Clean Development Mechanism in Latin America:
Local participation’s influence on decision-making processes

A Thesis
Presented to the

Faculty of Economic and Social Sciences
Potsdam Center for Policy and Management
University of Potsdam, Germany

In Partial Fulfillment of the
Requirements for the Degree
Master of Public Management
GeoGovernance

Submitted by
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Potsdam, September 1st, 2016

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Abstract

The creation of carbon credits mechanisms to limit the effect of global warming has opened a technical, economic and political discussion regarding the effects of the commodification of natural resources. Through the CDM, proposed by the Kyoto Protocol, developing countries receive investments to promote clean energy, which also aims to achieve sustainable development goals. However, there is not a clear criterion regarding how to include involved stakeholders in the decision-making process. This lack of specific requirements is reflected in both stages, before the project validation, in which the international regulations are made by the UNFCCC, as well as after the validation, at which point the authorities in each country can maintain a broad margin of arbitrariness. As a consequence, unequal conditions for approval and implementation of projects occur in each case, a situation which can have grave consequences in the case of hydroelectric projects since they cause serious environmental, social and economic impacts.

This research explores the conditions that drive participation in two different stages of CDM projects, analyzing the decision-making process of hydroelectric power plants in Panama, Guatemala, Ecuador and Peru. It is concluded that the quality of participation is conditioned by the lack of clear rules by the CDM and the absence of autonomous mechanisms to ensure accountability and enforce compliance at the various levels of institutions involved.

**Key Words:** Clean Development Mechanism, Mitigation, Stakeholder participation, human rights, indigenous
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<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AE</td>
<td>Applicant Entity</td>
</tr>
<tr>
<td>AENOR</td>
<td>Spanish Association for Standardization and Certification</td>
</tr>
<tr>
<td>CDM</td>
<td>Clean Development Mechanism</td>
</tr>
<tr>
<td>CER</td>
<td>Certified Emission Reductions</td>
</tr>
<tr>
<td>CO2</td>
<td>Carbon Dioxide</td>
</tr>
<tr>
<td>CO2e</td>
<td>Carbon Dioxide Equivalents</td>
</tr>
<tr>
<td>CSD</td>
<td>UN Commission for Sustainable Development</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil society organization</td>
</tr>
<tr>
<td>DEG</td>
<td>German Investment Corporation</td>
</tr>
<tr>
<td>DNA</td>
<td>Designated National Authority</td>
</tr>
<tr>
<td>DOE</td>
<td>Designated Operational Entity</td>
</tr>
<tr>
<td>EB</td>
<td>Executive Board</td>
</tr>
<tr>
<td>FMO</td>
<td>Netherlands Development Finance Company</td>
</tr>
<tr>
<td>FONAM</td>
<td>Peruvian National Environment Fund</td>
</tr>
<tr>
<td>GENISA</td>
<td>Generadora del Istmo S.A.</td>
</tr>
<tr>
<td>GHG</td>
<td>Greenhouse Gas</td>
</tr>
<tr>
<td>GSC</td>
<td>Global stakeholder consultations</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labor Organization</td>
</tr>
<tr>
<td>KP</td>
<td>Kyoto Protocol</td>
</tr>
<tr>
<td>KPII</td>
<td>Second Commitment Period of the Kyoto Protocol</td>
</tr>
<tr>
<td>Acronym</td>
<td>Definition</td>
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<tr>
<td>---------</td>
<td>------------</td>
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<tr>
<td>LSC</td>
<td>Local stakeholder consultations</td>
</tr>
<tr>
<td>MW</td>
<td>Megawatt</td>
</tr>
<tr>
<td>NDC</td>
<td>Nationally Determined Contributions</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental organizations</td>
</tr>
<tr>
<td>NSA</td>
<td>Non-state actor</td>
</tr>
<tr>
<td>OHCHR</td>
<td>Office of the United Nations High Commissioner for Human Rights</td>
</tr>
<tr>
<td>PBI</td>
<td>Peace Brigades International</td>
</tr>
<tr>
<td>PDD</td>
<td>Project design document</td>
</tr>
<tr>
<td>SCC</td>
<td>Strategy, Collaboration and Communication Unit</td>
</tr>
<tr>
<td>SD</td>
<td>Sustainable Development</td>
</tr>
<tr>
<td>ToR</td>
<td>Terms of Reference</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNFCCC</td>
<td>United Nations Framework Convention on Climate Change</td>
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Chapter 1: Introduction

The growing concern for the present and potential global climate change due to carbon emissions effects has led to the emergence of various responses in recent years. Unlike other types of environmental problems, the atmosphere is a common good. Therefore, policies aimed at reducing emissions represent a challenge for ensuring overall coordination and cooperation, given its polycentric and transnational character. The creation of carbon credits mechanisms to limit the effect of global warming has opened a technical, economic and political discussion regarding the effects of the commodification of natural resources.

The inclusion of actors and supranational institutions has resulted in a global environmental governance scene which needs to find new ways of giving legitimacy to the policies and decisions that have effects at a local level. The CDM is a paradigmatic case of this new context since a multi-stakeholder constellation appears in which the state sovereignty and questions of domination amongst developed and developing countries are disputed. As a consequence, the participation of citizens in the CDM represents not only an argument to give social validation to the inversions, but also a powerful tool with which the quality of inputs is able to generate greater effectiveness in the implementation and outcome of projects, and to some extent empower local actors.

The CDM, established by the Kyoto Protocol, provides a tool for joint action between developed and developing countries for reducing emissions and achieving sustainable development benefits through the purchase of CER units from emission reduction projects in developing countries (UNFCCC, 1997: 11). Through the DNA, the CDM allows each country to compete in the registration and selection of projects to be implemented by the project developer with the support of the DOE, who are independent auditors accredited by the CDM with competence for performing the processes of validation, verification and certification of projects.

CDM official regulations establish the obligation to allow different types of stakeholders to participate in the decision-making process of the CDM projects.
There are prescripted instances, prior to the validation process, in which the project developers should accomplish a local stakeholder consultation in order to provide information, receive their comments and minimize any negative effects before the project starts. Also, a 30-day opening for stakeholder’s comments should be developed before the project is approved, in addition to on-site visits and interviews.

The previous stages do not have common and specific criteria for development and evaluation. Furthermore, this flaw results in arbitrary and differentiated procedures in the developing countries who receive the projects, which further allows the interference of private interests in the outputs financed by the CDM and limits the participation of citizens in the definition of the projects. National regulations and procedures cause unequal conditions for approval and implementation of projects, which are aggravated in hydroelectric projects causing impacts in the quality of life as well as the infringement of human and indigenous rights, such as forcing communities to relocate, depriving them of their livelihood, violating rights of self-determination and undermining indigenous communities' sacred sites. In addition, these projects generate profound environmental changes, although this does not always produce significant reductions in carbon emissions (Maisonet-Guzman, 2010).

In Latin America, 1218 projects have been approved by the CDM, from which 311 are related to hydro projects (Fenhann, 2016). Severe conflicts remain with a high level of violence in relation to schemes funded under this mechanism, most of which have not properly implemented inclusion mechanisms for all stakeholders, both in the selection and execution of projects.

This research aims to explore what the conditions are that drive stakeholder’s participation in the management of CDM projects in two different stages: before and after the validation process. In order to answer this question, the institutional framework, participation experiences and conflicts developed will be taken into account in four hydroelectric power plant projects in the following countries: Ecuador, Guatemala, Panama and Peru.
The information is presented in five main sections, as follows. Firstly, the research’s conceptual and analytical framework is outlined. Secondly, the theoretical section is presented, which includes a background for understanding participation in the context of a new global environmental governance, the debate regarding the significance of input legitimacy, its formal inclusion in the UNFCCC and CDM frameworks, as well as a reference to the conditions for improving the quality of participation within the CDM. In the third section, the description of the case studies is offered. Then, a discussion chapter is included, providing an explanation and interpretation on the results. Finally, conclusions are presented.
Chapter 2: Conceptual and Analytical Framework

2.1. Research question

The question that guides the research in order to achieve the objectives proposed is as follows: What are the conditions that influence the quality of stakeholder's participation in the CDM decision-making process?

2.2. Thesis Statement

The satisfactory quality of participation in the CDM management depends on the institutional mechanisms to ensure accountability and enforce compliance with the national and international regulations.

2.3. Objectives

2.3.1. General objectives

The general objectives that direct this research are:

- To explore the role, opportunities and limitations of stakeholders from developing countries in the context of the Global Environmental Governance.
- To explore the effects of national and international institutional mechanisms in the selection and implementation of CDM projects.
- To discover the influence, negotiation tools and incentives of the local, national and transnational stakeholders in the selection and implementation of CDM projects.

2.3.2. Specific objectives

Meanwhile, our specific objectives are intended:
• To deepen the debate concerning the rights granted to stakeholders’ participation in the decision-making process within the CDM.

• To explore the role of the Designated National Authority and the institutional design of the analyzed countries regarding the inclusion of participatory mechanisms.

• To analyze and compare the variance of the conditions that influence the quality of participation and its social effects.

2.4. Research operationalization and definition of terms

The dependent variable that guides this research is focused on the stakeholder’s participation in the CDM decision-making process. In order to deepen the analysis, two concepts are defined: stakeholder and participation.

2.4.1. Framework and definition of the concept Stakeholder

The common criteria to define the content of the concept stakeholder is the principle of all-affected, which implies that actors who are involved in a policy are entitled to participate and express their opinion (Marchetti, 2012).

However, in the framework of the CDM an umbrella-use of the stakeholdereness is handled, and as a consequence of this vagueness important failures appear; instead of including the all-affected principle, which is stated in CDM official documents, the regulations of the mechanism keep a corporate criterion in which a division between internal and external stakeholders is supported, replicating the typical corporate oriented theories of the nineties (Kuchler, 2015).

What UNFCCC considers internal stakeholders includes project participants, designated operational entities, designated national authorities, the managing Executive Board and the Secretariat. The previous actors are in charge of critical decisions and responsibilities over the processes carried out in the CDM, such as
project design, validation, verification and certification. Contrariwise, the category external comprises a wide set of actors such as civil society organizations, local groups, communities, activists and individuals.

This research is focused on what the CDM defines as external actors, as this category of agents may be the most affected by the decisions made for the internal stakeholders, and yet they lack formal and real attributions or power in the CDM project cycle (Kuchler, 2015). In particular, for this analysis this category is comprised of the inhabitants of the communities where the projects are developed.

2.4.2. Framework to assess Participation in the CDM decision-making process

Once the concept of stakeholder that is taken into account has been defined, similarly it is important to advance in the criteria to assess and explore the participation mechanisms and its quality to allow the community to influence the decision-making process, both before and after the validation process.

For this research, participation is considered any instance, space or mechanism that enables stakeholders to provide comments, opinions, or claims, on the condition that these will be considered or incorporated in some way, i.e. they have some ability to influence in the course of the project.

So far, the analysis regarding the conditions for formally recognized participation has been deepened in numerous researches. In the interest of this study, focus will also be placed on informal practices, such as the ones promoted by the DNAs, civil society organizations, international organizations, local authorities and other stakeholders. Even if some of these are included in the institutional or regulatory framework of each of the analyzed countries, they are considered informal as they are not covered nor regulated by the UNFCCC or the CDM official regulations. Their incorporation allows not just a focus on the subtle decision-making process inside the CDM, but also their explicative power may help to assess their potential for being institutionalized in some of the CDM-related structures.
In order to answer the research question and compare how the different conditions have taken place and influence the quality of the stakeholder participation, a scale is used to classify each stage among high, medium and low participation. The selected categories and indicators to develop the assessment are presented in Table 1.

*Table 1: Criteria for assessing the quality of stakeholder's participation: Dimensions, Indicators and Values*

<table>
<thead>
<tr>
<th>INDICATORS AND VALUES</th>
<th>High</th>
<th>Medium</th>
<th>Low</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dimensions</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accountability</td>
<td>Presence of accountability mechanisms/ institutions. Results are recorded and made public.</td>
<td>Weak/non independent accountability mechanisms. Results partially recorded, low diffusion of results.</td>
<td>Lack of accountability Mechanisms/ institutions. Lack of/ Unclear procedures for registration and diffusion of participation.</td>
</tr>
<tr>
<td>Inclusiveness</td>
<td>Involvement of all relevant actors. Adequate representation of minorities.</td>
<td>Partial or unequal involvement of relevant actors.</td>
<td>Exclusion or discrimination of the involved participants.</td>
</tr>
<tr>
<td>Effectiveness</td>
<td>Decisions reached are binding.</td>
<td>Flexibly binding.</td>
<td>Results have no impact on the project.</td>
</tr>
</tbody>
</table>

Note: Own elaboration based on Lieberherr (2013) and Pogrebinschi (2013).
2.5. Relevance

The research question of this study is important both for practical and theoretical reasons. There are plenty of elements that suggest that the use of CDM remains relevant in economic and environmental terms and it is part of a controversial policy of cooperation that includes a large set of actors at different levels. Also, in theoretical terms, the study of participation in the CDM is inserted within the framework of new theories on relationships between countries and international organizations, trying also to fill a gap regarding which tools citizens have to decide on their own territory.

Initially, this research considers that to study the CDM is still highly central. On one side, this mechanism is relevant for the study of institutional characteristics, in that it can be considered an illustration of a turn towards a multi-stakeholder partnership network in the framework of a global environmental governance. On the technical side, even though its importance has been questioned since the first compliance period of the Kyoto Protocol was finalized in 2012, its presumed successor, the KPII, is insignificant as the United States and Canada are not included, and consequently KPII only covers fifteen percent of total emissions (Grubb, 2013). Furthermore, the number of CDM projects is increasing, reaching in 2016 an amount of 7727 CDM project activities listed. To date, there is not an agreement regarding how to corroborate declared reductions in carbon emissions, but by July 2016 the CDM official information shows that over 1,702,662,507 CERs for project activities were granted (CDM, 2016).

Secondly, even a large number of researchers have focused on the CDM contributions to determine whether it has achieved its intended goals, reduce carbon emissions and achieve sustainable development in developing countries, several scholars arrived to the conclusion that those objectives are still unfulfilled (Drupp, 2011; Fuhr and Lederer, 2009; Haya, 2009; Lloyd and Subbarao, 2009; Olsen, 2007; Sutter and Parreño, 2007), pointing different explanations such as the prioritization of the cost-efficiency standards (Sutter, 2003) and the monopoly attributed to the
countries deciding the SD criteria (Boyd et al., 2009; Dirix, Peeters and Wouter, 2016; Nussbaumer, 2009; Schneider and Grashof, 2007).

Another intended contribution of this research regards the sources of information. External qualitative sources are included instead of just considering the Project Design Documents. Even though our approach has limitations, it is an important step considering the lack of official ex post CDM evaluations offered by Project Developers and DNAs (Crowe, 2013; du Monceau and Brohé, 2011). Although the set of criteria to consider how successful the CDM projects are vague, most countries tend to approve projects despite its lack of specificity regarding environmental and socioeconomic impact (Schneider and Grashof, 2007). This trend is represented in particular in cases of hydropower projects (Bachram, 2004).

Furthermore, several studies started to recognize that the shortage of participation is a key contributing factor in the CDM social impact failures, produced by lack of proper attention to indigenous identities (Fogel, 2004), corruption and pressure at local levels (Gilbertson, 2009), high cost of carrying out participation mechanisms (Lövbrand, Rindefjäll and Nordqvist, 2009), technocracy in the consultation procedures (Newell and Bumpus, 2012) and the competition between communities for access to projects and financing (Kuchler and Lövbrand, 2016). The criterion regarding the presence of indigenous people in the conflict has played a key role in the selection of cases.

### 2.6. Justification of Case Selection

The analysis is constructed over a literature review, an evaluation and comparison of four registered CDM Projects in Panama, Guatemala, Ecuador and Peru. The selection of hydroelectric projects is based on the complexity of developing projects of this type, considering that they imply deep social, economic and environmental impacts. Dams require some level of initial flooding in order to develop a reservoir and the necessary structures, all of which can produce fluctuation of natural resources, such as erosion, droughts, floods, species extinction
and migration. These conditions force the resettlement of populations, and the loss of livelihoods, both of which have socio-cultural consequences such as the destruction of historical heritage and the disintegration of communities.

The selection of countries and dams is related to a range of factors, which include political and sociodemographic characteristics, such as the presence of indigenous groups. In addition, features related to the implementation of the CDM in the countries have been relevant for the selection, such as the size of projects, the project installed capacity, the expected amount of emissions reduction and the role of hydro in the total of CDM projects (Figure 1, Figure 2).
Figure 1: Hydro and Total CDM Projects in Latin America 2016

Note: Own elaboration based on Fenhann (2016).
Figure 2: Comparison of CDM Hydro Projects Approved in Latin America

2.7. Methodology and Research Strategy

The research strategy is to develop a qualitative cross-national analysis with a descriptive and explanatory goal, with a focus on explicating the conditions that influence the dependent variable’s variation: stakeholder’s participation. It is intended to focus on the institutional design of each country, the compliance of the decision-making processes with international and national regulations as well as the effectiveness of the inputs and the stakeholder’s satisfaction. Two project stages are analyzed for each country regarding the quality of participation, both before and after the official validation of each project.

Note: Own elaboration based on Fenhann (2016).
The theoretical perspective of this research is based on an actor-centered institutionalism approach (Scharpf, 1997), in which methodological individualism is combined with institutionalism, so social phenomena are to be explained as the outcome of interactions among intentional actors [...] but that these interactions are structured, and the outcomes shaped, by the characteristics of the institutional settings within which they occur. (Scharpf, 1997: 1)

The research will use different types of secondary sources to achieve its goals, such as formal regulations: laws, decrees, resolutions, organizational structures and internal regulations of the institutions. Also, official documents from UNFCCC are considered, such as project design documents, validation reports, communication reports, letters from stakeholders as well as pipeline analysis and databases from CDM watchdogs. Also, in order to reflect the informal institutions and the different modes of interaction between actors, news from local media in which the stakeholder’s vision is reflected are incorporated.

2.8. Limitations

The first limitation has been the lack of time to develop more complex research, incorporating more units of analysis and collecting information from primary sources that would allow for a fuller picture of what has actually happened. Fieldwork would have been helpful for the quality of research, and hearing the views of stakeholders on instances developed or non-participation, and the peculiarities of the conflict.

Another limitation has been the lack of official information and impact assessments, which has generated severe restrictions at the time of analyzing the success of the projects. Research has had to rely mainly on practices that have some type of institutionalization and registration. Likewise, few investigations similar to this type of approach and cases were found. Mostly, the analyzed investigations consider the issue of participation from a theoretical side, but regardless of what
happened outside the institutional framework and what is registered on official documents. Also, the analyzed cases are mainly of rural communities with large indigenous populations, some of which are isolated and with little tradition of releasing information. As a consequence, the information can be unbalanced.

Regarding the selection of cases, there have also been restrictions, despite the attempt to seek similarities among them, there are differences in the type of projects proposed, the degree of impact and the socio-economic characteristics of the inhabitants, all of which are factors that also may have influenced the variance of participation in each case.
Chapter 3: Background, debates and approaches to include and assess stakeholder's participation in the CDM framework

3.1. Understanding Participation in a new Global Environmental Governance

In order to review and analyze the role of stakeholder's participation in the decision-making processes within the CDM, a theoretical contextualization is required, since current theories consider that this inclusion is framed in a new global environmental governance scenario. This framework does not reflect the way in which participation in the CDM is actually taking place, but it is a normative model of how the role of stakeholders is understood in the decision-making dynamics of international organizations and climate policy negotiations. The features of this conceptual tool give the context to analyze the CDM institutional features and performance on its own terms.

In this context, stakeholders' role is understood in the ever-changing scenery of international relations, in which new institutional frameworks have appeared to foster collaboration between different types of actors (Bäckstrand, 2006a; Bäckstrand, Khan, Kronsell and Lövbrand, 2010). In this way the classical dichotomy between public and private actors is surpassed (Kuchler, 2015), allowing for improved decision-making processes.

The concept of multi-stakeholdership has appeared as an attempt to solve the limitations of the multilateralism in such a manner to improve responsiveness, rights' compliance and inclusion, in particular for the traditionally relegated groups (Elliot, 2004; Fisher and Green, 2004). Likewise, this shift allows for the emergence of bottom-up approaches and suggests "unfamiliar and hybrid takes on constituency, representation and deliberation" (Bäckstrand, 2006a: 468).

Furthermore, this new multi-layered form of governance results in the participation of non-state actors in lesser vertical power relations (Bäckstrand, 2008; Lövbrand et al., 2009; Stripple, 2010) in a power structure that is “bifurcated, plurilateral, multi-level, and complex” (Bäckstrand, 2006a: 468). Also, if forums and
pools for sharing knowledge and deliberation are included, this model achieves more legitimate and productive results (Ansell and Gash, 2007). Bäckstrand (2006a) compares this new climate global governance model with the cosmopolitan types of democracy proposed by Held (1995), and also with the concepts of governance proposed by Rosenau and Czempiel (1992) who refer to governance from below and governance without government.

However, within this framework, several conflicts and gaps persist regarding interests, tools, expectations and perceptions. Kim (2003) considers that in the case of the CDM, a clash is produced, due to different views between national stakeholders, international investors and government representatives. Additionally, Blühdorn (2013) refers to the conflict of two simultaneous incompatibilities, in which the accomplishment of a participatory revolution takes the form of expectations and democratic rights, but within a post-democratic turn, which intends to get higher efficiency by decreasing both institutional and normative difficulty. These contradictions may be understood just as a part of a narrative and a simulative governance, which fails in the practice of engaging stakeholders (Kuchler and Lövbrand, 2016).

In addition, some scholars question the underlying power relationship behind the CDM, which not only commodifies the environment, but strengthens and perpetuates the relationships of domination of developing countries by the north (Lohmann, 2001), continuing an age-old colonial tradition in which one of the last global commons is privatized and liberalized (Bachram, 2004). Debates focus on the idea that CDM represents a new form of carbon colonialism, in which the power from states is transferred to companies, damaging environmental and social justice (Wilson, 2011), and furthering a process which tends to sell nature in order to save it (McAfee, 1999). Richman (2003) adds that the mechanism also implies an imposition of western values and institutions such as the market, which is causing harm to local and national sovereignty as well contributing to rising inequality.

One problem and confusion in the debate around stakeholders relates to the competing interest among different advocacy groups. Boström and Hallström (2010)
consider that a constellation is formed, in which multi-stakeholder arrangements take place and maintain an invisible power. The confusion arises because in the CDM context all actors are labeled as a stakeholder and re-categorized in the two institutional types: formal and informal. This can trigger a tendency for the stakeholders to be either included or excluded from decision-making instances (Boström and Hallström, 2013) and also it “may enable or constrain agency by implying different rules of access and participation opportunities for each category of stakeholder” (Kuchler, 2015: 6). For instance, civil society organizations have actually a significant part in the policy-making processes in the global environmental policies (Dingwerth, 2007), due to its capacity to interact with international organizations, to monitor policies, spread citizens' problems and also helping to empower relegated population sectors to allow their participation in decisions (Nanz and Steffek, 2004).

Likewise, Nanz and Steffek (2004) state that civil society has the capacity to permeate the formal structures' boundaries of global governance. Furthermore, the author refers to the possibility of constituting a transnational civil society able to participate in a public sphere, which would be able to enhance democratization through:

- exposing global rule-making to public scrutiny, bringing citizens' concerns on the agenda of international organizations, and empowering the most disadvantaged groups of stakeholders to participate actively in political deliberation. (Nanz and Steffek, 2004: 1)

Some studies, however, challenge this optimistic outlook; they see the new participatory trend in environmental governance as a mask, as it still reproduces capitalist and neo-liberal structures in which powerful actors are privileged (Paterson, 2001). Also, Conca (2006) is reluctant to acknowledge that the role granted to civil society actors is authentic and meaningful, since it is embedded and co-opted in the intergovernmental regimes.
3.2. Input Legitimacy as a criterion to assess satisfactory participation

This section aims to analyze the conditions that drive participation in the context of a multi-stakeholder partnership like the CDM, and so the concept of input legitimacy will be taken into account. The main idea meant in the concept is that “political choices are legitimate if and because they reflect the ‘will of the people’ – that is, if they can be derived from the authentic preferences of the members of a community” (Scharpf, 1999: 6). The meaning of legitimacy in the input side rests on the people’s interpretation of what it means to be democratic or good and which mechanism allows for transparent and accountable practices (Lövbrand, Nordqvist and Rindefjäll, 2007).

Since the CDM is inserted into a new global sphere in which even the sovereignty of international organizations is in dispute, it is essential to obtain some degree of social legitimacy. Legitimacy can be interpreted in several ways, in light of the fact that a global governance’s sources of legitimacy are not just democracy, but also effectiveness, fairness, peace and stability (Bäckstrand, 2006a). The interesting issue for this analysis is the necessity of some kind of citizen input to ensure a level of social validation, as the case of democratic states which base their sovereignty on periodic elections.

There is a set of elements may improve the quality of democracy and the legitimacy of the supranational agreements (Bernstein, 2005), such as “balanced representation of different stakeholder groups, forum for collaboration and deliberation between government, market and civil society actors, transparency, access, information sharing and accountability and reporting mechanisms” (Bäckstrand, 2005: 6).

Transparency is one of the main pillars necessary for an accurate input legitimacy process, however the extent of its success is dependent upon the quality of information available. Even though in the CDM a part of the relevant information is openly available, most of it is only in English. Consequently, since the information
needs to be understandable in order to be significant (Scholte, 2004) for all the stakeholders, its accountability is not guaranteed.

Also, the involvement of citizens in the deliberation process “could enhance an enlighten citizenry” (Boedeltje and Cornips, 2004: 5) because it allows them to start a continuous learning process, in which they are able to corroborate, revise and improve their positions. Traditional modes of accountability, in which participation works mainly through hierarchies and electoral procedures, are cannot be used in an international-network framework, where the power and actors are diffused and spread. The question of who the actors are in a global environmental governance and who would be accountable to whom (Hajer & Wagenaar, 2003), limits the development of rules and procedures.

Some authors propose the inclusion of top-down accountability mechanisms, (Payne and Samhat, 2004; Steffek, 2003), horizontal instruments (Steets, 2004) or the use of pluralistic structures “such as (1) professional peer accountability, (2) reputational accountability, (3) market accountability and (4) financial/fiscal accountability” (Witte, Streck and Benner, 2003: 75).

Regarding the CDM, input legitimacy can be understood as a requirement of inclusion of all societies involved in and affected by the projects in the different stages of the policy cycle, resulting an accountable process (Bäckstrand, 2005) in which the participation is not only limited to some phases (Schunz and Bruyninckx, 2011). However, the CDM institutional framework, and the umbrella of all agencies and actors included in the decision-making processes can be understood both as a win-win structure or as a conquest of the Northern interests (Lövbrand et al., 2007) to the detriment of developing countries' participation in effective, inclusive and accountable mechanisms. Therefore, the challenge is to use and modify institutions, since they impose constraints but also opportunities for change (Scharpf, 1999).
3.3. The role of participation and its recognition in international agreements

This section attempts to rebuild the debate over how relevant the participation of stakeholders in the decision-making process of the CDM is, not just in theoretical terms but also with respect to its practical implications. Further, this part seeks to explore how participation is actually included by the various institutions that frame the activity of the CDM.

Several arguments claim that the inclusion of actors and their active participation through various institutional multi-stakeholders' mechanisms could improve the effectiveness of environmental policy outputs (Glasbergen, Biermann and Mol, 2007; Haas, 2004; Hemmati, 2002).

Nasiritousi, Hjerpe and Bäckstrand (2015) develop an analysis with several kinds of arguments that support that stakeholders' participation is important under the CDM. First, they distinguish two main viewpoints. The first claims that NSA participation in the international policy-making process is neither desirable nor significant, considering that the states are still the main legitimate and sovereign actors. On the other side, a reconfiguration of a global authority is recognized, so NSA contribution could improve the legitimacy of international environmental agreements (Bernstein, 2005; Bernauer and Gampfer, 2013; Biermann and Gupta, 2011).

Likewise, the role of participation is analyzed in the framework developed by Willetts (2006), who examines three rationalities to argue for the inclusion of NSA: functionalism, neocorporatism and democratic pluralism. The functionalist approach is focused on stakeholder's expertise contribution regarding legitimacy, whereas neocorporatism highlights the NSAs affected interests, as long as the democratic pluralism states that NSAs raise legitimacy because of procedural principles. Finally, Nasiritousi et al. (2015) link the NSA inclusion with others theoretical models, for instance democratic intergovernmental or polycentrism (Archibugi, Koenig-Archibugi
and Marchetti, 2011), stakeholder democracy (Macdonald, 2008), and deliberative democracy (Dryzek, 2006).

Arens et al. (2015) explain that the presence of local stakeholders in the CDM decision-making process is not only a right but also a key input for the quality of projects and its impact in SD because it is useful for preventing potential complications, recognizing problems, giving information on the context and other variables not considered by the DOE. Also,

It may help save time, reduce costs and support the improvement of a project’s performance and impacts. Moreover, stakeholder involvement generates transparency, trust and accountability and is the basis for building strong, constructive and responsive relationships, which are essential for successful project implementation and for achieving targeted results. In doing so, stakeholder involvement increases the steering capacity of an activity. In particular where local communities are being addressed by a financing activity, stakeholder involvement is important for ensuring relevance to local priority needs and for strengthening participation and ownership of the target groups. (Arens et al., 2015: 11)

The role attributed to stakeholders is not just part of a new tendency in global governance, since it has been incorporated in the Kyoto Protocol since 1992 in the framework of the UN Conference on Environment and Development in Rio de Janeiro, and it was deepened in the World Summit on Sustainable Development in Johannesburg in 2002. The idea that came to prominence is that NSA participation is the mainstay in the development of the democratic foundation of global environmental governance (Chambers, 2005).

An increasing participative process has been launched in international organizations and financial institutions, which started to incorporate some consultative measures to include civil society (Mason, 2004). Also, historically relegated groups such as youth, women and indigenous people has been formally incorporated in some institutional framework (Elliot, 2004).
Conferences of the Parties also have incorporated and institutionalized NSA in the negotiations regarding climate and sustainable development (Bernstein, 2012), allowing stakeholders to be observers as well as conceding to them diverse methods for participation (Nasiritousi and Linnér, 2016). The first CDM Modalities and Procedures were defined in the Marrakesh Accords in 2001, however they are continually changing.

In the Conference in Rio de Janeiro the “beginning of the participatory turn of global environmental governance” (Bäckstrand, 2006a: 470) can be observed, in which several forums were carried out to allow deliberation regarding environment, poverty and development, as well as compliance with Agenda 21 and the resulting agreements. Furthermore, the UN Commission for Sustainable Development was founded in order to assess the execution of Agenda 21 goals as well as the institutional stages to guarantee the dialogue with civil organizations and business. In the period between 1993-2000 NSA in the CSD framework, NSAs representatives raised from 300 to 800 (Chambers, 2005; Dodds, Gardiner, Hales, Hemmati and Lawrance, 2002).

Furthermore, the Johannesburg summit expanded the issue of participation and in this time a focus on quality was incorporated. The result was the inclusion of new governance procedures that allow deliberation among civil society, state and business representatives.

The Nairobi framework was initiated in 2006 with the goal of improving the participation of developing nations in the CDM, in particular sub-Saharan countries. Actions aimed at improving the diffusion of information were taken to advance the distribution of projects and ensure greater stakeholder participation. The objectives established there were:

Build and enhance capacity of stakeholders involved in NDC implementation, including DNA, 2. Build capacity in developing cooperative approaches including new and existing market mechanisms, such as the CDM, 3. Promote investment opportunities for mitigation activities, 4. Improve information
sharing, outreach, exchange of views on activities, education and training. 5. Inter-agency coordination, led by the UNFCCC Secretariat. (UNFCCC, 2006a: 3)

Regarding the particular conditions of native populations, the United Nations Declaration on the Rights of Indigenous Peoples recognizes in the Preamble that “respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment” (UN, 2007: 2). Also the Declaration distinguishes several rights of indigenous populations, for instance regarding their control over territory and natural resources, their right to participation and consultation “before adopting and implementing legislative or administrative measures” (UN, 2007: 8) as well as that relocation processes can only take place if there is informed consent, they agree on the measure, and they receive fair compensation.

In 2016 in the context of the Paris agreement, the Nairobi framework was reviewed in a Conference carried out in Copenhagen, in which the definition of partnership was revised in order to reinforce the cooperation of developing nations in effecting their NDCs in the areas of “climate finance, technology transfer, capacity building and for mitigation through creating an enabling environment at national level, regulatory mechanisms and carbon markets, including the CDM” (UNFCCC, 2016).

3.4. The incorporation of instances for participation in the CDM institutional framework

This section aims to describe the mechanisms and instances officially recognized in the CDM in the various stages of projects, as well as their conditions, requirements and procedures. Many have been established or improved in recent years. Likewise, it is also intended to delve into the informal mechanisms, driven from countries or from bottom-up initiatives, attempting to further engage stakeholders in decisions regarding projects.
In 2011 the CDM assumed new procedures by establishing a document called Modalities and Procedures for Direct Communication with Stakeholders (CDM Executive Board, 2011), in which new communication channels were incorporated. However, the internal stakeholders received more tools to influence the decision-making process. They received power to participate in two areas: general policy matters and project-specific matters. External actors, on the other hand, received power in general policy issues, but in indirect ways such as participation in roundtables, workshops, calls for inputs and meetings. The formal structure and the mechanism established by CDM to include local stakeholders in the decision-making process are shown in Figure 3.

Figure 3: Participation opportunities for civil society stakeholders in case-specific issues

![Diagram showing participation opportunities](image)

Note: Own elaboration based on Kuchler and Lövbrand (2014: 11).

The participation mechanisms for particular cases are not specified, so in order to conduct their claims, they should try to influence the internal actors in
consultation stages (Kuchler, 2015). Rules established for both consultations are not defined in detail. Consequently, this unclear framework depends both on how project developers interpret it (Johl and Lador, 2012), and each country’s regulatory framework regarding requirements to obtain construction licenses.

After the 67th Meeting of the Methodology Panel in 2015, two means of communication between the Board and stakeholders were formalized: Non-process-based and Process-based communication (UNFCCCa, 2015). The first one refers to the inputs to be formulated outside the delimited procedures, in topics regarding the project cycle procedure, baseline methodologies and monitoring tools. This type allows interaction between Board and DNA; Board and AEs/DOEs, CDM Accreditation Panel with AEs/DOEs and Secretariat with AEs/DOEs. Regarding the Board interaction with other stakeholders, the document states the chance for participants taking part as observers in meetings, general consultation workshops as well as proposing inputs in calls and workshops\(^1\). Likewise, communication initiated by stakeholders is included in the Non-process-based typology but only “on matters that do not fall within the scope of a dedicated process procedure” (UNFCCC, 2015a: 8-9). Stakeholders can submit their comments to the Secretariat or the Board, using a Stakeholder communication form available on the CDM website. The second type of communication stated in the last document is the process-based, which can be initiated by the Secretariat or the stakeholders. In the first case, the Secretariat may start interaction with DNA, DOE, coordinating/managing unit, a project participant or other actors for a specific process within the CDM policy-making process. For their part, stakeholders are able to initiate a process in the following cases:

a) The CDM project cycle process including the withdrawal of letter of approval (LoA); (b) The CDM registry; (c) The CDM accreditation; or (d) The

\(^{1}\) It is worth noting that the Secretariat is able to decide to invite just selected stakeholders, but maintaining a balance of interests. Also, call for inputs are decided on a case-by-case basis, with no particular opening time but appealing to a reasonable time for comments. There are neither criteria nor specifications available for the last two points.
development, revision, update or clarification of baseline and monitoring methodology, methodological tool or standardized baseline. (CDM, 2015: 11)

Currently, CDM’s website is the only direct channel available to stakeholders to raise their opinions at different stages of policy-making processes through a Strategy, Collaboration and Communication unit. It is stated that it is committed to productively engaging, collaborating and consulting with stakeholders to identify and improve upon existing standards, procedures and guidelines documenting the requirements under the CDM. Only through a full engagement with stakeholders can areas for improvement be identified and a clearer understanding of CDM requirements be achieved by all, thus improving the quality of submissions. (CDM, 2016: para.1)

The institution in charge is the secretariat’s Strategy, Collaboration and Communication unit, and it is responsible for carrying out roundtables, workshops, managing communication, promoting and registering public inputs and making documents available containing reviews, reports and DOE performance monitoring.

Regarding the section named Call for Inputs, in which stakeholders are able to submit observations using a commenting table, 235 calls during the period between 2004-2016 have been registered. It is worth noting that presented information and forms are available only in English. Secondly, more than half of the calls have not received input. The only registered comments were done by companies, advocacy organizations and a few scholars. Furthermore, a list of 241 direct communication processes initiated by stakeholders in the period between 2010-2016 is included. Regarding the workshops developed 26 were carried out between 2010 and 2016.

Both formal and informal mechanisms in the different stages are presented in Table 2, also including the initiating actor or institution type and the topics to consult.
### Table 2: CDM Mechanisms to allow communication with stakeholders

<table>
<thead>
<tr>
<th>Type</th>
<th>Project Stage</th>
<th>Initiated by</th>
<th>Topics to consult</th>
<th>Instruments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Formal</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-process-based</td>
<td>During the validation process</td>
<td>DOE</td>
<td>Difficulties in the application of existing CDM rules; guidance within the regulatory framework with the aim of improving the objectivity, clarity, applicability, and/or ensuring the environmental integrity of CDM rules; To ensure that actors within the CDM process understand the CDM rules established by the Board.</td>
<td>Local stakeholder consultations (LSCs)</td>
</tr>
<tr>
<td>formal communication</td>
<td></td>
<td>Board, Secretariat</td>
<td></td>
<td>Global stakeholder consultations (GSCs)</td>
</tr>
<tr>
<td>Process-based communication</td>
<td>Outside the validation process</td>
<td>Stakeholders</td>
<td>Letter of approval; CDM registry; CDM accreditation; or development, revision, update or clarification of baseline and monitoring methodology, methodological tool or standardized baseline</td>
<td>Follow-up interviews performed by the designated operational entity (DOE)</td>
</tr>
<tr>
<td><strong>Informal</strong></td>
<td></td>
<td></td>
<td></td>
<td>Observers in Meetings</td>
</tr>
<tr>
<td>Non-process-based</td>
<td>Before/After/During the validation process</td>
<td>DNAs, Civil Society</td>
<td>Diffusion of information, Negotiations of Compensation, Requests for approval, Correspondence with Local laws, Correspondence with Indigenous Laws</td>
<td>General consultation workshops</td>
</tr>
<tr>
<td>communication</td>
<td></td>
<td>Organizations, Local</td>
<td></td>
<td>Proposing inputs in calls and workshops</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Authorities, Other</td>
<td></td>
<td>Direct communication through letters</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Stakeholders</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: Own elaboration based on CDM Direct communication with stakeholder’s procedures (UNFCCC, 2015a), CDM validation and verification standard (UNFCCC, 2015b) and Kuchler and Lövbrand (2016),
3.5. Conditions to improve the quality and impact of stakeholders’ participation

This section aims to explore particular conditions that are required to guarantee the quality, access and performance of the deliberation process among a wide range of actors, as well as to achieve results that contribute to the sustainable development of communities.

Participation of affected groups in itself may not necessarily represent greater effectiveness or have an automatic effect (Kuchler, 2015), therefore it is necessary to delve into the conditions and criteria that allow for success. Institutional settings to improve effective participation are analyzed by several scholars. Among the main requirements, the following are mentioned: transparency, monitoring, accountability, responsiveness, human rights compliance, representation, deliberation and information access.

In order to accomplish better outcomes as a result of collaborative multi-stakeholder decision-making processes, the quality of participation has to be considered, as well as the equality of access and its fulfillment with the institutional framework (Bäckstrand, 2006b). Similarly, the characteristics of input legitimacy have to be based on the fairness of the process and its compatibility with procedural demands (Karlrsson-Vinkhuyzen and McGee, 2013).

In addition, several structural problems have been identified in order to fit all stakeholders in an effective policy-making process. Boström, Hallström (2013), Betsill and Corell (2008) identify institutional asymmetries in the decision-making process, due to formal and informal institutional context benefits that prioritize some actors, interests and groups while obstructing others. In response, Bäckstrand (2006b) affirms the need for a redefinition of the accountability concept in the CDM governance structure, as well as the importance of including legitimacy tools in the different stages of the multi-stakeholder process. Additionally, Nanz and Steffek
(2004) refer to the necessity of a transnational public sphere, which allows for a broader deliberative and functional participation in global governance.

Johl and Lador (2012) propose to design a monitoring system for securing and registering all the procedures carried out to guarantee the participation of stakeholders. This reporting system would be implemented through different levels of CDM policy cycle, including four main aspects:

1) accountability mechanisms at both the national and international levels; (2) common reporting guidelines; (3) participatory as well as independent monitoring processes; and (4) grievance mechanisms. (Johl and Lador, 2012: 15)

Furthermore, the incorporation of human rights-based approaches to the CDM would help to improve the international and local legitimacy of the mechanism as well as decrease the risk of vulnerable populations. Some institutional elements to improve the CDM are:

- social and environmental safeguard policies; monitoring systems to ensure that safeguards are being respected; grievance mechanisms to ensure that affected peoples and communities can raise their concerns and have them addressed in a timely manner; and opportunities for meaningful and effective participation in all stages of relevant decision-making processes. (Johl and Lador, 2012: 1)

Regarding the institutional design of the CDM, an independent DOEs selection should be carried out (Hickmann, 2013) or else the decisions should be made by the Executive Board or the Secretariat (Haya, 2007; McCully, 2008; Schneider, 2007). DOEs are the area responsible for evaluating the quality of the executed local stakeholder consultations by the project contributor, even though guidelines are very broad. For instance, they should check if the established steps are carried out, which stakeholders are invited, register all the comments, make reports and also supervise the inclusion of stakeholder comments in the project design (CDM Executive Board, 2011).
An additional central and undercover element which is limiting participation is the technocratic aspect. Climate change, and even more so carbon finances, involve several technical aspects, such as using complex concepts, all of which is further complicated due to the lack of translations available for all the implied stakeholders. NGO’s, activists and of course communities are able to be easily persuaded due to the intricate rhetoric involved in climate finances (Bachram, 2004).

Similarly, empowering civil organizations and communities is crucial, in order to contribute to the quality of the public sphere, and make the information of internationals organizations available and visible for transnational scrutiny (Nanz and Steffek, 2004). This is also important due to informal practices and bottom-up initiatives that should be also considered as key elements for improving participation, responsiveness and transparence. Even though stakeholders are not in all cases granted formal prerogatives, they develop other strategies to permeate formal processes. For instance, different assessments reveal that before and after environmental summits main stakeholders’ groups use different lobbyist practices to influence the texts and plans for projects’ implementation (Ferenz, 2002; Suomi, 2002). Inclusion of spaces to deliberate can be considered significant, in spite of the lack of formal powers (Bäckstrand, 2006b). At the same time, some scholars are quite right to argue that participation is meaningful only when all the actors have equal capabilities (Michaelowa, 2005, Suomi, 2002).
Chapter 4: Case Studies

This section will provide a description of the four selected cases of hydroelectric power plants financed by the CDM in the following four countries: Panama, Guatemala, Ecuador and Peru. The intention is to analyze how participation took place in the different hydro projects, in an effort to determine how varying conditions, such as legal, institutional, accountability, inclusiveness and effectiveness processes and mechanisms influenced the process.

4.1. Barro Blanco, Panama

4.1.1. Context and project’s features

Since 1981, a project to create a dam on the Tabasará River in Chiriquí has been proposed and disputed by the local community, most of them indigenous. The intention dam proposal has also been linked to another controversial project in the area: The Cerro Colorado copper mine. Ultimately, the dam never materialized due to misinformation and opposition from nearby residents. However, in 2007 a new and bigger project was granted to the Company GENISA.

This new endeavor, the Barro Blanco hydroelectric project, is funded by the FMO, DEG and the Central American Bank for Economic Integration through a loan of 50 million USD. The dam will require flooding an area of 258.67 hectares for its operation on the river, as well as five hectares more for the construction of the dam, powerhouse and additional works (Gibbons, Windfuhr and Putten, 2015). It is estimated that an installed capacity of 28,56 MW would be reached (UNFCCC, 2011), which would be enough to raise the Panamanian installed energy generation capacity by around 2.35% as well as reduce 1,400,292 tons of CO2e in twenty years (CDM Executive Board, 2010).
4.1.2. Institutional Framework

The Panamanian legislation regarding the recognition of environmental, human and indigenous rights complies with high international standards, having ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the American Convention on Human Rights as well as having accepted the authority of the Inter-American Court of Human Rights. Furthermore, Panama voted in favor of the adoption of the UN Declaration on the Rights of Indigenous Peoples. However, the ratification of the Convention No. 169 of the International Labor Organization on Indigenous and Tribal Peoples in Independent Countries is still pending ratification (Gibbons et al., 2015).

Indigenous groups constitute about 12 percent of the total population of Panama (UNICEF, 2011), of which 69 percent are Ngäbe Buglé, representing around 285,000 people. They are concentrated in the center of Panama, and the provinces of Bocas del Toro, Chiriquí, Veraguas, Herrera and Los Santos (Jandreau, 2012). Despite the formal recognition of rights, the vast majority of the indigenous population is still marginalized; they are excluded from decision-making and lack access to basic services, such as health, education and care (Watts, Brannum and Ruff, 2014).

In particular, regarding the participation of indigenous groups, the National Constitution (República de Panamá, 2014) states in Article 124 the obligation of giving special attention to rural and indigenous communities in order to promote their economic, social and political participation in national life. Additionally, Article 127 declares the obligation to guarantee indigenous communities the necessary land and collective ownership rights to achieve their economic and social welfare. The law shall regulate the routines to be followed to achieve this purpose and appropriate boundaries within which private ownership of land is prohibited (República de Panama, 2014).

Also, the State recognizes the presence of indigenous territories or comarcas, in which local population is allowed to create their own rules. Particularly the Ngäbe
Buglé residents have been conferred with a special regulatory framework in 2012, in which minerals, water and environmental resources are protected. As a consequence, in order for a project to be accepted, an approval of the general, regional or local Congress is required, plus a referendum in the region (Anaya, 2014).

4.1.3. The inclusion of participation in the project validation process

The Project validation report created in 2011 by the Spanish Association for Standardization and Certification (AENOR) includes a section specifying what was done, both by the association itself, as well as by GENISA, to ensure fair participation before the validation. They certify that interviews with main stakeholders were conducted, however the list of participants does not include any community representatives. Also, the report states that local communities “have been consulted and have demonstrated their support” (AENOR, 2011: 21), which was indirectly granted through the Complacency Letter and the No Objection signed by the DNA.

Furthermore, the VR indicates that in the 30-day period provided for receiving feedback from other stakeholders one letter was received, taken into account and addressed properly. It belonged to the NGO Alliance for the Conservation and Development, in which it was argued:

this hydroelectric project completely fails to fulfill the condition of additionality required by the CDM; the Panamanian Designated National Authority (DNA), the National Environmental Authority (ANAM), is marred with conflicts of interests; and [sic] the government of Panama has systematically violated the human rights of the Ngobe [sic] indigenous peoples and peasant communities that will be directly affected and that have opposed to the construction of this project since 1999. (AENOR, 2011: 24)

The report states that the affected communities were visited, informed and interviewed, and that 58 surveys were conducted in 13 communities, showing that
50 percent of the participants were in favor and 50 percent against the project. Supporting documents of the interviews and surveys performed are neither available nor published (AENOR, 2011).

After the stakeholder’s comments in the validation processes, the PDD states that GENISA complies with all demands regarding social and environmental impact, and they promise to offer activities to eradicate poverty, improve education and also offer a number of economical compensations, such as a softball uniform for the H.R. Neftali, a box of balls, donations for the dancing activities and supplies for schools (CDM Executive Board, 2010).

4.1.4. Course of the conflict and negotiation between stakeholders

Consecutive violations of indigenous rights were reported by the Ngäbe Buglé and several human rights organizations, causing the beginning of protests and tensions in 2011, and as a consequence the government signed the San Felix agreement, in which they committed to passing a law to prohibit the exploitation of natural resources in the region (Anaya, 2014). However, before passing Law 415, one of the main Articles of the Agreement was removed, one which would forbid the installation of mining and hydroelectric projects in the area where the Ngäbe Buglé communities live (Anaya, 2014).

The indigenous groups were in disbelief over the situation. A protest blocking the Inter-American highway broke out over the government's actions. Three Ngäbe Buglé people were killed and hundreds injured when the protest was violently broken up by authorities (Jandreau, 2012). The claim also involved the governments of Germany and the Netherlands, which supported the implementation of the project, even though the UN had stated that the project was illegal, a violation of human rights and that consultations had not been realized (Anaya, 2014).

Still, the construction of the Barro Blanco dam has continued, resulting in a water level increase near Ngäbe Buglé lands and villages, a potential risk which the UN report had warned of: “Most of these projects are located outside of the boundaries of the indigenous comarcas, but they nevertheless have an impact on
lands recognized as belonging to or claimed by indigenous peoples” (Anaya, 2014: 12).

A new negotiation was held in 2012, in which the Act No. 11 was approved, including the requirement of acceptance of native authorities and also a thorough referendum of the involved residents, who should receive 5 percent of the annual billing of the Project. After a verification mission by the UN, the government compromised and agreed to establish an office for indigenous affairs at the ministerial level, which was created in 2013.

Nevertheless, the construction of the contentious Barro Blanco dam went ahead, as the authorities claimed that the conclusion of the project represented a strategic issue. GENISA justified the continuation of the project with the fact that the UN Declaration is non-binding, however the same principle is also recognized and binding through other instruments ratified by Panama (Anaya, 2014).

More protests erupted in 2015, which blocked the Inter-American Highway and was similarly repressed by the police. The president and the leader of one of the indigenous groups signed an agreement, which states that the mechanical activity of the dam would remain suspended, even though its construction would continue. The Panamanian government compromised by promising not to flood the reservoir or start operations of the Project, until a final agreement has been reached between the parties, also including a proper legitimation by all the local democratic institutions established by law (Varela Rodriguez, 2015).

Furthermore, after conducting their own investigation, the Panamanian government concluded that the company GENISA was guilty of non-compliance with its agreement with the affected communities. As a result, GENISA was required to pay a fine of $775,000 (Carbon Market Watch, 2016).

In 2016 the dam was completed, but it has not yet initiated full activities. It has caused several protests, also with the support of other indigenous groups. A very high degree of social tension and conflict remains.
4.2. Santa Rita, Guatemala

4.2.1 Context and project’s features

In 2010, the Guatemalan government granted the Santa Rita Hydroelectric project to the company Hidroeléctrica Santa Rita SA as a part of the CDM scheme. The project intends to develop a river hydroelectric plant on the Dolores River in the municipality of Alta Verapaz. The dam would be able to produce a nominal capacity of 24.2 MW2 per year as well as a reduction of 52,131 CO2 GHG emissions (CDM Executive Board, 2006). Some of the investors involved in this project include the Netherlands Development Finance Company, the Spanish Agency for International Cooperation, the German Development Finance Institution, the International Finance Corporation and the Swiss Investment Fund for Emerging Markets (ECC, 2015).

The project area comprises 254 hectares, affecting potentially up to 200,000 people (ECC, 2015). Different indigenous groups live in the surrounding regions, many of whom are Q’eqchi, Poqomchi Achi and Mestizo (Navas, 2014). The construction of the dam could result in present and future socio-economic and environmental impacts, such as “displacements, land dispossessions, as well as loss of livelihoods, biodiversity and habitat, […] biodiversity loss, groundwater pollution, reduced ecological and hydrological connectivity, deforestation and increased flood risks” (ECC, 2015: 2).

In Guatemala the marginalization of indigenous peoples is very high. Approximately 40 percent of indigenous people live in extreme poverty and nearly 80 percent are poor, have low literacy rates and incomes (Stavenhagen, 2002). In particular, the indigenous communities settled in the area of Alta Verapaz are entirely dependent on the river water for their livelihoods.

4.2.2 Institutional Framework

The Guatemalan Peace Agreement signed in 1995 between the government of Guatemala and the Guatemalan National Revolutionary Unit includes the
recognition of Identity and Rights of Indigenous Peoples. This emphasizes that indigenous people have the right to participate and declares that “it is necessary to institutionalize the representation of indigenous peoples at the local, regional and national levels and to ensure their free participation in the decision-making process in the various areas of national life” (UN General Assembly Security Council, 1995: 1). Furthermore, in 1996 Guatemala ratified the ILO Convention on Indigenous and Tribal Peoples, which granted communities the right to be consulted before decisions.

Guatemala’s Environment Protection and Improvement Law requires that an impact assessment be performed prior to the approbation of projects. This type of assessment was properly developed in the case of Santa Rita dam, according to the validation report (ICONTEC, 2014). Furthermore, since 2005, Guatemala has a special agency within the Ministry of Environment and Natural Resources called the National Clean Development Office. This office is responsible for generating the framework for reporting, monitoring and approval of CDM projects functions (Ministerio de Ambiente y Recursos Naturales, 2005).

However, the Santa Rita project is supported by the General Electricity Law approved in 1996, which may undermine some of the above principles. It states that the installation of power plants does not require the approval of any government agency neither other limitations than those given to the conservation of the environment and protecting people, their rights and their property. However, when the power of the plant exceeds 5 MW an authorization of the Ministry is required (Ministerio de Energía y Minas, 1996: 6).

4.2.3. The inclusion of participation in the project validation process

Both the project document and the validation report made by the Colombian Institute of Technical Standards and Certification (ICONTEC), detailed that all the required steps for validation were carried out, including ensuring the participation of the affected stakeholders (ICONTEC, 2014).
Firstly, the Project Participant describes that a local public consultation was held, in which 68 representatives from ten neighboring communities were invited to the meetings through letters delivered to the Community Development Committees and the Mayor of Cobán (CDM Executive Board, 2006). This consultation was available both in Spanish and the indigenous language Queqchí.

Secondly, in the period 2009-2010, the company organized seven community meetings with 176 participants, in which the stakeholders were called verbally by the authorities of the Community Development Councils. The document specifies the questions made in both types of activities regarding the dam as well the official answers for each. Also, pictures and details about the institutions or communities from which each participant came are available (CDM Executive Board, 2006).

Furthermore, the project document states that several compensations would be offered to the community, such as employment, electricity, health services and social programs. Also, $250,000 per year will be provided for social development programs (CDM Executive Board, 2006).

4.2.4. Course of the conflict and negotiation between stakeholders

After the validation of Santa Rita Project, numerous complaints regarding the lack of participation were presented from communities, international and human rights organizations during the opening of the one-month period for comments.

Residents from the Council of Tezulutlán sent a letter to the CDM Board, in which they state “that the project’s official public consultation process communicated only with selected community members, most of who already supported the project” (Dasgupta, 2015: 1). They point out that less than 10 communities were invited to participate, but more than 30 are affected by the dam.

The indigenous groups organized assemblies, and, after deliberation sessions, they sent reports to the government stating their position as well complaints regarding pressure exerted by the company and other groups to gain support for the projects.
There were no official responses, however several organizations have taken part in the indigenous requests, such as the Inter-American Commission on Human Rights (IACHR), which denounced the lack of clear guidelines by the CDM and the absence of independent bodies in the validation process.

According to the UN Special Rapporteur on the Rights of the Indigenous Peoples in 2014, more episodes of serious violence took place in communities, which were also linked with the company in charge, such as shots in a religious ceremony and the shooting of pepper spray made by the Police (Dasgupta, 2015). Following OACNUDH, the origin of the conflict was not the lack of community support for the project because the need to develop hydroelectric projects is known, but rather the lack of proper information, and compliance with international regulations regarding the obligation of consulting affected populations and indigenous peoples (Dong and Olsen, 2015).

Meanwhile, international PBI has identified serious problems in relation to the Santa Rita project, such as

[…] an absence of consent given by the affected communities and populations following a prior, free and informed consultation process, and failure to observe other rights recognized in international covenants ratified by the State of Guatemala, the presence and violent actions of armed non-state actors, a lack of advances in investigations and a failure to administer justice in cases of attacks that have been reported by the communities and their residents, (in contrast to the above) criminal harassment and arrest warrants issued against community leaders and residents as an immediate response by the authorities to complaints filed by companies and other non-government actors and their representatives. (Peace Brigades International, 2014: 1)

In 2013, after several complaints, the communities managed to have machinery for building the project taken away. Afterward, the company took measures against members of communities, such as the burning of houses and attempted kidnapping. The conflict was compounded when two children were
assassinated by a hitman allegedly paid by the company Hydro Santa Rita. The hitman ended up paying with his own life, as the community carried out justice on their own (Peace Brigades International, 2014).

For the first time, the CDM Board considered one allegation against a project concluding that the participations requirements were not properly performed, a situation that was also confirmed the UN Special Rapporteur on the Rights of the Indigenous Peoples (Peace Brigades International, 2014).

The CDM Board requested that the validation institution review the assessment of the project regarding the lack of community participation, for which it replied that “the environmental impact assessment (EIA) was not conducted to fulfill a UNFCCC’s requirement, this assessment was undertaken to meet the Guatemalan regulatory framework” (CDM Executive Board, 2013: 1). Despite the high level of conflict and the request for review, in 2014 the Santa Rita power plant was approved under the framework of the CDM.

An agreement between national and local authorities, business sectors and community stakeholders was signed with the intention of starting the operation of the Hydro Santa Rita and resolve the conflict. However, it has not been enough since violent conflicts remain in the territory.

4.3. Baba Ecuador

4.3.1. Context and project’s features

The Baba Multipurpose Hydroelectric Project began to be developed in 2006 in the provinces of Guayas, Manabí and Los Ríos and is run by the company Hidroeléctrica Nacional Hidronación S.A. It is expected that the new hydroelectric generation would be able to produce 42 MW per year, and reduce 318,991 tCO2e per year, which represents 2,232,937 tCO2e over the 7-years crediting period (UNFCCC, 2006). The AE/DOE responsible for the validation of the project is the German group TÜV SÜD Industrie Service GmbH.
From the beginning of the project, there was a risk of the flooding of 3,000 hectares of land, related with the aim of directing water to the Daule Peripa dam (Greyl, 2014). The project would affect a total of two areas, Buena Fe and Valencia, which included a population of over 80 thousand inhabitants and more than 40 communities, precincts or settlements. These communities directly affected also included two Afro-Ecuadorian communities, the Ceiba and Corriente Grande, which are settled in the floodplain (Kopas and Astrid Puentes, 2011).

4.3.2. Institutional Framework

Ecuador has subscribed to various rights treaties and protocols that are in conflict with the course of the Baba Project. For instance, this country has recognized the American Convention on Human Rights, regarding the rights to receive information as well as the rights of using and enjoying of property. Also, the project infringes on the Additional Protocol in the area of Economic, Social and Cultural Rights, which states the rights to health, food and a healthy environment. Furthermore, the Convention 169 of the International Labor Organizations is violated, regarding the right of decisions of Afro-Ecuadorian communities (Lawrence, 2008) which are impacted by the social, economic and environmental consequences of the Baba hydroelectric project.

The national legal framework also includes the recognition of rights of participation in the case of environmental policies, comprised in the Articles 28 and 29 of the Environmental Management Law, which declares that any person has right to participate in the environmental management through a set of established mechanisms such as consultations, public hearings, initiatives, proposals or any association between public and private sector. Also, the law incorporates the right to denounce violations of this rights, which will be considered as reasons to dissolve project contracts. Furthermore, Article 29 declares the right to be informed timely and sufficiently regarding any activity with potential environmental impacts, allowing citizens to carry individually or collectively activities to submit claims to the authorities (Congreso Nacional de Ecuador, 2004).
4.3.3. The inclusion of participation in the project validation process

The PPD states that stakeholder’s participation has played a main role in both stages, elaboration and validation of the Project, as well as the Environmental Ministry, which has kept a supervision role (UNFCCC, 2006).

Primarily, in the meanwhile, the ToRs offered three mechanisms to allow inputs from community. Firstly, a Public Information Center was created in order to report to the community and also to collect their comments and concerns. However, several critiques have been made regarding the lack of availability of the information in local languages and the arbitrariness in the selection of people to interview. Secondly, 35 interviews with stakeholders’ representatives were carried out to comply with the Environmental Management Law.

Furthermore, workshops and working groups were developed, also with the aim to receive comments from the community and allow citizens to interact with the representatives of the Environmental Ministry, CONOLEC and the company Hidronación (UNFCCC, 2006). During a second stage, before the final presentation of the Definitive Environmental Impact Assessment, a new stage to receive comments from the community was opened, involving the Public Information Centre and a public presentation of results.

In addition, the company adopted the compromise of publishing all the progress regarding the Hydroelectric Projects on its webpage. After the comments were received and in order to comply with the Ecuadorian Law, the original project was modified substantially, lowering the extension of areas to flood, the number of relocated people, the affected infrastructure, houses and roads.

4.3.4. Course of the conflict and negotiation between stakeholders

Letters from several human rights and environmental organizations have been issued to the project validator denouncing the lack of participation and the
company’s noncompliance with national and international laws. One of the letters from the NGO International Rivers, highlights that

MBHP should not be positively validated for the following reasons: [...] The VVM guidelines lead to a negative assessment of the additionality of this project. Previous violence and intimidation against members of communities affected by the project does not allow for open stakeholder consultants as is required for all CDM projects, since community members could likely not state their honest opinions on the project without fear of repercussion. Further, stakeholder consultations requirements have not been met, since very few project stakeholders were invited to attend the consultations, and requests for information about the project by project stakeholders went unanswered. The Environmental Impact Assessment still ignores many of the expected project impacts. [...] Any case where there is intimidation or the violent suppression of protest, the public consultation requirements cannot be considered as met, for the people “participating” are fearful of the repercussions of expressing their true views about the project. Such a project should automatically be negatively validated, as not having met the public consultation requirements. In the case of this project activity, the intimidation was extreme. (Haya, 2008)

International organizations also denounced forced relocations, practices of violence, intimidation, harassment against community leaders, as well as one alleged murder of a member of the community after requesting legal support from the Ecumenical Human Rights Commission against the dam (Lawrence, 2008).

The Final Environmental Impact Study recognized just 191 people as directly affected by the PMB, which are considered the only families to be displaced by the creation of the reservoir. However, studies of organization Acción Ecológica conclude that the number of displaced will be much higher, estimating a total of 1,773 people living in the area (Kopas and Astrid Puentes, 2011).

As a result of the flaws recognized in the ex-ante reports, in December 2008 the Constitutional Court of Ecuador concluded that the authorization and
implementation of the project in the way that it was being carried out violated human rights, including healthy environment, consultation and citizen participation. Therefore, the Court ordered a review of the environmental license by the Ministry of Environment and to the Comptrollership General's Office, which was to conduct an audit of the project authorization (Kopas and Astrid Puentes, 2011). Despite the ruling of the Court, work continued.

The construction of the Baba dam was completed in 2013, after the government’s decision to conduct a series of community consultations considering the strong opposition to the project. These helped to develop modifications to the original project and established compensation to those affected, as well as incorporating various assessment agencies.

4.4. Marañón, Peru

4.4.1. Context and project’s features

The Marañón Hydroelectric Project consists in the development of a Hydroelectric Power Plant situated in the upper basin of the Marañón river, which is surrounded by the communities of Palanca, Cascanga, Quivilla and San Lorenzo de Pachas, crossing the districts of Llata, Jacas Grande, Quivilla and Pachas and the provinces of Huamalíes and Dos de Mayo, which are located in the Huanuco region. The Project was proposed and developed by the Hidroeléctrica Marañón S.R.L., which later was acquired by the company Celepsa. It would be able to achieve an installed capacity of 88.3 MW. It is calculated that the amount of reductions that the Hydroelectric can achieve would be around 270,194 tons of carbon dioxide per year (UNFCCC, 2012).

Plans are underway to build around 20 hydro projects on the Marañón River, for which it is estimated that floods would cover several areas, which largely correspond to two indigenous communities: the Awajún and the Wampis (International Rivers, 2011).
4.4.2. Institutional Framework

Peru's Congress has created an organization called National Environmental Fund which is, in conjunction with the National Environment Council, responsible for carrying out activities intended to promote, analyze and evaluate projects financed by the CDM. This body develops research work, analysis and monitoring of CDM's projects. Also, Peru has maintained great acknowledgment of indigenous rights, ratifying international protocols as well as promoting local regulations.

The country recognizes the rights enshrined in the International Labor Organization, the Indigenous and Tribal Peoples Convention, the American Convention on Human Rights and the UN Declaration on the Rights of Indigenous Peoples. Furthermore, since 2012 Peru has a particular law which declares the right of Consultation to Indigenous or Native Peoples, which establishes

It is the right of Indigenous peoples or native to be consulted previously about the legislative or administrative measures that directly affect their collective rights, on their physical existence, cultural identity, quality of life or development. Also appropriate is to make consultation on plans, programs and national and regional development projects that directly affect these rights. (Congress of the Republic of Peru, 2012: 1)

However, a new bill approved by the Commission of Energy and Mines would limit the instances of participation, since it proposes to declare hydroelectric plants as projects of public necessity and national interest, to facilitate the construction, operation and concessions of hydroelectric projects, and in particular promote hydroelectric power stations with a capacity greater than 20 megawatts (Comisión de Energía y Minas, 2013). In this law, the stakeholder’s participation is not part of the requirements for the approval of projects.

4.4.3. The inclusion of participation in the project validation process
According to the Project Document and the validation report, various instances were developed in order to comply with the stakeholder participation requirements, such as informative workshops, 49 surveys to the authorities of four communities and interviews. Furthermore, a final diffusion workshop in two stages was developed also with four communities: Quivilla and Cascanga, and following Quiullapampa and Palanca, in which 104 people participated. The workshops were focused on offering information regarding CDM, climate change and the benefits of conducting the project (UNFCCC, 2012). The validation report confirms that the inputs from stakeholders were properly included in the final project document.

Different types of compensations were negotiated between the company and the community regarding the negative impacts of the hydroelectric Marañón. The company compromised by offering medical services, book donations for school libraries, training workshops, grants for technical studies as well as advancements in the development of septic tanks (UNFCCC, 2012). However, several complaints were made by people from Palanca community regarding discrimination and lack of fulfillment of the social and environmental responsibility agreements.

4.4.4. Course of the conflict and negotiation between stakeholders

One of the critiques of the project made by the NGO International Rivers (2011) is focused on the lack of veracity and omission of information in the PDD. For instance, relationship between the Marañón Project and controversial mining projects in northern Peru is not mentioned, which since 2006 has been owned by the same company: Hidroeléctrica Marañón S.R.L. Several indigenous communities are against this mining project, Conga, which due to the overuse of water is contributing to the disappearance of many lagoons (International Rivers, 2011).

In the context of discussion regarding the effects of the installation of dams on the Marañón River, a Working Group on Hydropower Plants in the Marañón was created in the National Congress. They made a report addressed in particular to a set of organizations which have made several complaints regarding the feasibility and harmful effects of the project, such as the Commission of Andean Peoples,
Amazonian and Afro-Peruvian Peoples, Environment and Ecology, Law, Environment and Natural Resources (DAR), Peruvian Society of Ambiental Law (SPDA), ProNaturaleza, Central Ashaninka of the Ene River (CARE), Forum Solidaridarity Peru, Rainforest Foundation UK, Rural Education Service (SER), CIMA Cordiller Azul, International Rivers and the Center for Environmental Sustainability from the Cayetano Heredia Peruvian University (CSA-UPCH). The report casts doubt on several of the official arguments which were used in defense of the construction of dams on the Marañón, putting into focus that the main economic beneficiary of the installation of the projects is Brazil, considering that the Energy Agreement signed on 16.06.2010 between Peru and Brazil has implications in terms of energy security, as a consequence its implementation would cause serious environmental consequences for the Peruvian Amazon and affect the right of local and native population (Guevara Amasifuen and Inga Vásquez, 2012: 15).

So also the report underlines the potentially severe impacts on indigenous territories, involving large displacement of communities, as well as the loss of food supplies and fishing. It also emphasizes the lack of clarity and details of the conditions and requirements to perform impact analysis of the projects (Guevara Amasifuen and Inga Vásquez, 2012). Meanwhile, they make a call to repeal the Decree, which was also rejected in 2014 by the Commission of Foreign Affairs of the Congress of the Republic.

Also, the inhabitants of the affected villages have organized among themselves and with NGOs in order to carry out measures to protest and raise their claims, constituting a Committee for the Fight against the Threats of Marañón Hydroelectric’s Projects in the Territory Awajún. They have also joined other neighboring communities also seeking the annulment of the controversial decree.

Meanwhile, the government acts as the mediator in the conflict between the company and the community, which has so far only raised documents promising dialogue forums. Meanwhile, the hydroelectric plant is under construction (Servindi, 2016).
Chapter 5: Discussion and results

This section is intended to analyze the results of the research, so as to interpret whether the hypothesis and objectives initially proposed were accomplished and how. Additionally, assessing the importance of the results is attempted, taking into account the previous researches, as well as identifying constraints and ways to take them into account in future researches.

This research has allowed us to fulfill the initial objectives regarding the interest in deepening the debate concerning the rights granted to stakeholders' participation in the decision-making process within the CDM. Furthermore, the role of the DNA and the institutional design of the cases regarding the inclusion of participatory mechanisms has been explored, as well as analyzed, taking into consideration its quality and social effects.

At the beginning of this investigation, the question 'What are the conditions that influence the quality of stakeholder's participation in the CDM's decision-making process?' was proposed, assuming that the satisfactory quality of participation depends on the institutional mechanisms in place to ensure accountability and enforce compliance with the national and international regulations. After analyzing the results provided by previous research and the presented study cases, it is concluded that the proposed hypothesis was partially fulfilled. Returning to the initially presented types for evaluating the quality of participation, the cases can be assessed as shown in Table 3.

Going back to the aforementioned hypothesis, different patterns are observed in the two different stages studied. After analyzing the cases, we agree with Lövbrand et al. (2009) regarding the large margin of arbitrariness that exists prior to the validation of the projects, which added to the complexity of such type of projects, are producing a limitation in the conditions for participation. Also, the initial problem is not related to the lack of compliance with the rules, but directly to the lack of clear guidelines to carry out properly the instances for stakeholder's participation. There are no criteria mandating how to record what goes on nor how to incorporate the comments. At the same time, there is no control over the validator agencies. So the
inclusion of institutional mechanisms to ensure accountability and enforce compliance would put the focus on the input legitimacy, as long as more clear, inclusive and transparent processes are included.

*Table 3: Analysis of the Quality of Participation*

<table>
<thead>
<tr>
<th></th>
<th>During the validation process</th>
<th>After Validation Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barro Blanco, Panama</td>
<td>Low</td>
<td>Low</td>
</tr>
<tr>
<td>Santa Rita, Guatemala</td>
<td>Medium</td>
<td>Low</td>
</tr>
<tr>
<td>Baba, Ecuador</td>
<td>Medium - High</td>
<td>Medium - High</td>
</tr>
<tr>
<td>Marañón, Peru</td>
<td>Medium - High</td>
<td>Medium - High</td>
</tr>
</tbody>
</table>

Note: Own elaboration.

In the second stage examined, after validation, the proposed hypothesis is checked in regard to the competence of each DNA. We agree with Michaelowa (2005) that each DNA plays a decisive role in the design and fulfillment of conditions to ensure stakeholder participation. In particular, the lack of rules is not a condition that limits participation, as it is rather the lack of mechanisms and institutions for controlling, monitoring and auditing. Cases where existing autonomous bodies, either in the Legislature or Judicial Branch carry out accountability processes and create opportunities for interaction with citizens involved, countries and projects have increased the level of responsiveness and effectiveness regarding citizens' interest.
There is a dilemma, because on the one hand the countries have a growing need to find new sources of clean energy, which has been reflected not only in the politics but also in regulations, laws and decrees in the cases studied. Also, the inclusion of stakeholder participation is costly in terms of money, time and difficulty of being able to match individual visions with the need to develop long-term projects. However, we note that the general population is not initially against hydroelectric projects, but opposed to the conditions under which decisions are made, the lack of respect for rights, the shortage of information and the unclear communication.

In the four cases, a high level of formal recognition of declarations, international treaties, protocols and national laws regarding the rights referred to environmental issues and indigenous communities are incorporated, including extensive privileges over their territories and resources. However, the mere presence of these rights has not played any substantive role in the compliance with these regulations, in so far as they are not concretely incorporated in all cases through local regulations and institutions in charge of monitoring and developing consistent policies. It is worth mentioning the case of Peru, which has a specific law to ensure the participation of indigenous peoples through compulsory prior consultation, which although it is recognized in Convention 169 of the International Labor Organization (ILO), not all the signatories’ countries have institutionalized it.

In relation to the institutional framework of offices responsible for CDM projects, it shows that Ecuador and Peru have more solid structures for the management of such projects studied, which have allowed them to carry out a more rigorous control over the activity of project participants. This has been fundamental in the post-project validation stages, while neither case has appropriately carried out instances tending to an inclusive and effective participation. However, a degree of independence of powers has allowed the judicial branch in Ecuador to take action and request an audit and management reports in the project management process that the Environmental Ministry was conducting. Also in Peru there is an institutional framework to hold these kinds of projects because of the existence of a special coordinating entity for CDM projects, the FONAM. There are also several institutions
in different bodies fulfilling control functions for approved projects in the Executive branch.

The first stage of participation analyzed consisted of the stakeholder engagement process prior to final validation. The striking thing at this stage is that there are regulations established by the CDM EB regarding instances that have to be undertaken to ensure participation, such as LSC and GSC. However, these regulations have a macro format, are non-binding and do not detail specific requirements to perform this instance. Therefore, the existing formal requirements are easy to accomplish. This reveals a serious deficiency of regulations proposed by the CDM EB, as the high degree of arbitrariness allow a wide scope for companies’ actions.

Furthermore, the institutions responsible for the validation of the statements made by the companies in the project documents, considered that everything said by the company was met 100 percent. Even considering that none of the PDD included support elements to verify that participation had been carried out, or provided at the most pictures and summaries of comments, there is no systematic registration of comments, nor any guarantee of having included indigenous languages in these instances. Details regarding persons invited, selection criteria and the conditions of the meetings are absent or partial.

Likewise, a lack of analysis for sample selection is remarkable, as well the disregard for the socio-demographic characteristics of each area, the identity of each of the communities involved and the indigenous people’s regulations. Cases of violence, threats and persecution in the context of protests or attempts to participate in any of the instances proposed requires a reflection on the need to create legal, structural and personal safety measures to ensure conditions and guarantee the already limited instances of participation.

In all cases, the role of international and civil society organizations as pressure engines to spread the transgressions of rights within the framework of the projects analyzed should be noted. This can be seen on the website of the CDM, in which large NGOs are the only group that sent comments to the EB. It is remarkable
particularly in Guatemala, where for the first time the CDM EB requested to review the validation of a project as a consequence of international pressure.

Correspondingly, the degree of exclusion of the population involved in the health system, education, and lack of basic services and poverty has been related to its low participation in the process and lack of tools to influence the decision-making process. Meanwhile, we have not found a link between the quality of participation and the condition of being indigenous, but have found rather that the quality is linked to a lack of clarity in terms of who are the local leaders.
Chapter 6: Conclusion

The research has delved into the quality of the instances of participation in the framework of hydroelectric projects funded by CDM in four Latin American countries: Panama, Guatemala, Ecuador and Peru. The initial hypothesis assumed that the quality of participation was contingent upon the inclusion of mechanisms to ensure accountability and enforce compliance with the national and international regulations.

The study found that there are different patterns regarding the quality of participation: before the validation of the project and after. In the first stage, the regulations proposed by the CDM are followed, which have a broad framework for action that allows companies to easily comply with the participation requirements, without involving an inclusive and effective participation. Also, there are no mechanisms of accountability, which deepens this wide range of action by the project developers and the DNA.

Meanwhile, the quality of after-validation participation has no direct relationship with the regulations but is in great part conditioned by the DNA’s informal practices and the inclusion of other agencies that control their activity. The independence of the accountability agencies and the role given to CSOs allows for improvement in the quality of participation and responsiveness, not necessarily directly but through their representatives.

The actor-centered institutionalism approach has been useful to understand the complexity of the conditions that shape the instances of participation in the CDM and its quality, considering that are influenced by both formal and informal institutions, which has generated a great challenge because of the difficulty of access to key information. However, it has allowed us to have an approach to the institutional setting, the different conceptions that actors have of the problems, the complexity of interests involved, the constellations, the choices policies and the strategies deployed.

We believe it would be interesting to deepen this research to include a greater number of projects, as well as different types, in order to analyze the variation of examined conditions. Also, it would be fruitful to include primary sources to review
the positions of the actors involved, beyond formal institutions and regulations, which has been a limitation of this research.

Likewise, future lines of inquiry should deepen the way that participation influences the objectives of the CDM, both in emission reduction and to achieve SD. So, it would also be important to focus on the design and inclusion of institutional mechanisms to improve accountability, transparency of projects, and to analyze what conditions can improve the quality of input legitimacy. It would be interesting to focus on other incentives that can be included to engage citizens with big energy generation projects, stimulating some kind of legitimation and taking into account the growing involvement of private actors in the CDM and the dissemination of political authorities.

The CDM has been analyzed in the overall context of a new model of environmental governance, in which the *multi-stakeholderness* would be able to allow more horizontal and transparent participation, and so close the inequality gap between North and South. The importance of strengthening the participation mechanisms is based not only on the need to give legitimacy to the new mechanisms for structuring relations in the international arena, but also on giving effectivity to specific problems such as the climate change, and compliance with human and environmental rights.

The lack of commitment of international organizations and countries to the effective inclusion of people affected in environmental policies not only results in conflict and injustice, but limits the joint search for solutions in the long term, and gives centrality to private interests. The first step to give priority and make progress on an integral and inclusive solution to global climate change is to rethink the institutions that caused the problems and the inequality that we want to address.
References


Declaration of Honor

I, María Lucía Viscuso, herewith certify that in the course of preparing this Master’s Thesis did not consult the help of another person or made use of a different source other than the ones stated above. I have indicated the positions where I adopted the exact or abstract content of a source and credited its origin. This document has never been presented to any other examination board in this or any similar format.

I am aware of the fact that any false declaration will lead to legal consequences.

September 1st, 2016