Rethinking sustainability through pluriculturalism: integrating Indigenous Knowledge into International Environmental Law

Isadora Camplà Morales[*]

A. Introduction

'To universalise, it is important for everyone to be involved in the creative work of humanity', suggested Alioune Diop, expressing his call to 'de-Westernise in order to universalise'.[1] In this spirit, pluriculturalism can be understood as the necessity of allowing diverse legal cultures and traditions to shape normative processes, moving beyond a historically Western and monolithic approach to the production of legal norms. This paper examines how the integration of Indigenous knowledge into international environmental law has contributed to rethinking sustainability through a pluricultural lens, while highlighting the structural limits of this devel-

* PhD Candidate in International Law, University of Paris 1 Panthéon-Sorbonne (IREDIES). Teaching Assistant (*Chargée de travaux dirigés*) in Constitutional Law and Public International Law at the same institution. Master's degree in International, European, and Comparative Law, University of Toulouse 1 Capitole. Email: isadora.campla-morales@univ-paris1.fr.

1 Alioune Diop, 'Le sens de ce Congrès (Discours d'ouverture)' (Deuxième congrès des écrivains et artistes noirs, Rome, 26 March to 1st April 1959). This and all further quotes are translated by the author of this paper.

opment, particularly at the intersection with international economic law. Indigenous knowledge is a part of what is referred to as traditional[2] ecological[3] knowledge (TEK)[4], that can be defined as:

> A cumulative body of knowledge and beliefs, handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment. Further, TEK is an attribute of societies with historical continuity in resource use practices; by and large, these are non-industrial (…) societies, many of them Indigenous or tribal.[5]

From an interdisciplinary perspective, there is consensus that such knowledge systems contribute meaningfully to sustainability goals, such as climate action.[6] In particular, the Intergovernmental Panel on Climate Change (IPCC) 'recognises the value of diverse forms of knowledge such as scientific, as well as Indigenous knowledge and local knowledge in understanding and evaluating climate adaptation processes and actions to reduce risks from human-induced climate change.'[7] These considerations influence policymaking and are increasingly incorporated into the development of a legal framework to address climate change. Not only has this shift had consequences for substantive law, but it has also impacted normative pro-

2 'Many scholars prefer to avoid using the term traditional. As well, some purists find the term unacceptable or inappropriate when referring to societies such as Native northern groups whose lifestyles have changed considerably over the years.': Fikret Berkes, 'Traditional Ecological Knowledge in Perspective' in Julian T. Inglis (ed.), Traditional Ecological Knowledge: Concepts and Cases, International Program on Traditional Ecological Knowledge (1993), p.3.

3 'The term ecological knowledge poses definitional problems of its own. If ecology is defined narrowly as a branch of biology in the domain of Western science, then strictly speaking there can be no TEK; most traditional peoples are not scientists. If ecological knowledge is defined broadly to refer to the knowledge, however acquired, of relationships of living beings with one another and with their environment, then the term TEK becomes tenable.': ibid.

4 This paper uses these terms interchangeably, while recognising that they are Western designations which, as noted in the preceding footnotes, raise certain conceptual difficulties.

5 Fikret Berkes, Sacred Ecology (4th edn 2018), p.8.

6 United Nations Sustainable Development Goals (SDGs), are a 17-goal framework aiming to end poverty, reduce inequality, promote environmental protection, and ensure shared prosperity by 2030.

7 IPCC, Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change' in H-O Pörtner et al (eds.) (2022), p. 7.

cesses themselves at an epistemic and cultural level; as Professor Jacinta Ruru notably argues, 'Indigenous peoples have forcefully challenged the mono-cultural nature of the western legal system, including international law.'[8]

This article is divided into four main parts. Following this introduction (*A*), the first section (*B*) explores the epistemological and ontological shifts in international environmental law, with particular attention to the role of Indigenous knowledge in the biodiversity regime, the legal expression of sustainability's intergenerational dimension, and the ontological paradigms that shape legal relationships with the environment. The second section (*C*) turns to the structural resistance to pluriculturalism at the crossroads of environmental and economic international law. It examines the limited recognition of Indigenous peoples within the economic apparatus, the challenges of transculturation under economic frameworks, the procedural obstacles to recognising Indigenous legal systems, and the functional dissonance between economic and environmental regimes. The final section (*D*) offers some concluding reflections.

B. Epistemological and ontological shifts in Environmental Law

I. Impact of Indigenous Knowledge on the biodiversity legal regime

Although Indigenous peoples are still marginalized in various ways, Indigenous knowledge is being increasingly acknowledged by the international community as a valuable source[9] for rethinking sustainability and environmental governance. Numerous international instruments emphasize the importance of traditional knowledge in this context, from foundational agreements such as the 1992 Convention on Biological Diversity (CBD)[10]

8 Jacinta Ruru, 'Indigenous Peoples', in Lavanya Rajamani/Jacqueline Peel (eds.), The Oxford Handbook of International Environmental Law (2nd edn, 2021), p. 735.

9 Traditional knowledge has its own inherent value, independently of the international community's recognition. Cf. 'J'espère ne pas être accusé de colonialisme mental en attribuant à l'Europe le rôle qui lui revient historiquement : celui du Moi, ce qui nous réserve à nous la position de l'Autre.' (in translation: I hope not to be accused of mental colonialism by attributing to Europe the role that historically belongs to it: that of the Self, which leaves us with the position of the Other): Sergio Paulo Rouanet, 'Regard de l'autre, regard sur l'autre' (2001) Diogène n°193, p. 5.

10 See Art. 8 (j).

and its 2010 Additional Nagoya Protocol,[11] to more recent developments such as the BBNJ Agreement of 2023.[12]

Within the biodiversity legal regime, a striking example of the epistemological and ontological impacts of Indigenous knowledge is the adoption of the Kunming-Montreal Global Biodiversity Framework at the 15th Conference of the Parties (COP 15) to the CBD in 2022. This instrument 'acknowledges the important roles and contributions of Indigenous peoples and local communities as custodians of biodiversity and as partners in its conservation, restoration and sustainable use.'[13] The Kunming-Montreal Framework is an important manifestation of pluriculturalism since it represents a shift from the dominant Western paradigm of the environment and reflects a growing engagement with diverse ontologies. For instance, in the subsection titled 'Different value systems', it mentions 'Mother Earth', which is a reference to the Pachamama of Andean cosmogony. Besides, it states the importance of 'living in harmony with nature and living well in balance and harmony with Mother Earth', referencing the Quechua concept of *sumak kawsay*, which could be translated as 'good living'. This concept envisions an alternative paradigm rooted in collective well-being, reciprocity, and respect for nature.

Admittedly, the participation of Indigenous peoples in the adoption of this instrument was significant. Nevertheless, although manifestations of pluriculturalism are emerging within international environmental law, they do not yet translate into equitable participation in global normative forums. The representation of Indigenous peoples remains limited, uneven, or largely symbolic, even when their knowledge systems actively contribute to reshaping dominant conceptions of sustainability.

11 The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity. See Preamble, Art. 7 and Art. 12.

12 Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction. See Art. 7 (j), Art. 13, Art. 19.3, etc.

13 CBD/COP/DEC/15/4, p. 5.

II. Legal expressions of sustainability's intergenerational dimension

Indigenous legal systems that draw from Indigenous knowledge tend to be considered inherently sustainable,[14] notwithstanding the fact that 'sustainability' itself is a Western concept subject to some critique.[15] The earliest and most widely cited definition emerged with the Brundtland Report 'Our Common Future' of 1987, which defined sustainable development as 'the ability to make development sustainable to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs.'[16]

The intergenerational approach to environmental obligations was already embedded in Indigenous legal traditions long before it was articulated by Western legal systems. For instance, the concept of *Ixofil Mongen* of the Mapuche people promotes 'social and intergenerational solidarity'.[17] Similarly, in the case of the Kanaka Ōiwi, the 'knowledge is passed down by *na kapuna* (elders) to *na makua* (the present generation) for the benefit of *na opio* (future generations).'[18]

Since the very notion of sustainability is inseparable from its intergenerational dimension, several international instruments evoke the principle of intergenerational equity, such as the 1992 Rio Declaration,[19] as well as the 2018 Escazú Agreement.[20] Following that logic, the United Nations General

14 However, this is not the case in all Indigenous resource management systems. For a critical point of view, see: Peter Ørebech et al., The Role of Customary Law in Sustainable Development (2005), p. 365 et seq.

15 For an example of critique, see: Subhabrata Bobby Banerjee, 'Who Sustains Whose Development? Sustainable Development and the Reinvention of Nature' (2003) 24(1) Organization Studies 143 <https://doi.org/10.1177/0170840603024001341> (last accessed: 22 May 2025).

16 Gro Harlem Brundtland, Our Common Future: Report of the World Commission on Environment and Development (1987) UN Doc A/42/427, ch. I(3), para. 27.

17 Salvador Millaleo Hernández, 'Guarda de la Naturaleza: Conocimientos Ecológicos Tradicionales de los Pueblos Indígenas y Estrategias de Protección' (June 2020) (13) Cadernos de Dereito Actual, p. 210.

18 Maxine Burkett, 'Indigenous Environmental Knowledge and Climate Change Adaptation' in Randall Abate/Elizabeth Ann Kronk Warner (eds.), Climate Change and Indigenous Peoples: The Search for Legal Remedies (2013), p. 115.

19 Rio Declaration on Environment and Development, UN Doc A/CONF.151/26, Principle 3.

20 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) UN Doc LC/PUB.2018/8, Art. 3.

Assembly adopted a Declaration on Future Generations in September 2024, as an annex to the Pact for the Future.[21] The Pact aims to 'protect the needs and interests of present and future generations' and seeks to 'foster synergies between science and technology and traditional, local, Afrodescendant, and Indigenous knowledge, systems, practices, and capacities'[22] in pursuit of that goal. Although this is a soft law instrument, it signals an emerging normative tendency.

Certain jurisdictions have clarified the contours of this trend. Notably, the Inter-American Court of Human Rights – hereinafter, 'the I/A Court' – has shown a tendency to adopt an intergenerational perspective, at least since the 2001 case *Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, where the Court stated that 'for indigenous communities, relations to the land are not merely a matter of possession and production but a material and spiritual element that they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations.'[23] The issue of intergenerational equity became well established in case law with regard to Indigenous or tribal peoples' rights, particularly about land rights, as the ancestral lands represent a connection with future generations.[24]

In the case of *the inhabitants of La Oroya v. Peru*, the I/A Court addressed severe environmental contamination caused by the La Oroya metallurgical complex, including pollution of air, soil, and water. The Court found that this contamination resulted in serious harm to human health, notably dangerously high levels of lead in the blood of local children and adversely affected the surrounding environment. In this case, the Court

21 UN General Assembly, A/RES/79/1, 22 September 2024, Action 32.

22 Ibid., para. 56 (a).

23 I/A Court H.R., *Case of the Mayagna (Sumo) Awas Tingni Community* v. *Nicaragua*. Merits, reparations and costs. Judgment of 31 August 2011. Series C nº79, para. 149.

24 See I/A Court H.R., *Case of the Moiwana Community v. Suriname*. Preliminary objections, merits, reparations and costs. Judgment of 15 June 2005. Series C No. 124, para. 131, *Case of the Indigenous Community Yakye Axa v. Paraguay*. Merits, reparations and costs. Judgment of 17 June 2005. Series C No. 125, para. 121, *Case of the Indigenous Community Sawhoyamaxa v. Paraguay*. Merits, reparations and costs. Judgment of 29 March 2006. Series C No. 146, para. 118, *Case of the Saramaka People v. Suriname*. Preliminary objections, merits, reparations and costs. Judgment of 28 November 2007. Series C No. 172, para. 90, *Case of the Garífuna Community of Triunfo de la Cruz and its Members v. Honduras*. Merits, reparations and costs. Judgment of 8 October 2015. Series C No. 305, para. 101.

extrapolated explicitly the 'principle of intergenerational equity'[25] to all components of society, going beyond an Indigenous context, as a general standard linked to the precautionary principle.

In a similar fashion, the European Court of Human Rights in the *Verein Klimaseniorinnen Schweiz* v. Switzerland case of 2024 underlined the issue of 'intergenerational burden-sharing, both in regard to different generations of those currently living and in regard to future generations.'[26] In this case, the Court upheld the application brought by the association *KlimaSeniorinnen Schweiz* (Senior Women for Climate Protection), marking the first time in climate litigation that a State was found to have violated human rights on the basis of inaction. The Court's legal reasoning is particularly noteworthy, as it justified the principle of burden-sharing, despite the fact that 'the legal obligations arising for States under the Convention extend to those individuals currently alive.'[27] It added, in an innovative manner, that 'future generations are likely to bear an increasingly severe burden of the consequences of present failures and omissions to combat climate change' having 'no possibility of participating in the relevant current decision-making processes.'[28] The Court further relied on the fact that, under the United Nations Framework Convention on Climate Change (UNFCCC), States Parties have undertaken the obligation to protect the climate system for the benefit of present and future generations of humankind.[29]

This analysis could suggest a reversal of the traditional direction of legal transplants, from the Global North to the Global South,[30] as some legal transplants now originate in the Global South and are being incorporated into hegemonic systems or, more largely, legal systems of the Global North. As noted, 'environmentalists in the Western world have been much impressed with the idea of intergenerational obligations; it is an idea which

25 I/A Court H.R., *Case of La Oroya Population v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 27, 2023. Series C No. 511, para. 128.

26 ECtHR, *Case of Verein Klimaseniorinnen Schweiz and others* v. Switzerland. Grand chamber judgment of 9 April 2024, 53600/20, para. 419.

27 Ibid., para. 420.

28 Ibid.

29 Ibid.

30 '*Los trasplantes jurídicos usualmente tienen la dirección Norte-Sur* (…)' (in translation: Legal transplants usually follow a North–South direction): Daniel Bonilla Maldonado, Los bárbaros jurídicos: identidad, derecho comparado moderno y el Sur global (2020), p. 18.

speaks to all traditions',[31] a concept that had long existed within many Indigenous legal traditions before being apprehended and reformulated within dominant Western legal systems. This dynamic demonstrates that Indigenous knowledge carries significant implications for law, particularly through the ontological influence it exerts on how legal systems conceptualize their relationship with the environment.

III. Ontological paradigms shaping legal relationships with the environment

Another concept originating in Indigenous legal systems and increasingly extrapolated to broader contexts is the recognition of legal personhood for nature, primarily within domestic legal orders. This can take the form of substantive personification, as exemplified by article 71 of the 2008 Ecuadorian Constitution, which provides: 'Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions, and evolutionary processes.' Alternatively, it may take the form of procedural personification, as in Colombia, where the Constitutional Court granted legal personality to the Atrato River in 2016.[32]

Both approaches illustrate a profound ontological shift; nature is no longer viewed solely as an object of regulation but as a subject of rights. Significantly, this paradigm is now extending beyond Indigenous contexts, as demonstrated by the recognition of legal personhood for the *Mar Menor* lagoon in Spain.[33] Even in the absence of an international instrument consecrating the personhood of nature, there is evidence of a certain shift away from the hegemonic 'subject–object' dichotomy embedded in the *summa divisio* logic inherited from Roman law.

Nevertheless, an important precedent is the *World Charter for Nature* adopted by the United Nations General Assembly in 1982,[34] which states that 'every form of life is unique, warranting respect regardless of its worth

31 H. Patrick Glenn, Legal Traditions of the World. Sustainable Diversity in Law (2014), p. 80.
32 Constitutional Court of Colombia, Judgment T-622 of 2016.
33 Ley 19/2022, del 30 de septiembre, para el reconocimiento de personalidad jurídica a la laguna del Mar Menor y su Cuenca.
34 A/RES/37/1.

to man'. At the 2010 *World People's Conference on Climate Change and the Rights of Mother Earth* that took place in Cochabamba, Bolivia, a project of a *Universal Declaration of Rights of Mother Earth* was proposed – modelled after the Universal Declaration of Human Rights – although it was ultimately not adopted by the General Assembly. This initiative followed a resolution adopted in 2009 that designates 22 April as International Mother Earth Day.[35]

Extending this logic, the I/A Court first affirmed in its advisory opinion no. 23/17 that 'as an autonomous right, the right to a healthy environment, unlike other rights, protects the components of the environment, (...) even in the absence of the certainty or evidence of a risk to individuals.'[36] Going even beyond, the Court stated in its recent advisory opinion no. 35/25 that 'moving towards a paradigm that recognises ecosystems' own rights is essential for the protection of their integrity',[37] with quite a strong stance suggesting that 'this recognition makes it possible to overcome inherited legal conceptions, which conceived of Nature exclusively as an object of property or an exploitable resource'.[38] In this advisory opinion, the Court particularly insists on the importance of 'local, traditional, and Indigenous knowledge'.[39]

Hence, this tendency reflects both an ontological and an epistemological shift in the legal relationship with the environment, grounded in a pluricultural approach that finds its foundation in Indigenous knowledge, porous even to international law. However, even if provisions referencing traditional knowledge have the merit of triggering a certain epistemological 'openness' when it comes to environmental policies, these are rarely prescriptive. Rather, they tend to serve interpretative or symbolic purposes. At worst, States instrumentalize Indigenous peoples as a form of symbolic capital[40] instead of fostering genuine participation in international forums

35 A/RES/63/278.

36 I/A Court H.R., Advisory Opinion OC-23/17 (*Environment and Human Rights*), 15 November 2017 Series A, para. 62.

37 I/A Court H.R., Advisory Opinion AO-32/25 (*Climate Emergency and Human Rights*) Series A No 32, 29 May 2025, para. 279.

38 Ibid., para. 280.

39 Ibid., para. 479 et seq.

40 Jean Foyer/David Dumoulin, 'Objectifying Traditional Knowledge, Re-enchanting the Struggle Against Climate Change' in Stefan C. Aykut, Jean Foyer and Edouard Morena (eds), Globalising the Climate: COP21 and the Climatisation of Global Debates (2017), p. 154.

through a truly pluricultural dynamic, thereby reproducing colonial logics, particularly when economic considerations enter the equation.

This tension points to the limits of the apparent paradigm shift; while discourses of pluralism and Indigenous knowledge gain visibility, structural constraints embedded in international law continue to restrict their transformative potential. It is precisely at the intersection of environmental and economic international law that such resistance becomes most evident.

C. Structural resistance to pluriculturalism at the crossroads of Environmental and Economic International Law

I. Limited recognition of Indigenous Peoples in the economic apparatus

The persistence of colonial logics becomes especially pronounced in the management of natural resources, notably within extractive industries. While international environmental law has made efforts toward integrating pluricultural perspectives, international economic law continues to reflect structural patterns that marginalize Indigenous worldviews. As noted by Hindou Oumarou Ibrahim, 'Indigenous Peoples are still largely ignored by international financial institutions',[41] despite the gradual recognition of Indigenous peoples' structural inequalities and marginalization in specific international economic instruments.

Such is the case of the European Investment Bank (EIB)'s *Environmental and Social Standards* of 2022, whose Standard No. 7 sets objectives specific to projects affecting Indigenous peoples, aiming to 'foster full respect for their rights, identity, culture, and livelihoods' and, *inter alia*, to ensure that 'promoters carry out good faith negotiation with project-affected Indigenous Peoples and obtain their Free, Prior and Informed Consent (FPIC) when required'.[42] However, the EIB has also faced criticism. Before the adoption of this framework, the Special Rapporteur on the rights of Indigenous Peoples reported allegations 'concerning dams and associated infrastructures that were planned or implemented without the consent of

41 Hindou Oumarou Ibrahim, 'Opening Statement at the 23rd Session of the United Nations Permanent Forum on Indigenous Issues' (New York, 15 April 2024), https://cendoc.docip.org/collect/cendocdo/index/assoc/HASH01c2/2ed11719.dir/2_UNPFII%20Chair_Hindou%20Oumarou%20Ibrahim_Opening.pdf (last accessed: 22 July 2025).

42 EIB, Environmental and Social Standards, 2 February 2022, Standard 7, para. 8.

Indigenous Peoples, causing their forced displacement',[43] particularly in relation to a hydropower project in Nepal funded by the EIB.

With respect to trade, a significant example is the partnership agreement between the European Union (EU) and the Southern Common Market (Mercosur) reached in 2024 – hereinafter, 'EU-Mercosur agreement'– that remains yet to be implemented and enter into force. This project, in its current state, contains provisions encouraging the inclusion of Indigenous and forest-based local communities in sustainable supply chains for timber and non-timber forest products, subject to their 'prior informed consent'.[44]

Such provisions are typically found in soft law instruments, but even if incorporated into hard law instruments – as in the latter case, should the EU-Mercosur agreement enter into force – provisions concerning Indigenous peoples are rarely prescriptive. Instead, they tend to serve an interpretative function rather than creating enforceable obligations.

II. Challenges of transculturation under economic frameworks

The corpus of more 'robust' substantive law governing international trade, such as the World Trade Organization (WTO) agreements, is fundamentally built around Western paradigms of market access, private property, and standardization. A similar orientation prevails in international investment law, where principles such as non-discrimination dominate the field. As Sergio Puig observes, 'the focus on nondiscrimination among economic actors results in de facto discrimination against Indigenous peoples and a consequent rise in inequality'.[45]

Supply chains further reinforce this model by relying on uniform standards, such as International Organization for Standardization (ISO) certifications,[46] which rarely accommodate Indigenous land management systems or circular practices – and even less adopt a pluricultural dynamic. By contrast, resource management in Indigenous ancestral lands is grounded in

43 UN Human Rights Council, Report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay, 'Green financing – a just transition to protect the rights of Indigenous Peoples', UN Doc A/HRC/54/31, 21 July 2023, para. 43.

44 EU-Mercosur Trade Agreement, chap. on Trade and Sustainable Development, art. 8 'Trade and Sustainable Management of Forests', para. 2(b).

45 Sergio Puig, At the Margins of Globalization: Indigenous Peoples and International Economic Law (2021), p. 5.

46 See, for example, ISO 14001 about Environmental management systems.

communal and restricted land tenure, primarily collective rights, and local particularities inherent to customary legal systems. This divergence highlights the structural limits of pluriculturalism when international economic governance relies on orientations often incompatible with Indigenous legal traditions.

This logic is perpetuated in dominant extractive models, where resources are usually commodified without Indigenous consent, even when some instruments require free, prior, and informed consent (FPIC) or meaningful consultation[47] to be obtained when adopting measures that affect communities. Indeed, there is extensive literature[48] documenting 'inadequate, half-hearted consultation'[49] as the one that resulted in forcible occupation of *U'wa*'s ancestral lands by a petroleum company in Colombia.[50]

III. Procedural obstacles to the recognition of Indigenous legal systems

From a procedural standpoint, investor–state dispute settlement (ISDS) mechanisms tend to systematically overlook customary land tenure systems, primarily because the investment law framework – particularly bilateral investment treaties (BITs) – provides no substantive basis for recognising or incorporating customary law. Although arbitral outcomes may directly affect Indigenous rights and territories, existing procedural regimes rarely afford these communities standing or effective avenues for participation. For instance, in *Bernhard von Pezold and Others v. Republic of Zimbabwe*,[51] the International Centre for Settlement of Investment Disputes (ICSID) tribunal rejected a request by the European Center for Constitutional and Human Rights (ECCHR) and four Indigenous communities to

47 It is important to distinguish FPIC, required, for example, under Art. 16 of the ILO Indigenous and Tribal Peoples Convention 1989 (no. 169), from consultation, which is considerably less constraining from a legal perspective.

48 See, for example, Thierry Rodon et al., 'Inuit Engagement in Resource Development Approval Process:
The Cases of Voisey's Bay and Mary River' in Jennifer Winter (ed.), Protest and Partnership: Case Studies of Indigenous Peoples, Consultation and Engagement, and Resource Development in Canada (2024), p. 83 et seqq.

49 Joshua Kleinfeld, 'The Double Life of International Law: Indigenous Peoples and Extractive Industries' (2016) 129 Harvard Law Review, p. 1755, 1768.

50 Ibid, p. 1767 et seq.

51 ICSID, *Bernhard von Pezold and Others v. Republic of Zimbabwe*, Case No. ARB/10/15 (2010).

participate as *amici curiae*, holding that their submissions did not assist in resolving the dispute under the applicable treaties.

Even when Indigenous peoples have direct *locus standi*, such as in the ongoing *Casino* case[52] brought under France's *Loi sur le devoir de vigilance*,[53] structural obstacles persist. In this litigation, a coalition of Brazilian and Colombian Indigenous communities and NGOs brought a claim in March 2021; the case is now pending before the Paris Judicial Court. The claim alleges that Casino Group, through its subsidiaries in Brazil and Colombia, marketed beef linked to deforestation in the Amazon and to violations of Indigenous land rights. Plaintiffs argue that Casino failed to implement an adequate vigilance plan, as required by the aforementioned law, thereby contributing to environmental destruction and harm to ancestral lands, including those of the *Uru-Eu-Wau-Wau* community.

Despite the granting of formal standing to these communities, they must navigate a legal framework that does not recognize customary land tenure, Indigenous epistemologies, or environmental stewardship. Concerns were raised about 'subtle forms of colonialism [that] continue to be practised against the Indigenous population', underscoring that such proceedings raise fundamental questions about 'epistemological underpinnings, which appear to be very clearly Eurocentric, and remain waiting to be pluralised.'[54] This highlights a broader structural resistance, as international litigation frameworks may allow formal access but only within normative confines still profoundly shaped by Western legal traditions.

IV. Functional dissonance between International Economic and Environmental Law

At the intersection of international economic law and international environmental law lies a conceptual void, where two conflicting interests confront each other: the protection of the environment and the protection of investment. This tension becomes even more complex when Indigenous peoples' human rights are added to the equation.

52 For an overview of the case, see Pierre-Louis Choquet, 'Produire et faire circuler les preuves de la déforestation en Amazonie brésilienne' (2024) 117(2) Droit et Société, p. 266, https://droit.cairn.info/revue-droit-et-societe-2024-2-page-233?lang=fr accessed (last accessed: 2 July 2025).

53 Loi n°2017–399 relative au devoir de vigilance des sociétés mères et entreprises donneuses d'ordre.

54 Ibid., p. 267.

The prevailing dichotomy between these legal regimes, rooted in a Western conception of law that compartmentalizes different branches, can be perceived as artificial. Under the principle of the interdependence and indivisibility of human rights – starting from the premise that certain environmental law provisions can be understood as human rights norms – it becomes increasingly problematic to separate or fragment human rights and environmental protection frameworks. This is especially true given that case law increasingly affirms the interlinkage between environmental protection and Indigenous peoples' rights.[55] For instance, the *European Communities – Measures Prohibiting the Importation and Marketing of Seal Products* dispute under the WTO system[56] demonstrates that, even when Indigenous rights – in this case, traditional hunting practices of Inuit communities – and environmental protection intersect, trade law bodies treat them as distinct justifications and do not address their mutually reinforcing character and interconnection.

D. Conclusion

Indigenous knowledge has thus laid the foundation for a more pluricultural legal approach to environmental governance, particularly by challenging monolithic conceptions of sustainability and encouraging frameworks that reflect diverse human experiences. This shift is contributing to the development of an international legal regime that is increasingly responsive to the normative demands posed by climate change. Although modest, signs of an emerging paradigm shift – both ontological and epistemological – can be observed within international environmental law, as shown by the examples discussed throughout this paper. Nevertheless, it is important to recognize the limits of this progress. Provisions that reference or draw upon Indigenous knowledge remain largely non-prescriptive. For the time being, they represent a symbolic or interpretive shift, rather than a transformation of enforceable obligations.

55 See, for example, I/A Court H.R., *Case of the Indigenous Communities of the Lhaka Honhat Association (Our Land) v. Argentina*. Merits, Reparations and Costs. Judgment of February 6, 2020. Series C No. 400, para. 175.

56 Appellate Body Report, *European Communities – Measures Prohibiting the Importation and Marketing of Seal Products* (WTO Dispute DS401), 22 May 2014.

What remains largely unaddressed is the interface between international environmental law and international economic frameworks. Without resorting to a simplistic dichotomy, it is clear that economic law has remained largely resistant to this pluricultural turn. As legal sociologist Boaventura de Sousa Santos argues, these frameworks continue to operate within an 'epistemology of blindness',[57] failing to recognize alternative ways of knowing and relating to the environment – precisely because such epistemologies often conflict with the interests of economic actors. By contrast, international environmental law is gradually moving towards an 'epistemology of seeing',[58] perhaps signalling the early foundations of a pluricultural normative order.

57 This notion illustrates how dominant Western scientific and legal paradigms marginalize or erase alternative ways of knowing, while presenting themselves as universally objective and comprehensive. See: Boaventura de Sousa Santos, *Epistemologies of the South: Justice against Epistemicide* (2016), p. 136 et seqq.

58 By contrast, this concept suggests making visible the forms of knowledge, experience, and reality that have been rendered invisible by dominant epistemologies.