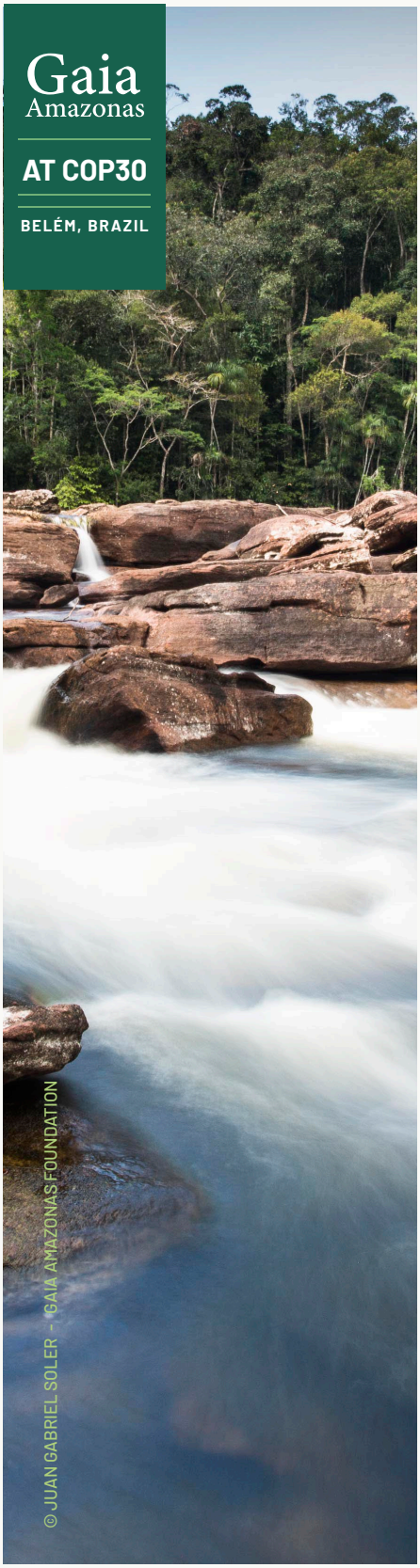

The Power of Legal Actions in the Protection of **Indigenous Territories and the Care of Life**

The Indigenous peoples of the Eastern Colombian Amazon have demonstrated that the defense of territory is expressed in different ways. The strategic use of law has sought to make visible their systems of knowledge, administration, and territorial planning, and the need to recognize their right to self-government, autonomy, self-determination, health, and their physical and cultural integrity.

The four Indigenous Governments that make up the Jaguares del Yuruparí Macro-territory[1], have resorted to various legal actions that, due to their constitutional relevance, have reached the Colombian Constitutional Court, leaving a legacy in national jurisprudence and reaffirming that law can and should be a tool for the care of life and territorial defense.

These strategic legal actions, developed with the accompaniment and guidance of the Socio-Legal Laboratory for Public Innovation of the Gaia Amazonas Foundation, have resulted in two historic rulings by the Colombian Constitutional Court: **T-248 of 2024 and T-106 of 2025.**

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1 The Jaguares del Yuruparí Macro-territory is a vast cultural system and territorial domain located in the hydrographic basin of the Vaupés River and Caquetá River, in the northeastern Colombian Amazon, encompassing nearly 8 million hectares that transcend national borders into Brazil. It is comprised of the ancestral territories of more than 30 Indigenous peoples who share the traditional knowledge of the Yuruparí shamans, upon which their systems of governance, administration, and territorial management are founded. This knowledge was bequeathed from the origin of the world by the spirits known as the Jaguares de Yuruparí, who deposited it in geographical sites and sacred elements that today constitute a common territorial and cultural integrity.

In both rulings, this High Court calls upon **Colombia's non-indigenous** institutions to:

1. **Guarantee the survival of their knowledge systems,** declared intangible heritage of the Nation in 2010 by the Ministry of Cultures and declared intangible heritage of humanity by UNESCO in 2011.

2. Ensure, not only formally but also substantially and materially, **the exercise of self-government through political, fiscal, and administrative autonomy.**

3. **Formalize the Indigenous Territorial Entities within the state's political-administrative system** to guarantee their rights to self-determination and self-government, and to facilitate coordination and articulation between Indigenous and non-Indigenous institutions.

The formalization of Indigenous Territorial Entities (ETIs), a political-administrative category established in Colombia's 1991 Political Constitution to build a plural, diverse, and decentralized State, was recognized in both Court rulings as the most appropriate path to ensure the physical and cultural survival of Indigenous peoples and to safeguard the integrity of the Amazon, and, consequently, life on the planet.



Below, **we detail these two emblematic cases where the Constitutional Court urges the Colombian State to recognize Indigenous Governments as public authorities whose decisions regarding their territories are unavoidable and binding.**

T-248 of 2024: The Colombian Constitutional Court protects the autonomy of Amazonian Indigenous peoples in its first ruling on carbon credits

Why was the tutela action filed?

The Corporation for Sustainable Forest Management (Masbosques) formulated, developed, and commercialized the REDD+[2] project Baka Rokarire ~ia tir+~dito in the Indigenous Territorial Entity (ETI) of the Río Pirá Paraná, located in the department of Vaupés (Colombia). It did so without the consent of the Indigenous Council, the highest governing body and decision-making organ of the Territory. The company unilaterally assumed this was a business transaction between private parties and signed a contract with a person who did not legally represent the Indigenous Government.

Despite the Indigenous Council's refusal, the project was approved by Ruby Canyon Environmental (as the validation or verification body) and certified by Cercarbono, which issued the carbon credits that Masbosques ultimately commercialized.

Under these circumstances, the Indigenous Council of the ETI of the Río Pirá Paraná, in collaboration with the Gaia Amazonas Foundation, filed a tutela action against these organizations to protect their self-government structures, their knowledge systems, and their physical and cultural survival.

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2 Reduction of Emissions from Deforestation and forest Degradation (REDD+)



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What did the Court find in this case?

In Ruling T-248 of 2024, the Constitutional Court found that the formulation, development, and commercialization of the REDD+ project violated several fundamental rights of the Indigenous peoples who comprise the ETI of the Río Pirá Paraná:

1. It disregarded their **Indigenous Government and their autonomous decisions** through a private contract that attempted to substitute the collective consent of the territory, and international and national human rights standards were ignored.

2. **The companies did not act diligently or in good faith** to obtain true free, prior, and informed consent, nor to prevent the negative consequences of the project.

3. **It established commitments that threaten the physical and cultural survival of the communities** by setting a 30% reduction in the area of the chagras, failing to recognize that these are a cultivation system on which their food sovereignty depends, in addition to being a space for seed preservation and intergenerational knowledge transmission.

4. **It failed to consider the social and environmental safeguards mandatory** for REDD+ projects according to the United Nations Framework Convention on Climate Change (UNFCCC) and included in the National Safeguards System.

What was resolved in this ruling?

The Constitutional Court concluded that there is insufficient and inadequate regulation in Colombia regarding REDD+ projects. Regarding these deficiencies, it states:

> "Regulation must promote a comprehensive approach to territory that recognizes the importance of Indigenous communities in the conservation of forests, jungles, and trees as greenhouse gas sinks, given that through their traditional practices they have maintained optimal ecosystem conditions for the absorption of said gases. Consequently, **if these communities are key actors in the carbon market, it is imperative to guarantee their autonomy** through the application of qualified standards, access to accurate information, effective participation in decisions, and free and prior consent."

In this ruling, the Court:

1. Recognizes the **governmental character of Indigenous peoples in their territories**, according to their own structures, including their environmental authority.

2. Recognizes that the constitution and **decisions of the Indigenous Council**, as the highest authority, have effect from the moment they are made autonomously.

3. Recognizes the **normative and regulatory authority of the Indigenous Council of the Río Pirá Paraná** to define the conditions for the development of a REDD+ project in their territory.



What is the importance of Ruling T-248 of 2024?

This decision marks a national and regional turning point by recognizing that REDD+ projects and carbon credits can constitute serious threats to the physical and cultural survival of Indigenous peoples.

Therefore, in its decision, the Court reiterated **that Indigenous peoples have a public constitutional status that implies they are authorities in their territories** and that, consequently, the implementation of carbon credits must respect their decisions and attend to their ways of life and knowledge systems.

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T-106 of 2025: a ruling that declares the physical and cultural survival of the Indigenous peoples of the Eastern Colombian Amazon at risk due to mercury contamination of their bodies and territories

Why was the tutela action filed?

The Governments of the Indigenous Territories of Yaigojé Apaporis, Miritíi Paraná, Río Tiquié, and Río Pirá Paraná of the Jaguares del Yuruparí Macro-territory filed a constitutional action against the Colombian State to protect their fundamental rights affected by gold mining and mercury contamination.

The tutela action was filed with the accompaniment and in alliance with the Gaia Amazonas Foundation with the purpose of generating a comprehensive response from the Colombian State, through intercultural dialogue and coordination with the Indigenous Governments of the Jaguares del Yuruparí Macro-territory, aimed at counteracting the impacts generated by mining activities in the eastern Colombian Amazon.

What did the Court find in this case?

EIn the ruling, the Constitutional Court declared violated the fundamental rights of the Indigenous peoples of the Jaguares del Yuruparí Macro-territory to identity, territory, self-determination, life, **physical and cultural survival**, health, food sovereignty and security, water, and a healthy environment in the face of pressures and threats from gold mining and mercury contamination.mercurio.


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The Constitutional Court identified that this risk has been generated by:

1. The absence of coordination and interinstitutional articulation between non-Indigenous public entities and Indigenous Governments.
2. The omission to formalize Indigenous Territorial Entities.
3. The disregard for the environmental and territorial competencies of Indigenous Territories and Governments.
4. The poisoning of waters, people, food, and the Macro-territory by mercury.
5. Threats to the security of authorities, people, and communities of the Indigenous Territories of the Jaguares del Yuruparí Macro-territory.

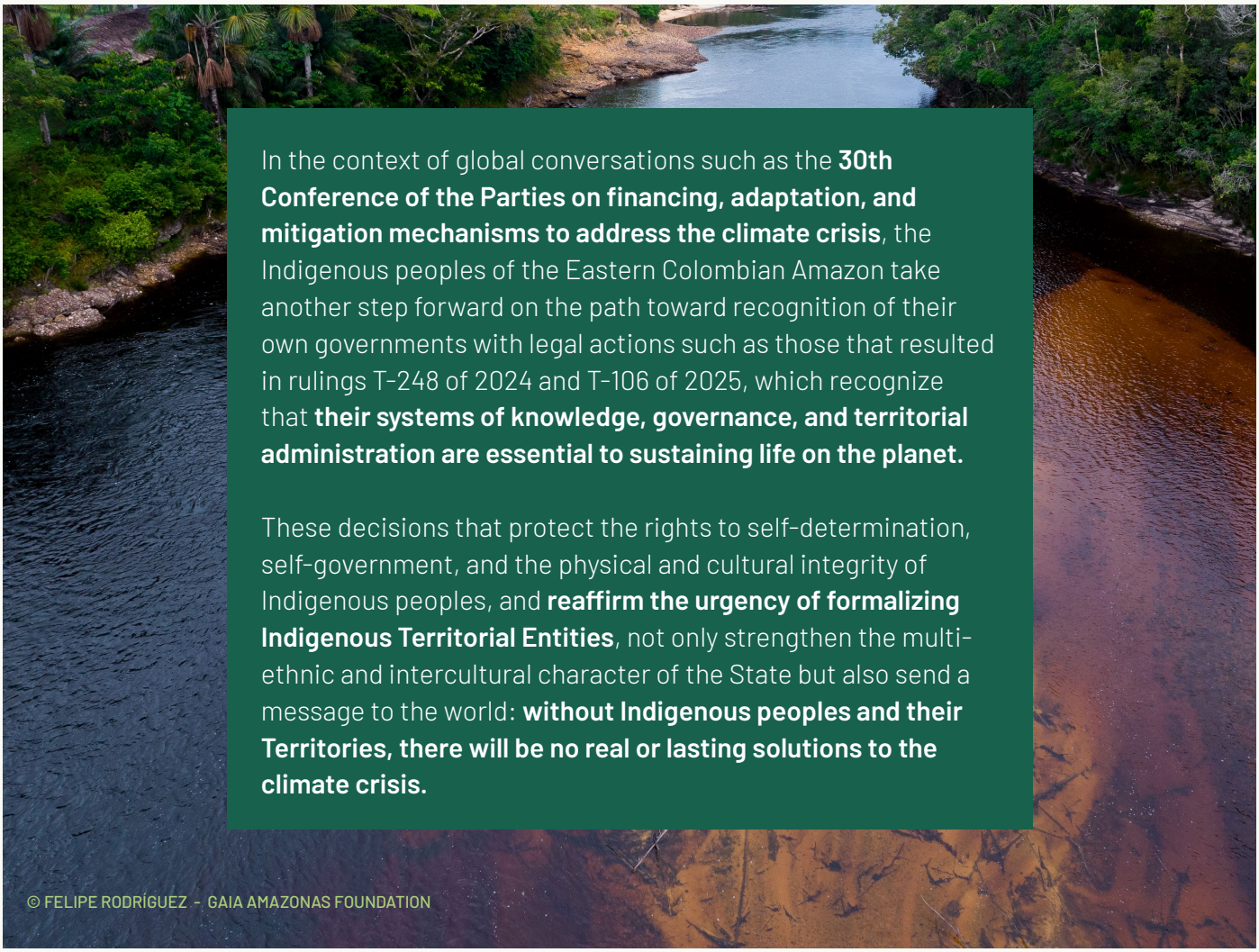
In order to address the risk and threats to the knowledge systems of the Indigenous peoples of the Jaguares del Yuruparí Macro-territory, the Constitutional Court adopted 32 orders in the ruling, through which it bound 27 entities of the Colombian State.

What was resolved in this ruling?

- ☐ Remediate mercury poisoning through the decontamination of water sources and the detoxification of the bodies of people in the Jaguares del Yuruparí Macro-territory.
- ☐ **Formalize Indigenous Territorial Entities and advance the effective exercise of territorial and environmental competencies** of Indigenous Governments through the materialization of their own instruments.
- ☐ Initiate an intercultural dialogue process for the design of public policies that guarantee the environmental vocation of the Amazon, in dialogue and coherence with the territorial planning of Indigenous peoples.

What is the importance of ruling T-106 of 2025?

- Ruling T-106 of 2025 strengthens intercultural dialogue between Indigenous Governments and the rest of the Colombian State to remediate mercury poisoning in the Amazon.
- It materializes the constitutional and international normative framework of Indigenous peoples' rights as a necessary condition for the care of life and for the protection of the Amazon's integrity.
- It consolidates the effective exercise of environmental and territorial competencies of Indigenous Governments and Territories to generate comprehensive institutional action on the Colombian Amazon.



In the context of global conversations such as the **30th Conference of the Parties on financing, adaptation, and mitigation mechanisms to address the climate crisis**, the Indigenous peoples of the Eastern Colombian Amazon take another step forward on the path toward recognition of their own governments with legal actions such as those that resulted in rulings T-248 of 2024 and T-106 of 2025, which recognize that **their systems of knowledge, governance, and territorial administration are essential to sustaining life on the planet.**

These decisions that protect the rights to self-determination, self-government, and the physical and cultural integrity of Indigenous peoples, and **reaffirm the urgency of formalizing Indigenous Territorial Entities**, not only strengthen the multi-ethnic and intercultural character of the State but also send a message to the world: **without Indigenous peoples and their Territories, there will be no real or lasting solutions to the climate crisis.**

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