justice and how is crucial to actualizing the right to self-determination, as outlined in the constitution and international agreements such as the UN Declaration on the Rights of Indigenous Peoples which Bolivia has ratified. However, without the financial backing that the ordinary and agro-environmental

jurisdiction have, the ability to administer justice is severely limited. This is precisely the issue with the Guarayo peoples. Professor 1 eloquently explains the issue of a lack of resources:

“However, the State did nothing to enforce indigenous justice. There is the law to define... the jurisdictional boundaries of both justices, but what has been lacking since the government of Bolivia are the resources. for justice to effectively function with integrity... With the current indigenous justice law, it is necessary to create a structure of indigenous justice. At the level of nations and communities, this is very complicated due to the issue of resources. We are talking about dispersed communities, which would imply having several judges and establishing a mechanism for... judicial treatment. Without resources from the State, this cannot be exercised.. The same president of indigenous justice does not have funds to travel across such a vast territory, much less to meet, etc. He does not have an office. So, an indigenous judge with his backpack, and probably the street is his office. So, those are the very lamentable songs of indigenous justice in Bolivia, despite the existence of a law that establishes that institution.”

The 2010 law bears no mention of financial support or even institutional support for Indigenous communities seeking to establish their Indigenous jurisdiction. Of course, it would be prudent for the neo-colonial state to not disseminate any funding to support the operations of a system that could potentially limit or challenge its authority. If the goal was truly “legal pluralism” at it is defined, then there would also be a budget for the Indigenous jurisdiction, allowing it to operate at the same level as ordinary and agro-environmental justice.

Professor 1 has worked with the Guarayo community and other Indigenous peoples for over 20 years. He is intimately familiar with the community and neo-coloniality that continues to impact these peoples. When speaking of the Bolivian state he noted,

“the always excluded, who were the indigenous nations, in this so-called plurinational State, continue to be excluded... So, this so-called plurinational State serves the interests of the dominant classes that have always controlled the country, only that they have a borrowed name. That is why the State does not allocate resources nor is it interested in the existence of indigenous justice.”

As I have pointed out, it is not within the interests of the Bolivian state to support a functioning, autonomous justice system. This is especially critical in order to maintain colonial socioeconomic hierarchies and to ensure the continuation of profitable extractive projects on Indigenous lands.

Extractivism vs. Jurisdiction in Guarayos

Despite the historic changes made to the formation of the state, the racialized distribution of land and labor and its insistence on the elimination of the native to make land available persists in Bolivia (Sturtevant, 2021). As I previously described, the Santa Cruz department is one of the most fertile regions in Bolivia and the booming agriculture and timber industry was attractive to many, in and out of Bolivia. The Guarayo TCO is especially rich with these so-called “natural resources”, of which, regardless of their “autonomous” status, they are not given full jurisdiction over. The 2009 constitution and following legal reforms strategically neglect the right to free, prior, and informed consent - the cornerstone to international Indigenous rights agreements – and instead only require consultation (which does not necessarily always occur when a project occurs on Indigenous land). Article 10 of the Law of Jurisdictional Demarcation includes Mining Law, Law of Hydrocarbons, Forestry Law, and Agrarian Law, among others, as being outside of the material scope of Indigenous justice. Therefore, matters related to these laws – which directly impact Indigenous lands and livelihood – remain under the ordinary jurisdiction.

Professor 1 stated:

“There are 25 laws known as ecocides that specifically favor this agro-industrial model, which causes settlements, leads to deforestation, and causes fires, and indigenous justice cannot, it has no jurisdiction over these laws.”

Without jurisdiction over these laws, there is a serious limitation in the capacity of the Guarayos to protect their land. The President of COPNAG stated:

“In ordinary justice, we have the agro-environmental court. That deals with the issue of forests and everything else. So I believe that indigenous justice also needs to encompass all the topic. Indigenous peoples always say that the forest is our home. Whoever threatens our big home, I believe should also face the corresponding sanction. So indigenous justice must also uphold the rights of the forest and those who inhabit it.”

I could not help but to enthusiastically agree with the COPNAG President. Not only have these Indigenous peoples been stewards of this land since time immemorial, it even states within the 2010 law that, “Indigenous nations and indigenous peoples have the right to maintain and strengthen their own spiritual relationship with their lands and territories that they have traditionally owned, occupied, or used and assume responsibilities for generations to come,” (Article 4). Again we are presented with the performative and contradictory nature of Bolivian reforms informed by a combination of purporting a static, limited characterization of Indigenous peoples and prioritizing access to land and resources over Indigenous rights and well-being. The ability for Indigenous peoples to “maintain and strengthen their own spiritual relationship” with the land relies on the ability to reciprocally steward the land. More than living respectfully and harmoniously with the forests and rivers, the spiritual relationship with land is impacted by the

ability for Guarayo people to stay on their lands, be it because of poverty, encroachment, or environmental degradation. How could this right possibly be effectuated if the authority to mitigate those factors remains in the hand of the State? It is clear that Law of Jurisdictional Demarcation puts up significant barriers that, at the end of the day, continue to protect the interests of the state in this ever-evolving colonial project.

In the Guarayos TCO, the state's land and forest agencies prioritized extractive use and third-party claims even as Indigenous jurisdiction was being recognized on paper. INRA's regularization process and the titling decisions that entrenched outsiders within Indigenous land are precisely the kind of dynamics that make implementing Indigenous jurisdiction slow, partial, and subordinate to resource extraction. When asked about the struggles in implementing this law, the Judge explained:

“First, I tell you again, the external factors, for example, so that this law (Law of Jurisdictional Demarcation) is not applied, as we said in the context of the application of this law within our territory, people and materials. Nowadays, to prevent this law from being applied, brothers from the interior of the country come to penetrate and buy land, and they say that we are all Bolivians and we need, but it is not that simple. Of course, we are all Bolivians, we come from indigenous peoples, each department has its indigenous people. The eastern part of Bolivia has four indigenous towns, they must respect us.” (Judge)

The fragmented territorial control in Guarayos—where large sections of land inside the TCO remain in the hands of ranchers, timber companies, and colonist settlements—creates major obstacles for applying Indigenous justice under the Law of Jurisdictional Demarcation. These “holes” in the territory mean that jurisdiction is not continuous; conflicts often spill into areas

where non-Indigenous actors reject or undermine Guarayo authority. In practice, this forces Indigenous authorities to navigate overlapping claims, state-backed concessions, and competing legal systems, weakening their ability to enforce decisions and eroding the legitimacy of the jurisdiction itself. The result is a justice system recognized on paper but severely constrained by the state's own extractive land policies.

Parallelismo and Divisionism: Hurdles to Self-governance

The MAS government's successful campaign to divide Indigenous nations, both across communities and within them, played a major role in the implementation of the Law of Jurisdictional Demarcation. As previously stated, the capacity to enact justice in such a large territory that is full of "holes" - in which many individuals, who do not agree with the cosmovision of COPNAG, reside and work - is very limited for the Indigenous Justice Tribunal of Guarayos. My collaborators spoke a lot about the "interculturals" and the state's role in dispossessing Guarayo land and selling it to these *colonos* (colonizers). Through direct action like legal protections for productive land and large-scale resettlement projects, the state of Bolivia has actively established the existence of highland Indigenous peoples as being threatening to the existence of lowland Indigenous peoples. The Judge conveyed these concerns in our conversation:

"For example, I was telling a leader not long ago, if we do not apply this law (the Law of Jurisdictional Demarcation) culturally speaking, we are going to disappear. Because people come from outside, from the interior, our brothers, or as we say, they come with their own culture, their own system. And my brothers, some of them no longer want to speak the dialect, they now dance Tinku, instead of dancing our chovena, caporales, they now dance Tinku which

is Quechua, we dance and listen to the music of chovena, taquirari which is no longer heard. Well, I was telling them if we do not apply this law, they will penetrate us and we will lose culturally, far away, due to bad leaders.”

This perceived threat to culture was also present in my conversation with Leader 3, illuminating his concerns with the effectuality of the Law of Jurisdictional Demarcation within the community.

“I believe that the Guarayo people have lost that culture. That culture of respect for the environment because the culture itself used to respect a lot, a lot, what is the environment and the animals they also protected the large trees; they didn’t cut them down just to cut... We need to strengthen ourselves more... What happens when for example, if we are a group of young people who have a different mentality and really want to defend, but one sick person appears in the middle who messes everything up? There is always one who gets in the way and messes everything up; that is what has happened.”

Professor 1 also agreed that the Law of Jurisdictional Demarcation was limited in allowing the Guarayos to protect their territory from incursions, especially due to the restrictions placed on the scope of Indigenous justice.

“However, it cannot resolve large problems, because the invasion of indigenous territory, the encroachments, are very significant. The intercultural population, which would be the native colonizers, normally Quechuas and Aymaras, who come from other colonizations, in terms of population numbers and capacities, are much greater than the Guarayo indigenous people. Therefore, obviously, indigenous justice cannot operate under these conditions.”

The Bolivian state has contributed in many ways to the characterization of the extraction of natural resources as being the key to “saving” Bolivia and bringing the nation out of poverty and into the modern age (Vanhulst and Beling, 2014). This sense of “resource nationalism” (Kohl and Farthing, 2012) has penetrated into the imaginary of the Bolivian public and into Indigenous communities – cultivating the conditions that facilitated the creation of a parallel COPNAG. Lawyer 1 described these motivators very well:

“So, where are those natural resources that are scarce, that are endangered? They are in indigenous territories, where there is still nature. Yes. So... there is a lot of market influence over the natural resources of those territories. So there you have an heir (the Guarayos) who has not fought for the inheritance, who has received the inheritance, but has never been prepared to manage the inheritance. Do you understand? Yes. So you have leaders, indigenous leaders who... have training with the market paradigm, with the capitalism paradigm. And you have leaders who are elders who continue with the paradigm of caring for nature. So there is a struggle. One of the problems is how to govern the territories in a sustainable manner. How to make the wealth they have received sustainable. That, for me, is one of the problems. Another problem, as I mentioned, is the influence from the market on their natural resources, which have become valuable. Previously, they wanted to protect their natural resources, but now they are owners. Before, they were not respected; they would enter and take out resources without permission. But now they have to ask for permission from them. So there are divisions. That’s where the divisions come in.”

It is imperative to reiterate that it is due to centuries of state action (and inaction) that the Guarayo people face the level of poverty that they do. Appropriating and profiting off of land is a colonial practice that has propelled social mobility for some and excluded it for others. Thanks to

increased intermingling with modernist, Western paradigms through a multitude of mediums – highways providing access, MAS politicians, social media, and others – the last 13 years have seen major divisions in the community and in COPNAG. Having two COPNAG’s competing for NGO and state support for their activities inherently undermines the goals of both organizations and limits the capacity for either to meet the needs of the community (Shenkin, 2018).

Leader 3 expressed this frustration when he was explaining to me the main issues that impact the nation.

“When that organization appeared (COPNAG), which supposedly are the ones who title, the ones who protect, well, I can tell you no. In discourse, they can say thousands of things and even by giving my opinion I would be earning their enmity, but now I have nothing to lose. So I am not afraid to tell the truth, I am not afraid, because they are really destroying everything. They say, we have been overwhelmed. People from elsewhere do not come just to come, they are the ones responsible. They are the ones responsible. And the more with COPNAG, I believe there will be more deforestation, there will be more land grabbing, there will be more tree cutting and we really do not have an institution that says “enough.” There is no institution that says “enough.” We have several institutions that supposedly are responsible for protection, but if you go, in their speeches they can say many words. We are defending, we are the founders. When there was no such organization, we had more land. We had more land for ourselves, there was no encroachment, there was no titling for people from elsewhere, we had more land and we had more forest when there was no organization. And that is the plain truth about this territory. And if I am saying this, I will earn a lot of enmity from them, but I have nothing to lose because they are really killing our environment.”

It was the opinion of Leader 3 that these divisions caused so much strife that the community was better off before the consolidation of COPNAG. While this opinion seemed starkly different from the other ones I had heard, to me, that made it all the more important to include and I was grateful that Leader 3 felt that he could share it with me. Unfortunately, if I had more time and resources, I might have been able to have a larger pool of collaborators and there very well could be many more people in the community who share this opinion. It occurred to me that if there is a mistrust amongst all governing institutions in Guarayos, this would significantly impact the usage and effectiveness of the justice system. If the people do not trust any COPNAG, the result is a fractured solidarity among the Guarayos. With this in place, the state can continue to pursue its interests in the region. The Judge explained this complicated issue:

“The government is the one that does not want us to advance. They allocate the land, state lands within the TCO, there are private properties, and within the TCO, private properties that the government takes them away and converts them into state land and gives them to the peasants or the interculturals; they have penetrated here. but we also have our share of the blame because there are bad leaders who go and seek out the brothers from the interior of the country and bring them and equip them, give them, and then they are complaining that our rights are being violated. When our own leader goes for a little for money they are destroying.”

Again, it is for the benefit of the state that Indigenous peoples are not unified. When communities are internally divided, their demands are easier to dismiss, co-opt, or play against one another, especially in the context of extractive projects where state and corporate interests stand to gain. The Judge continued:

“I tell the government not to interfere in our matters. We can solve our problems and we can also ensure that this law is applied because it benefits us a lot. Only that some brother leaders do not want to acknowledge it because the same government wants us to be fighting, as the saying goes, divide and conquer. For the government, our unity is not convenient. Because once we unite, we will demand several violated rights from this current government. Because if we unite, we will make sure this is implemented, we are going to ask the government for those rights that have been violated and some actions that the government, the State itself, has not given us what we are entitled to. Therefore, they themselves are the ones who penetrate and divide so that we do not claim from them what they owe to this indigenous people. There are many elements that the government as a parent(father), has not provided us with several elements. for example, the issue of the TCO. There are four polygons, five I think, that are not titled. Why are they not titled? Because we are divided like this.”

When Indigenous peoples present a united front, they are better able to defend territorial rights, enforce their own systems of justice, and demand accountability in the implementation of laws and policies. Solidarity also creates spaces for shared strategies and mutual support across regions, amplifying voices that might otherwise be silenced or marginalized. It is important to note that Indigenous people are not a monolith; not all peoples share the same goals or utilize the same strategies to serve their communities. However, collective action, in Bolivia in particular, despite the ever present neo-colonial barriers, has proven to be powerful and restorative, in many ways.

VIII. Guarayo Futurities

The work of Mvskoke scholar Lara Harjo inspired this final section to my findings chapters. In her book, *Spiral to the Stars*, Harjo argues that Mvskoke communities have the tools that they need at their disposal, through everyday communal practices, to dream and realize the wishes of ancestors, current kin, and future relatives (2019). She calls this concept “futurity” and describes it as “ the enactment of theories and practices that activate our ancestors’ unrealized possibilities, the act of living out the futures we wish for in a contemporary moment, and the creation of the conditions for these futures,” (Harjo, 2019, p.5). Despite the major neo-colonial barriers within the Law of Jurisdictional demarcation and in its implementation, the Guarayo people continue to resist and imagine a world that could be otherwise – employing this idea of futurity in their communities. My interviews exposed an undercurrent of hope that pushes these people forward regardless of the major hurdles they are forced to overcome simply because they are Indigenous. The members of the Indigenous Justice Tribunal of Guarayos emphasized the newness of the jurisdiction and seemed to share the belief that this new right could, in fact, benefit the community.

Across the board, ordinary justice was represented as not having the capacity to serve Indigenous peoples adequately. The Judge stated:

“If we can sit together, it will improve the situation of the people regarding their rights, because their rights are violated in the ordinary system, the Bolivian police as well. They have been denied in many cases, our brothers have been unjustly imprisoned because we did not know the law. Today we do know the law, and some brothers say, I want to be judged by my indigenous justice. That is what is relevant today, that now my indigenous brothers, once they go to the police and are caught imprisoned, they say, no more, I want to be judged by... indigenous

justice. So in that regard, this law is very beneficial, and we are going to apply it. We are, as I said, just starting to apply it so that it is understood that this law does benefit us as indigenous people and that at some point, we as a people, as the Guarayu nation have to apply this law because the ordinary justice administered by the Bolivian State is very repressive. It is very repressive, it violates the rights of the peoples.”

The ordinary criminal justice system targeted Indigenous peoples since it was invented. In multiple instances throughout the history of the country, it has been illegal to be Indigenous, to speak their languages and practice their culture (Robins, 2011; Cusicanqui and Freeland, 2015). The Othering of Indigenous peoples and the invention of supreme state authority were interrelated processes, born in the colonial era, that created the foundation of ordinary justice. Community justice differs from ordinary justice by prioritizing reconciliation, restitution, and the reintegration of offenders into the community, rather than being solely punitive, with the aim of preserving social harmony (Hammond, 2011). The Guarayo judge commented on this:

“Just as exciting, we are also going to implement some community work to make adobe, cleaning when we have offenders, brothers who infringe, that is what we aim for, so that this justice works for the benefit of us. Indigenous justice is not about killing but about punishing through punishments that help people improve their way of peaceful coexistence, which we have always had.”

The COPNAG President also communicated these possibilities in our conversation, highlighting how important the capacity to practice justice according to the ontology of the community is.

“I believe it is important, not only for the Guarayo people, but for all indigenous peoples. and for the entire culture of Bolivia, it is important because through indigenous justice, we can also revalue our culture, our own procedures regarding the punishment that can be given to a person for their bad actions within the community. So I believe it is linked to indigenous justice, all the others... one could say, of our culture, because, as I said, it would revalue our customs, our living well in the communities, and I think it is important from that perspective.”

Another key difference is that the constitution and the Law of Jurisdictional Demarcation enshrine the right to enact community justice according to and with respect for their culture – including language. In Guarayos, Spanish is a second language for many Indigenous peoples and for some, it is not spoken at all. Despite the attempts to stamp out Indigenous practices, the Guarayo have maintained their language of Guarayu on a large scale and many people speak it to this day. In many gatherings I attended, most participants would speak to each other in Guarayu and kindly translate for me in Spanish, though there were some words or phrases so not easily translated into Spanish. Not being able to be understood means not being able to be adequately represented. Having an Indigenous Justice Tribunal that speaks Guarayu allows the Guarayo people to fully exercise their right to justice. The Judicial Secretary highlighted this in our conversation:

“The issue, regarding justice, is the language barrier. Especially, yes. On one hand, the language issue, because people need to hire a lawyer who has to represent the victim, right? But sometimes there is no money. Another very strong factor is money, because people do not have money to pay a lawyer. And second, necessarily has to be done because the lawyer does speak Spanish, but on the other hand, the victim... does not speak Spanish, which is why they turn to the lawyer. So, however, with indigenous justice, what we want to implement is for the victim to be

heard in their own voice, but also for there to be an enforcer of justice like us who understands the situation of the victim, which is very different from the application of ordinary justice.”

(Judicial Secretary)

Founder 1 corroborated this stating:

“Because I, as an indigenous person, if I speak my language, if... I have a problem, if I am committing a problem, then, to be able to resolve it before an ordinary judge and an indigenous judge. I have to give my report in my own language. So, the ordinary justice cannot understand what I speak. But the indigenous judge can listen to me, because he knows what I speak, my language.”

In addition to being in the same language, Indigenous justice can be more accessible to Guarayo people because it is less bureaucratic. The Guarayo judge told me:

“The system is free, it is not bureaucratic, unlike the ordinary system of the State.. For example, the indigenous system is faster. If there is a case to resolve, it is resolved in a moment, whereas the original justice does not, you have to use so much paperwork, lawyer, in this it is not needed, in indigenous justice it is not needed, no lawyer is used... it is free... that matters a lot because the other system is bureaucratic, it is full of money, with lawyers and cases last months, cases that last years. In terms of indigenous justice, it does not last months, it does not last years, it is a short time, just urgent and it is resolved at the moment too that is why it is very good, the indigenous law was applied before we have to return to that.”

Instead of navigating layers of paperwork, long delays, and costly procedures that are common in the ordinary justice system, Guarayo community members can engage with leaders they know and trust. This makes the process not only quicker and more straightforward, but also

more culturally relevant, as decisions are grounded in community values and lived realities rather than abstract legal codes. In this sense, accessibility is not just about language, but also about the ability to participate meaningfully in a system that reflects Guarayo social life and priorities.

I asked the COPNAG President if he believed that this law would benefit the Guarayo people and how. He replied:

“So, it would help, right?, the community to make decisions about what our position will be with the settlers, right? If they stay, if they stay, what will they do? Will they contribute economically to the organizations or not? In that part, right?, I believe the participation of indigenous justice would be important.”

A unified Indigenous Justice Tribunal could be very powerful in mitigating the issue of land trafficking and encroachment on Guarayo lands. It was exciting to hear these ideas and to see the hard work of actualizing them in practice. Despite having to constantly rely on outside funding to pay for a taxi ride to neighboring municipalities (Postero, 2017), COPNAG and the founders continue to work to see the wishes of past, current, and future generations come about (Harjo, 2019). The President urged:

“So it is important to call on the youth to also take an interest in this organic matter, because if we do not take an interest, it is as if we are letting everything pass that would really benefit the youth, as a new generation, because if we let them continue trafficking our land, soon the forest near the village will disappear, right? So, the forest, where we can get wild game, go hunting, and the rivers for fishing will be further away. Therefore, it is important once and for all to take action to stop the harmful actions that the leaders have been doing for a long time to our organization. So... As young people, I believe we need to work towards unity, consolidating

our community as a single representative at the municipal, departmental, and national levels so that we can address all the issues within the TCO, within our village and community.”

The Guarayo experience illustrates how futurity is not an abstract ideal but a lived practice. Even in the face of a legal framework shaped by neo-colonial logics, extractive pressures, and state-sown divisions, they continue to imagine and enact possibilities beyond what the state prescribes. The belief in the potential of the Indigenous Justice Tribunal, however tentative, reflects both resilience and vision: a commitment to shaping futures rooted in Guarayo ways of being and belonging. This hope is a form of resistance that insists on life and justice despite the neo-colonial conditions that seek to suppress them.

IX. Conclusions

Coming into this project I had two, fairly vague, central research questions guiding my study:

1. How have Indigenous justice systems become formally recognized and utilized in Bolivia?
2. Does the Indigenous justice systems serve the Guarayo peoples? If so, how? If not, why?

It was my intention, that through being in place, listening, and conversing I would be able to answer these questions. While I had done a significant amount of researching on the Guarayos and Bolivia, in general, prior to actually traveling to Bolivia, I knew that there was no way that I could even attempt to answer these questions on my own. My research collaborators illuminated for me a problem that is present, not only in Bolivia, but in other previously colonized countries. Neo-colonialism runs rampant and virtually unchecked in a widespread series of ways, all put forth by the nation-state – continuing on the colonial project of both the subjugation and the erasure of Indigenous peoples.

However, the Indigenous people of Bolivia have not remained passive in the face of these struggles and have, on numerous occasions, resisted and organized successfully, including the first March for Territory and Dignity. These acts of resistance paved the way for historic change across Bolivia, transforming the state into a plurinational one which granted new rights to Indigenous peoples. Though, neo-coloniality persisted and, through my interviews, I was able to reveal three major ways that neo-colonialism persists in Bolivia and acts as a barrier to effectuating Indigenous rights and securing Indigenous well-being – including a right to an Indigenous jurisdiction.

The first of these was the evident neo-colonial nature of alleged “reforms”. Since the 1952 Revolution, Bolivia saw an increasing number of legal and constitutional changes, brought about by popular movements, to improve the lives of and safeguard the rights of Indigenous peoples. As the Guarayo people became aware of these rights and how to use them, they consolidated into the COPNAG organization and attempted to gain collective title over their ancestral territory. However, neo-coloniality persisted across these reforms – erecting barriers that would maintain the supreme authority of the state over Indigenous people. The Law of Jurisdictional Demarcation, passed in 2010, follows this pattern and contains contradictory articles that still undermine the Indigenous jurisdiction.

The second barrier is the reliance on extractive industries. The Bolivian economy, since colonization, has been dependent on extraction – often at the expense of Indigenous lands and peoples. To this day, this parasitic relationship continues as the state further entrenches itself in neo-extractivism and blatantly disregards the consequences of environmental degradation. The incorporation of “Buen Vivir” and the rights of mother nature to the Plurinational Constitution by the MAS government of Evo Morales are widely considered to be performative by Indigenous peoples who have continued to cope with the encroachment of their land for the purpose of “development”. The Guarayo people have faced the brunt of this profit-fueled dispossession for centuries from mining to logging to agriculture. Major stakeholders in these industries would have a lot to lose if the Indigenous jurisdiction was able to address some of the “ecocide” laws, which is why the scope of the jurisdiction seems very limited. State interests in maintaining access to these resources and promoting these industries continue to undermine Indigenous self-governance in Guarayos – both legally and illegally.

The final barrier is a conscious disruption of Indigenous solidarity by the state. As I stated above, Indigenous people have resisted successfully in Bolivia when they have been united in their values and demands. In the first March for Territory and Dignity, highland and lowland Indigenous groups collaborated and protested together for their rights and recognition. In recent years, the state has recognized the danger of the power of unity and attempted to sow discord among Indigenous peoples across Bolivia and within nations. Drawing on the “good Indian”/ “bad Indian” tropes that were born of the colonial era, the MAS party successfully deepened already present divides between highland and lowland Indigenous peoples. One of the major ways was through the encouragement of internal colonization of the lowlands. My Guarayo research collaborators emphasized this as being one of the major threats to their community. Because the TCO is under a collective title, it is illegal to buy and sell the land. However, Guarayo people and even leaders in the community have participated in the trafficking of their own land to outsiders – including the “interculturals” coming from the highlands. These actions resulted in the creation of a parallel COPNAG that shares the capitalist paradigm of the state and is duly rewarded for it. Because the founders of the parallel COPNAG would maintain state and corporate access to Indigenous lands, the state provides support and funding to this COPNAG. By supporting such divisions, the state ensures that the institutions of COPNAG are unable to function for the benefit of the Guarayo people. It is easy to imagine how these major cracks within the governing organization of Guarayos can pose an issue when attempting to utilize the Indigenous jurisdiction. Leaders from the parallel COPNAG do not recognize the Indigenous Justice Tribunal in Guarayos and attempt to minimize its capacity to enact justice in the TCO.

While these neo-colonial pressures impact the Guarayo people in significant ways, they have yet to stop dreaming of how to make the wishes of their past, current, and future ancestors a reality in their communities. By employing and listening for futurity, I am able to holistically answer my second research question. The Law of Jurisdictional Demarcation has potential to serve the Guarayo people through the use of the Guarayu language by judges and a less bureaucratic justice system, to name a couple. Despite the hurdles put in place by a persistently neo-colonial nation-state, the Guarayo people *sigue adelante* (move forward).

This study attempts to contribute to the broader conversation on Indigenous rights and decolonization, exposing, specifically, the neo-coloniality of reforms in Bolivia with the intention that other decolonial projects can be analyzed critically for their effectiveness and capacity to serve Indigenous peoples. This study also aims to contribute to the currently limited scholarship on the Indigenous jurisdiction in Guarayos. By situating the Guarayo justice system within both national reforms and global frameworks of Indigenous rights, I have shown how recognition, while symbolically powerful, continues to be mediated by state-centered definitions of authority and development logics that constrain true self-governance and self-determination. My findings underscore a need to go further than multiculturalism or plurinationalism, as these organizational structures are still deeply entrenched in a neo-coloniality that refuses to secede ultimate state power. Perhaps this is because the structure of the nation-state is inherently colonial – based in a foundation of non-belonging and control. Through listening to Indigenous people, those who have been impacted the most by the failures of the nation-state, we might be able to imagine a world that could be otherwise and continue doing the work to make it so.

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