

Revealing the hidden

Indigenous perspectives on deforestation in the Peruvian Amazon

The causes and the solutions



AIDSESEP
ASOCIACIÓN INTERÉTNICA DE DESARROLLO DE LA SELVA PERUANA



Forest
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Programme

Dedicated to the memory of Jorge Payaba (Shipibo), Benjamin Chumpi (Wampis), Edwin Chota (Ashéninka) and Federico Ramírez (Yaminahua) who have departed from us to be reunited with the spirits of the forests that they defended when they were alive. Also dedicated to the memory and legacy of all those indigenous martyrs from Saweto, Bagua and all the other struggles of Amazonian indigenous peoples who have been defending their lives and rights.

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The maps that refer to indigenous territories in this report are based on available data and should not be interpreted as or assumed to be definitive versions.

Edited by: AIDSESEP (Inter Ethnic Association for the Development of the Peruvian Amazon) and FPP (Forest Peoples Programme).



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ACRONYMS

ACODECOSPAT: Cocama Association for the Development and Conservation of San Pablo de Tipishca

ACR: Regional conservation area

AIDSEP: Inter-Ethnic Association for the Development of the Peruvian Amazon

AFIMAD: Indigenous Forestry Association of Madre de Dios

ANA: National water authority

ANP: Natural Protected Area

ASSM: Artisanal and small-scale mining

BCRP: Central reserve bank of Peru

BNDES: National economic and social development bank of Brazil

BRIC: Brazil, Russia, India and China

CAAAAE: Peruvian Congress's Commission on the Environment, Ecology and Andean, Amazonian and Afro-Peruvian Peoples

CAF: Development Bank of the Andes

CARE: Asháninka association of the River Ene

CART: Asháninka association of the River Tambo

CDC: Conservation Data Centre at the National Agrarian University-La Molina

CEPKA: Ethnic council of the Kichwa peoples of the Amazon

CFM: Community forest management

CITES: Convention on International Trade in Endangered Species of Wild Fauna and Flora

CODEPISAM: Coordinator for the Defence and Development of Indigenous Peoples in San Martín

COFOPRI: Commission for the formalization of informal property ownership

COP: Conference of the parties

CORPI: Regional coordinator of the indigenous peoples of San Lorenzo

CORPIAA: Regional AIDSEP coordinator of indigenous peoples of Atalaya

COICA: Coordinator of Indigenous Organizations in the Amazon basin

CSA: Centre for Environmental Sustainability

CTAR: Provisional Council of regional Government

DAR: Law, Environment and Natural Resources

DEVIDA: National commission for development and a life without drugs

ECASA: The State commercial rice company

EIA: Environmental Impact Assessment

ELAW: Environmental Law Alliance Worldwide

FAO: Food and Agricultural Organization

FCPF: Forest Carbon Partnership Facility

FECONACO: Federation of Native Communities of the River Corrientes

FECONAPU: Federation of Native Communities of Purús

FEDIQUEP: Indigenous Quechua federation of the Pastaza river

FENAMAD: Native Federation of the River Madre de Dios and Tributaries

FENAP: National Achuar Federation of Peru

FEPIKRESAM: Federation of Kechwa Indigenous People in San Martín

FEPKISAN: Federation of the Kechwa indigenous peoples of the lower Huallaga river of San Martín

FERISHAM: Federation of Shawi Indigenous People in San Martín

FIP: Forest Investment Program

FSC: Forest Stewardship Council

FUNDECOR: Foundation for the Development of the Central Volcanic Mountain Range, Costa Rica

GOREL: Regional government of Loreto

GOREMAD: Regional government of Madre de Dios

GORESAM: Regional government of San Martín

GDP: Gross Domestic Product

GHG: Greenhouse gases

IACHR: Inter-American Commission on Human Rights

IBC: Institute of Common Good

IDB: Inter-American Development Bank

IDL: Institute of Legal Defence

IFI: international financial institution

IIAP: Peruvian Amazon Research Institute

IIRSA: Initiative for the Integration of Regional Infrastructure in South America

ILO: International Labour Organization

INADE: National Development Institute

INEI: National Statistics and Information Institute

INIA: National Agrarian Innovation Institute

INRENA: National institute of Natural resources	UN-REDD: United Nations REDD program
MDG: Millennium Development Goals	VRAE: The valleys of the River Ene and River Apurimac
MFE: Ministry of Finance and Economy	WHO: World Health Organization
MINAM: Ministry of Environment	WWF: World Wild fund for nature
MINAGRI: Ministry of Agriculture	
MINEM: Ministry of Energy and Mines	
MT: Metric tons	
MW: Megawatt	
OCODECOFROC: Organization for the development of the frontier communities of the Cenepa	
OEFA: Agency for environmental evaluation and control	
ORAU: Regional Organization of AIDSESP in Ucayali	
ORPIAN: Regional Organization of Indigenous Peoples in the northern Amazon	
ORPIO: Regional indigenous peoples organization of the East	
OSINFOR: Supervisory agency for wildlife and forests	
OSINERGMIN: Supervisory agency for investments in energy and mining	
PAC: Complementary environmental plan	
PCM: Peru's Council of Ministers	
PAMA: Programme for environmental management and remediation	
PIACI: Indigenous peoples in initial contact	
PIAVCI: Indigenous peoples in voluntary isolation and initial contact	
PROCLIM: National Capacity-Building Program for Managing the Impacts of Climate Change and Air Contamination	
PUINAMUDT: Union of indigenous Amazonian peoples in defence of their territories	
RAISG: Amazon Network of Geo-Referenced Socio-Environmental Information	
REDD+: Reducing Emissions from Deforestation and Forest Degradation	
R-PP: Readiness Preparation Proposal	
SBN: National agency for State assets	
SERNANP: National service for natural protected areas	
SNIP: National system for public investment	
SPDA: Peruvian Society for Environmental Law	
SPDE: Peruvian Society for Eco-Development	
SUNARP: National public registry agency	
SUNAT: National tax administration agency	
UAC: Upper Amazon conservancy	
UNOPS: United Nations Office for Project Services	

EXECUTIVE SUMMARY

This report, written by AIDSEP (Interethnic Association for the development of the Peruvian Amazon) and FPP (Forest Peoples Programme), addresses the many complex causes and future of deforestation in the Peruvian Amazon. It combines a critical review of publicly-accessible research with the analysis and perspectives from indigenous peoples' leaders and organizations many of whom were interviewed specifically for this investigation as their traditional lands¹ occupy almost half of the Amazon region and they confront the problems caused by deforestation on a daily basis. This report draws the following conclusions:

The main trends in past and present deforestation in Peru are:

- By 2014, between 8.9 and 10.5 million hectares ('ha', hereafter) of Peru's forests had been deforested (or approximately between 11.3 % and 13.4 % of the original forest area).
- The vast majority of this deforestation is the direct result of State and corporate policies encouraging the colonization and agricultural development of the Amazon (at the expense of forest use). These policies included road building programmes and the provision of agricultural credit. Most deforestation has occurred within 20 km of the principal roads.
- Historic levels of deforestation in Peru have been relatively low compared with other Amazonian countries at less than 0.23 % per year with an average of 123,000 ha deforested annually between 2001 and 2012. Nevertheless, there are indications that these rates may have doubled to 250,000 ha/year since 2012.
- Indigenous territories constitute effective barriers to deforestation with 75 % of the deforestation in Peru occurring outside the boundaries of indigenous territories and Protected Areas. Meanwhile, within those lands recognised as 'native communities' official deforestation rates are only approximately 0.1 % per year (less than half the national rate). Rates of deforestation in indigenous territories are likely to be significantly lower, however, due to distortions in satellite forest monitoring systems which are unable to accurately differentiate between permanent deforestation and temporary clearance from rotational farming.
- Today, commercial agriculture, illegal gold-mining, and oil palm plantations have rapidly become the principal direct causes of deforestation, accounting for over 20 % of deforestation in 2013.
- Rampant illegal logging is one of the principal causes of forest degradation and subsequent deforestation and accounts for approximately 80 % of Peru's wood exports.
- Oil and gas concessions covered over 80 % of the Peruvian Amazon in 2012² and their operations, including frequent spills from pipelines, have been responsible for severe degradation of forests and their associated biodiversity and ecosystems.
- A huge volume of carbon found in oil, gas and logging concessions is under imminent threat of release due to degradation associated with these activities. This degradation could generate greenhouse gas emissions greater than those caused by the next ten years of projected deforestation.

The main underlying drivers of deforestation in Peru are:

- Large-scale investments in agribusiness including palm oil, logging, mining, dams, oil, gas and roads which are premised on an extractive and predatory vision of the Amazon.
- Endemic corruption, criminal organizations and weak governance in the forestry and mining sectors enabling high levels of illegal activity. In Madre de Dios, 97 % of gold produced is illegal.
- Processes to assess environmental impacts of land use activities lack transparency, are plagued by conflicts of interest and frequently determined by powerful elites.

1 This includes lands with some form of legal recognition (approximately 15 million ha) and customary lands that remain unrecognized (approximately 20 million ha).

2 In 2012, they covered 84 % of the Peruvian Amazon (RAISG, 2012) but currently the extent of this area that is overlapped has diminished.

- Absence of due process to plan long-term use of lands and natural resources.
- Large-scale extractive projects that are prioritized over protection of the forest and human rights.
- Inappropriate, ineffective and increasingly weak State control, monitoring and oversight of extractive operations.
- Weak legal and regulatory frameworks including:
 - Loopholes permitting deforestation through classification of primary forests as suitable for agriculture;
 - Contradictions that permit the exploitation of supposedly ‘untouchable’³ areas;
 - Perverse incentives encouraging deforestation as a means to obtain ownership rights over land.

Today, approximately 15 million ha, or 20 %, of the Peruvian Amazon currently enjoys some measure of recognition as indigenous lands. Nevertheless, the recognition of a further 20 million ha of customary indigenous lands remains pending. Between 2001 and 2010, approximately 75 % of national deforestation took place beyond the boundaries of indigenous lands⁴ and Protected Areas, much of which are also the traditional lands of indigenous peoples.⁵ This constitutes evidence of how indigenous peoples have been able to protect their lands from colonists, miners, loggers, dams, and oil and gas operations. However, this report also documents the systemic and historic failure of the Peruvian state to value, respect and support indigenous peoples’ contributions to protecting Peru’s forests, and instead how it has continued to undermine and weaken indigenous peoples’ efforts, exposing them to unscrupulous vested interests. These failures include:

- A national legal framework that doesn’t comply with binding international obligations to respect indigenous peoples’ rights, including to free, prior and informed consent (FPIC) and ownership rights over customary lands and forests.
- Lack of legal protection for approximately 20 million ha of indigenous territories.
- Massive overlap of titled and untitled indigenous lands and territories with protected areas, and concessions for logging, mining and oil and gas.
- Policies that prioritize large-scale logging operations over small-scale community forest management.
- Criminalization of indigenous peoples’ right to self-determination, including the legitimate protests of many indigenous leaders in defence of their rights and territories.
- Disregard for indigenous peoples’ reports and denunciations of illegal operations.
- Inertia and leniency on the part of the State permitting intimidation and persecution of indigenous leaders by those with vested economic interests in their territories.
- State tolerance for the division of indigenous communities and their organizations promoted by extractive companies through the use of threats, manipulation and intimidation.

Future threats:

Deforestation rates in Peru are expected to rise significantly in the immediate future, due to the continued imposition of the dogma of increased economic growth and investment in energy and infrastructure projects in order to satisfy regional, national and global demand for energy and consumer goods.

Both illegal and legal gold-mining, the expansion of oil palm plantations, and the construction of over 50 large dams⁶ represent the greatest threats to the Peruvian Amazon in the immediate future.

3 Areas within which all extractive activities or human settlement are strictly prohibited.

4 This study (IBC, 2014) does not include all unrecognised indigenous lands.

5 According to IBC figures (which don’t take into account the extent of unrecognised indigenous lands) protected areas and indigenous lands cover approximately 47% of the Peruvian Amazon (IBC, 2014).

6 All 50 have a capacity greater than 100MW and 10 are greater than 1000MW.

Hollow commitments to protect the forest:

In 2008, Peru announced its commitment to a national forest conservation program as part of a reduction of its green house gas emissions intended to protect 54 million ha of forests and reach zero net deforestation by 2020.⁷ Seven years later, this commitment and in particular its commitment to reduce net deforestation to zero looks distinctly unlikely as deforestation caused by logging, mining and palm oil plantations spirals out of control, while contradictory national and regional policies promote massive road building programs, oil and gas operations, major expansion of the oil palm sector, and the construction of almost 80 large and small dams⁸ in its Amazon region, more than any other Andean country in the Amazon basin. At the same time, legal frameworks continue to facilitate deforestation and prioritize large-scale extractive projects over small-scale community forest management.

Peru's commitment to protect the Amazon has been further undermined by a recent package of legal reforms (Law 30230), in July 2014, intended to encourage foreign investment. These reforms considerably weaken environmental laws and regulations, and, even more seriously, establish special procedures permitting the government to curb or extinguish indigenous peoples' territorial rights in order to prioritize development projects even if they only exist as a proposal. In September 2014, the assassination of four Ashéninka leaders (at the hands of a logging mafia) who had denounced illegal logging on their lands and were demanding the titling of their traditional lands, further highlighted the continued failure of Peru's government to support indigenous peoples' efforts to protect their forests.

Despite this, on the 23rd September 2014, only a few days after these events an international agreement was announced between Peru, Norway and Germany with the objective of Peru reaching neutral carbon emissions by 2021 as a result of deforestation and agriculture. In addition, the so-called Declaration of Intent committed to title at least 5 million ha of indigenous territories. Norway will contribute 300 million USD for implementation. The initiative was received as a positive step by AIDESEP, who at the same time called on the signatories to 'prevent the agreement from becoming simply a letter of intent that would never become reality due to the powerful conflicts of interest that exist within the Peruvian government, and a weak legal framework that governs indigenous peoples' control over their traditional territories.'⁹

7 The Peruvian proposal was first presented during COP14, the UNFCCC negotiations in Poznan (Poland) in 2008. It consisted of 'conserving 54 million hectares of forest and reversing slash and burn processes in order to substantially reduce our deforestation as part of our country's contribution to global mitigation efforts. In accordance with this objective Peru ratified its position to reduce its net deforestation to zero in the UNFCCC's COP15 in Copenhagen in 2009'. DECRETO SUPREMO N° 008-2010-MINAM, 4/7/2010.

8 All greater than 2MW.

9 <http://www.aidesep.org.pe/aidesep-y-rainforest-foundation-aprueban-convenio-entre-peru-y-noruega-para-la-proteccion-de-bosques-indigenas/>

RECOMMENDATIONS

This report makes the following key recommendations to inform public opinion at both national and international levels as well as the Peruvian government and relevant international agencies:

On indigenous peoples' rights:

- Respect and protect indigenous peoples' territories. This includes resolving pending demands for legal recognition of their territories as well as annulling overlapping rights that have been granted on indigenous territories.
- Align national laws and policies with international human rights law in order to respect indigenous peoples' right to FPIC where extractive activities are planned in their territories as well as ownership of their customary lands and forests.
- Respect, rather than criminalize, legitimate protests and denunciations made by indigenous peoples regarding the destruction of their forests.
- Ensure access to justice for indigenous peoples and communities who denounce the destruction or contamination of the forest.
- Ensure that the recognition, titling of indigenous peoples' collective lands as well as the annulment of any overlapping rights is prioritised over the titling of individual parcels of land, a land use category associated with the highest rates of deforestation in Peru. These titling efforts should be supported with adequate human and financial resources and concrete annual work plans.

On forest governance and environmental management:

- Control and sanction deforestation and any contamination associated with the legal or illegal activity behind it.
- Recognize existing initiatives for independent community environmental management and encourage similar efforts.
- Provide technical support for community forest management and the promotion of other, non-timber forest products.
- Establish transparent, effective and independent procedures to evaluate and approve EIAs and strategic environmental assessments for large-scale development projects ensuring that the precautionary principle is applied (in other words, no investment if there are risks of serious harms).
- Review national laws and policies promoting investment and the agri-business, energy and transport sectors to ensure coherence with the government's commitment to achieve zero net deforestation by 2020.

In 2011, Peru's government agreed to modify national legislation in order to align it with its international legal obligations to protect indigenous peoples' customary lands (R-PP 2011), but as of November 2014 this commitment remains unmet. In 2013, the government's Forest Investment Plan pledged to spend over US\$14.5 million recognizing untitled indigenous lands (US\$7 million), supporting community forest management (US\$4 million) and indigenous forest governance (US\$3.5 million).

These projects are currently in the design phase, but an US\$80 million parallel land-titling project part financed by the IDB threatens to undermine these efforts. As of November 2014, the aim of the IDB-financed project is to secure individual land titles (for over 730,000 migrants), despite the fact that they are responsible for the highest deforestation rates in Peru. As a result, this project, if not modified, is likely to result in further colonization of the Amazon and its subsequent deforestation.

The Spanish edition of this report was launched on the eve of COP20 in Lima, the first United Nations climate change conference to be hosted by an Amazonian country (70% of Peru is forest). During its presidency of the negotiations (until handing over to France in November 2015) Peru hopes to establish itself as a leading player in the fight to protect tropical forests and indigenous

peoples' rights as part of a broader commitment to mitigating the impacts of climate change.¹⁰ However, to date, Peru's pledges to protect forests and indigenous territories remain not only unmet, but are being undermined by contradictory laws, policies and the reality on the ground. The question is, as one Peruvian indigenous leader asks:

'Can Peru rise to this challenge and convince the world that it is serious about protecting its forests and supporting us, indigenous peoples, its true allies in the fight against the destruction of the Amazon instead of marginalizing us and postponing recognition of our rights?' *Alberto Pizango, President of AIDESEP, July 2014*

10 See address of President Humala in New York on September 23, 2014. <http://www.presidencia.gob.pe/palabras-del-presidente-de-la-republica-ollanta-humala-tasso-durante-la-suscripcion-de-acuerdo-de-cooperacion-entre-peru-y-noruega-para-reduccion-de-gases-de-efecto-invernadero-procedentes-de-la-deforestacion-y-degradacion-de-bosques/pdf>

WHERE THERE ARE PEOPLE WITH RIGHTS TO THEIR TERRITORY THERE WILL ALWAYS BE JUNGLE AND LIFE FOR ALL

ALBERTO PIZANGO, MEMBER OF THE KAMPU PIYAWI PEOPLE AND
PRESIDENT OF AIDASEP

Once again the debates, projects and promises about deforestation in the Peruvian Amazon has become fashionable. Is it perhaps because it is the discourse that is needed to secure funding for the state or for some NGOs? Or perhaps it is because of the COP20 approaches and the media “show” that accompanies it?

Unfortunately, at the same time, while there is much talk of reducing deforestation, the same mafia groups continue to operate with impunity. For example, the one connected to oil palm, which after destroying 80 % of the forests of Malaysia now invades Peru, paying visits to government ministries, dining with certain regional governments, hiding behind impoverished migrants, and even dressing themselves up as a replacement for coca cultivation. The result of Peru’s welcome to the COP20 is dozens of applications for oil palm concessions that will destroy more than 100,000 hectares of primary forest. When they felled 2,500 hectares of forest, nothing was done and nor will any action be taken and if this continues, it is impossible that the agreement with Norway can be fulfilled. However, to avoid the wastage of yet more millions, AIDASEP will be strict in demanding effective measures to stop this oil palm catastrophe.

Despite this, oil palm is not discussed much in these debates about deforestation. It is “invisible”, just like the massive oil spills, the multiple dams that are planned, the superhighways, the gold rush or the timber mafia. This explains the need for this study, the need to make visible what is not spoken and to expose what is hidden to try and divert our attentions.

In the jargon of the UNFCCC, it is these “mega drivers”, in other words the principal motors, driving deforestation and forest degradation which they do not wish to, or fear to, touch. These are the so-called indirect causes of deforestation, which does not mean they are any less dangerous. The opposite is in fact true as they lie behind the apparent “direct” causes such as the massive colonisation of the Amazon. It is easy to pin the blame on the small farmer, forgetting or obscuring the hundreds of millions of dollars that the Peruvian state and international finance has and continues to invest in the supposed “agricultural modernization” of the Amazon. In the past, there was the story of the “empty Amazon”, of the “living frontiers” or the “Amazon breadbasket”, while today it is for agriculture that forests are felled to make way for papaya, cocoa, coffee, palm oil and livestock; knowing full well that it is not feasible, that the soils are poor and the nutrients are held in a standing forest. Is it that they do not know or they do not care?

As a result of this theoretical and technical distraction, it has been necessary to harness the vision and proposals of indigenous peoples, we who live with and are victims of this wanton destruction of the Amazon in the name of this “sick development”. It was necessary to gather the views and analyses of indigenous peoples and complement them with other analysis, a task taken on by Michael Valqui, Conrad Feather and Roberto Espinoza, professionals associated with the indigenous movement who have accompanied us through various processes.

AIDASEP, as the largest body uniting indigenous peoples of Peru will continue to work on all levels, from communities to international forums, to stop these threats. Our alternatives are simple but proven to work: **Territory, Management and Governance**. It’s too late to “wait” until they

deign to listen to us, and when they do, wait yet more decades until they deliver. No more hobby horses. It is time to move from protest to proposal, but especially with the major contribution of indigenous peoples: the reestablishment of our unity through the development and deployment of **collective laws for our peoples** to enable the effective control of natural resources. Achieving this does not depend on any law, any piece of paper, “project” or “permission” from anyone. It’s in our own hands and will allow us to beat the trap they have set for us to divide us into “communities” (worse now with this story of land for financial credit). We will maintain the existing bye-laws of our communities and federations but build on them to establish agreements for the reconstruction of our ancestral territories that belong to us through customary law. Through this we will agree that our natural resources and forests cannot be sold or divided, as they constitute the core of our existence.

If this book helps us to open ourselves to more questions, see other data and go beyond appearances it will have achieved some of its objective. We hope that, in addition to this, it will wake up and motivate more people and institutions to support and be committed allies of AIDSESEP and its 76 federations and 1,300 member communities.

Peoples, territories and forests, all united forever

Lima, November 2014

INTRODUCTION AND GENERAL INFORMATION

The role of forests in the Peruvian Amazon

The importance of forests for human well-being, whether in local or global terms, is becoming increasingly clear. From their infinite importance to the people living in them, to the role they play in regulating the global climate, the services provided by forests are fundamental to the functioning of the biosphere and therefore the survival of humanity itself. This is particularly true for the Amazon in general,¹¹ and for the Peruvian Amazon in particular.¹²

The drivers of tropical deforestation

Indigenous and civil society organizations have been attempting to focus attention on the rise in tropical deforestation since the 1970s, and the fate of tropical forests now ranks high on the agenda of national governments and international policymakers. International interest has increased, mainly due to the contribution made by tropical forests to greenhouse gas levels in the atmosphere and therefore their potential inclusion in controversial climate mitigation schemes such as REDD+ (Reducing emissions from deforestation and degradation), in which industrial emissions of greenhouse gases may potentially be offset by protecting forests and their carbon stocks. These schemes have not only led to international negotiations, but to a wave of regional and national programs to reduce deforestation that attempt to highlight the main causes and identify potential policy solutions. As a result of its involvement in World Bank-financed REDD initiatives, the Peruvian government has participated in various studies since 2009 that have attempted to understand the state of its forests, the drivers of deforestation, and the potential solutions.

Deforestation rates in Peru

In 2000, according to the government, the Peruvian Amazon covered 69.2 million ha,¹³ with approximately 7.2 million ha, or 9.25 % of the original forest area, already deforested.¹⁴ In 2014, it was estimated that 10.5 million ha have now been deforested (Box 2). According to the most recent studies, 1.48 million ha were deforested between 2000 and 2012: approximately 123,000 ha per year, or 0.17 % of the forest area recorded in 2000.¹⁵ By 2014 we estimate that the accumulated deforestation in the Peruvian Amazon was between 8.9 and 10.5 million ha (Box 2). Small-scale agriculture – mainly by migrants from the Andes – is often cited as the principal driver of deforestation and therefore the focus of policy efforts.

However, these studies have attracted considerable criticism because of their tendency to ignore or conceal the contributions to deforestation of extractive industries, agri-business and large-scale infrastructure programs. At the same time they are notable for their emphasis on the immediate

11 The Amazon's global functions include capture and storage of carbon, storage of fresh water, generating clouds and rain, and biological diversity.

12 The Peruvian Amazon contributes to 25 % of the River Amazon and represents 6 % of tropical forest worldwide.

13 In this report, the terms 'hectares' or 'ha' are used interchangeably.

14 MINAM, 2009.

15 Hansen et al., 2013.

or direct causes of deforestation while underestimating the legal loopholes, policies, subsidies and weak forest governance that underly these processes. For example, road building is often downplayed despite the fact that an estimated 75 % of total forest damage to the Peruvian Amazon, including 83 % of deforestation and 66 % of forest disturbance, is reported within 20 km of the nearest roads.¹⁶

Moreover, indigenous organizations have repeatedly pointed out that these studies lack rights-based emphases and ignore the impact of deforestation on indigenous peoples as well as their past and ongoing contributions to protecting the forest. Another tendency of these studies is to demonize all types of ‘slash-and-burn’ agriculture and through failing to distinguish between indigenous peoples’ customary, shifting, small-scale farming, which has been shown to be sustainable (Box 3), and the permanent removal of much larger areas of forest by mining and large-scale agriculture. Satellite monitoring, for example, doesn’t distinguish between long-term, permanent forest conversion and short-term, temporary forest clearance for traditional crop rotation.

This report is an attempt by indigenous organizations to address this imbalance and contribute to the debate on deforestation by taking into account the perspective of the people who live on the front line of this deforestation.

The research

This report is made up of a critical review of prior, publicly-accessible research supplemented by interviews with indigenous leaders and other representatives of indigenous organizations in different parts of the Peruvian Amazon, concerning the main causes of deforestation in their respective regions, the state’s response, and the possible solutions.¹⁷ It combines an analysis at the national level with a focus on two specific regions, Madre de Dios and San Martín, where deforestation rates are high and there are state-run pilot programs to combat it.

The report is split into 7 parts:

1. Part 1 describes the context at the national level, summarizing the past trends in deforestation, the current rates, and the situation for indigenous people.
2. Part 2 analyzes the direct causes of deforestation, including agriculture, logging, mining and oil and gas operations.
3. Part 3 analyzes the indirect causes of deforestation, including national policies regulating resource use, forest governance, and land ownership.
4. Part 4 considers the main threats to the Peruvian Amazon and future trends in deforestation.
5. Part 5 focuses on the Madre de Dios and San Martín regions.
6. Part 6 summarizes the measures that indigenous peoples are taking and proposing to combat deforestation.
7. Part 7 summarizes the report’s conclusions and makes a series of recommendations to the Peruvian government as well as other relevant agencies.

¹⁶ Oliveira et al., 2007.

¹⁷ This information is presented in the form of direct quotations. Some interviewees preferred to remain anonymous and have not been named.

PART 1:

INDIGENOUS PEOPLES AND DEFORESTATION AT THE NATIONAL LEVEL – THE GENERAL CONTEXT



1.1 FORESTS AND INDIGENOUS PEOPLES IN PERU

The Amazon has been inhabited for thousands of years and estimates for the pre-Columbian population vary widely. Some maintain that population densities have always been low, while others argue that there were complex civilizations with high population densities based along the main rivers.¹⁸ Nevertheless, there is a consensus that after the Conquest, population levels collapsed, partly due to the diseases brought by Europeans.

A boom in demand for rubber between 1880 and 1910 caused a second population collapse. This was the result of a massive influx of migrants entering

Image 1: Forest peoples like the Nahua depend on the forest for hunting and gathering of vital materials, including bush foods, medicines and ritual plants. Their forest territory is threatened by logging and the controversial expansion of the Camisea gas project.

Source: Johan Wildhagen

the Amazon and, above all, the genocidal practices of Peruvian and foreign rubber company owners who killed, enslaved and forcibly displaced innumerable indigenous people.

Currently, 64 indigenous peoples from 16 language families have been identified in the Peruvian Amazon¹⁹ encompassing over 330,000 individuals,

¹⁸ Mann, 2002.

¹⁹ <http://www.aidesep.org.pe/organizacion-politica/>

Box 1: Current indigenous territories and pending territorial rights in the Peruvian Amazon^I

Territorial reserves	5 existing reserves: 2,856,223.32 ha	5 pending reserves: 3,972,569.18 ha Cacataibo, Napo-Tigre, Yavari-Mirin, Sierra del divisor and Tapiche-Blanco-Yaquerana
Communal reserves	6 existing reserves: 1,663,966.25 ha	6 pending reserves: 4,108,565.75 ha ^{II} Napo-Curaray, Tigre-Corrientes, Yurua, Chambira, Inuya-Tahuania and Tamaya-Caco
Demarcated, titled indigenous communities	1,343 communities: 11,689,647 ha ^{III}	
'Invisible' communities where administrative processes to initiate 'recognition' have not begun	Undetermined	
Communities whose official 'recognition' (and their subsequent land titling) is pending	294	
'Recognized' communities pending land titling	616	
Titled communities pending expansion	264	
Peoples requesting title to collective territories	Including: Ese'Eja, Achuar, Kampu Piyawi, Shiwilo, Kandosi, Kukama, Kechwa, Awajún, Wampis and Shapra	

I AIDESEP, 2014.

II Formal applications completed and presented to the government by communities, some of these are currently being evaluated and reconsidered by these communities.

III IBC, 2014.

according to 2007 census data.²⁰ The level of contact with, or immersion in, 'modern Peruvian' society ranges widely from those living in large cities like Iquitos and Pucallpa to others in isolation or initial contact (PIACI).²¹

Today, approximately 15 million ha of the almost 70 million ha of tropical forests in the Peruvian Amazon are under some form of legally recognized indigenous management or administration. Although the state has acknowledged that there are at least 8 million ha pending declaration as indigenous reserves, recent research shows that, in addition, at least 294 communities have not been recognized legally nor have a land title, 616 communities have been recognized as existing but lack a land title, while 264 titled communities are requesting expansion as



Image 2: Upper Purús River.

Source: UAC

their titled lands are not able to support the entire population.²²

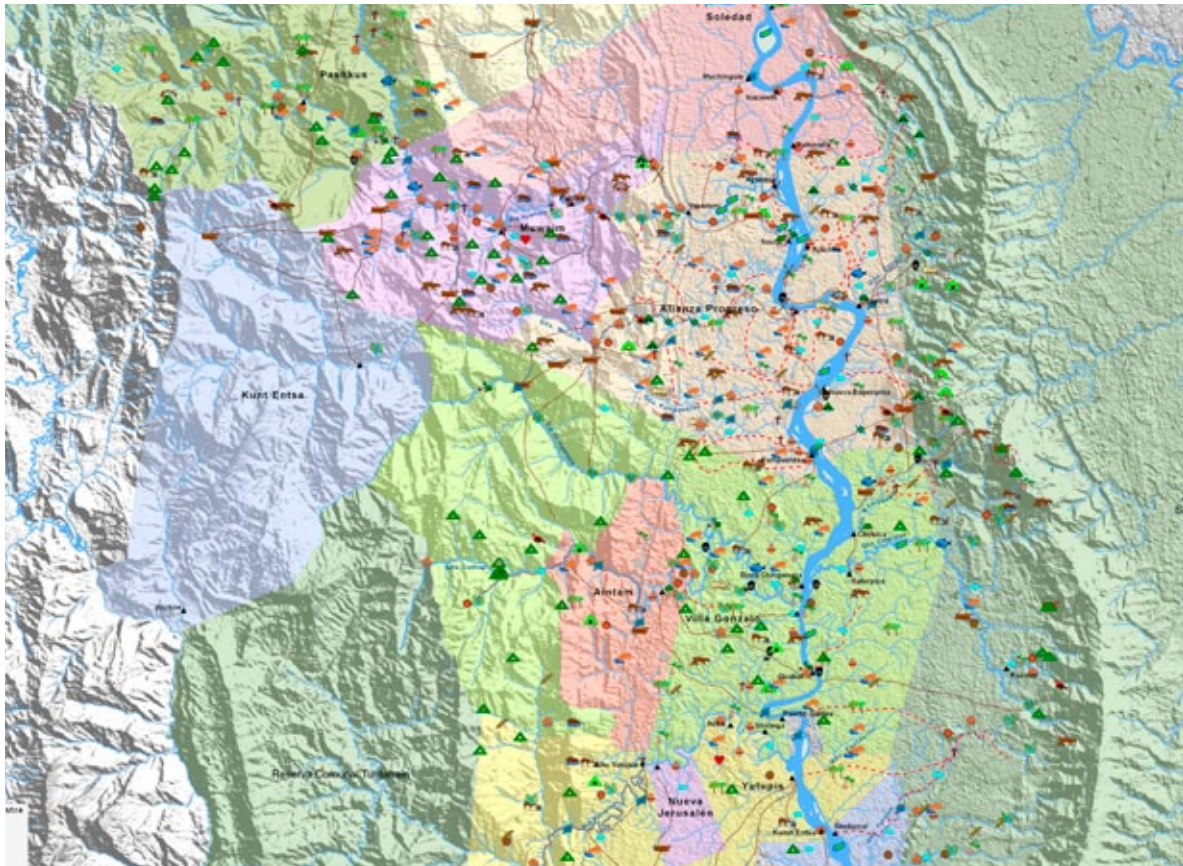
Moreover, in addition to the pending applications of these communities (that total 1,174) there are at least 10 well-advanced initiatives to obtain ownership title to *collective territories* as peoples totalling more than 10 million ha.²³ See Box 1 for a summary of this information.

20 According to the 2nd Census of Indigenous Communities in the Peruvian Amazon (INEI, 2008), the number of indigenous peoples was 332,975 – equivalent to 13% of the total population in the Amazon.

21 According to INEI (2008), the most numerous peoples are the Asháninka, numbering approximately 88,000 and representing 26.6% of the indigenous population in the Amazon, and the Awajún, in the north, representing 16.6%. At the other extreme are the Resigaró-Ocaina who number just 37 people, according to INEI (2010).

22 AIDESEP, 2014.

23 Based on unpublished data compiled by CORPI. To date this includes the ten peoples referred to in Box 1.



The relationship between indigenous peoples and forests in Peru

'All of this space is Achuarti Nungkári, the territory of the Achuar. From these lands, forests and waters we obtain the food we need to live and the materials we need to construct, weave and make our houses, products and crafts. In the remote areas the animals that we hunt live and grow. We depend on them and respect their spaces. We get every kind of forest resource that allows us to feed our children and grandchildren. From the waters we get fish to eat and with the crystal clear water from the springs and waterfalls we wash and clean ourselves. Here is where our ancestors lived and relied on the same resources and the same land. They looked after it and they left it for us as a reserve which we use today. Because of this we can live, and because of this we have life.' Achuar leader, Huitoyacu river, Loreto region.

For indigenous peoples in the Amazon the forest is synonymous with life. Despite some integration into the market economy, many retain an intimate relationship with their forests and continue to depend on them for their livelihoods and sense of identity.

The forest provides game, fish, fruit, seeds and land where they cultivate crops using a rotational system

Image 3: Section of cultural and historical map of the Awajún y Wampis peoples, River Santiago.

Source: FECOHRSA, IBC et al.

that ensures the ongoing fertility of the soil and forest renewal (Box 3). In addition to food, it is a vital source of materials for tools, clothing, construction and medicines – the latter enabling them to communicate with the non-human beings on which their cosmologies are based. A section of the map (Image 3) shows how the Awajún and Wampis use the resources in one part of their ancestral lands on the river Santiago and illustrates their interdependent relationship with the forest.

Poverty, extractive industries and integration into the market economy

Despite the ongoing significance of forests to indigenous peoples' culture and way of life, the relationship has changed increasingly over the years. This has been the result of a variety of factors including; government policies opening up the forests to natural resource extraction, oil and gas operations, gold-mining, uncontrolled illegal logging and other extractive industries that have extended into indigenous territories and contaminated the soil, land and air. In addition, a deeply flawed land-titling process that fails to reflect traditional

land use practices has meant that many indigenous communities now find themselves confined to comparatively small parcels of degraded land where they are unable to practice their traditional way of life.

To make matters worse, many of these developments have contributed to a change in lifestyle in which externally manufactured goods have increasingly come to be seen as necessities and play an increasing role in their economies. In some remote areas in the Amazon, where the value of agricultural products is low but the cost of manufactured goods is high, it is difficult for families to earn enough income without resorting to finding work in the extractive industries.

In 2007, it was estimated that the total population in Peru's 5 main Amazon regions – Loreto, Ucayali, Madre de Dios, San Martín and Amazonas – was 2,540,000. Of these, 910,000 were living in rural areas,²⁴ meaning that approximately 36 % of people in the Amazon base their lives around the use of land and natural resources.

However, it is clear that it is not only people living rurally – both indigenous and non-indigenous – who depend on healthy forests and rivers. Those who live in the cities and smaller urban centres also rely on the meat and fish for their protein, while their regular supply of manioc and plantains requires fertile soil.

One unique case is Iquitos, a city of approximately 500,000 people so isolated it is supplied almost entirely from the forest surrounding it.²⁵ This includes fish, various crops, and fruit such as *aguaje* (*mauritia flexuosa*). Aguaje is highly sought after, but unsustainable exploitation has devastated aguajales (palm swamps) extending for more than 5 million ha, or 7 %, of the Peruvian Amazon.²⁶

1.2 HISTORY OF DEFORESTATION IN PERU

The conquest and the era of the missions

Deforestation in Peru isn't only a recent phenomenon. Some studies suggest that a considerable part of the Peruvian Andes lost its forest cover in pre-Columbian times.²⁷

After the conquest and the subsequent population collapse, it is possible that many such deforested areas recovered. Subsequently, agriculture and its associated deforestation became concentrated around religious missions (*reducciones*) which encouraged indigenous peoples to live around them. The overall result of this dynamic may have been relatively stable overarching levels of deforestation. The expulsion of the Jesuits in 1768 and the abandonment of the missions probably led to a recovery of the surrounding deforested areas.

Colonization during the Republic

The situation changed when Peru became independent in 1821. In contrast to a Jesuit policy of restricting access to the Amazon, the Republic's intention has always been to occupy it – for agricultural cultivation and geopolitical reasons:

*'Once independence was declared, one of the constant themes of Peruvian policy was to encourage immigration, particularly by Europeans, to the Amazon and other regions. In 1832 a law was passed that freely gave ownership title to land between 2 to 40 fanegas to anyone who settled in these places, whether they were Peruvian nationals or foreigners.'*²⁸

The results of such policies were towns like Pozuzo and Oxapampa. They were founded in the second half of the 19th century by German and Tyrolean farmers with little regard for the area's original inhabitants, the Asháninka and Yánesha.

The rubber boom in the late 19th century led to settlements and estates being established along many major rivers in the Amazon. Most settlers came from San Martín and Amazonas, but some were European, and many indigenous peoples were forced to move to more remote areas.²⁹

There was little economic activity for several decades after the collapse of the rubber market, although some products such as *balata*, precious hardwoods, animal skins and barbasco experienced temporary booms.³⁰ During this period the number of people living along the main rivers swelled and the so called *riberaño* populations were born, a combination of long-established colonists, recent migrants, and indigenous people.³¹ Some of these impacts can still be seen today. One example, in the River Paranapura basin in San Martín are the '*purmas* of our grandparents' – mature, 50 year old or more secondary forests that grew out of

24 According to INEI's definition (2008), rural areas are all those that are not urban areas – where houses are scattered and settlements number 100 houses or less, except when they are district capitals.

25 Considered to be the largest city in the world that can only be accessed by river or air.

26 IIAP, 2006.

27 Fjeldsa and Kessler, 1996.

28 San Román, 1994.

29 Ibid.

30 Ibid.

31 IBC, 2012b.



barbasco plantations abandoned after the collapse of the barbasco market in the 1950s (L. Huanzi, FERISHAM).

Roads and colonization

In the 1940s, the construction and improvement of the roads running to Pucallpa and Peru's central forest region, known as the '*selva central*', increased the number of colonists from the Andes migrating to the Amazon. In 1943, the Ministry of Agriculture was established, including an 'Office for Issues of the Orient, Colonization and Land'. State policy during these years encouraged colonists to migrate to the *selva central* in order to expand the agricultural frontier.³²

In 1963, Peru's president proposed the construction of the 'carretera marginal', a highway connecting the Amazon regions of the various Andean countries, running from Venezuela to Argentina with more than 2,500 km in Peru and opening up more than 2 million ha of Peru to colonists and agriculture. The first stretches were built between Tarapoto, Juanjui, Campanilla and Moyobamba. Ever since then, San Martín has been Peru's leading agricultural producer³³ and, until a few years ago, had the highest deforestation rates in the country.

In the 1980s, deforestation began to be seen as more than just a local or regional problem. The first recorded attempt to estimate total deforestation in Peru was the National Forest Map which found that approximately 4.5 million ha of forests in the Amazon had been cut down at an estimated

Image 4: The construction of the 'carretera marginal', the first highway in the Peruvian Amazon promoted by then President Belaunde.'

1 <http://fernandobelaundeterry.com.pe/la-carretera-marginal-de-la-selva/>

average of 150,000 ha per year, and cited agricultural colonization in the upland forest as the main cause, although these figures have been disputed (see Box 2).³⁴

Between 1980 and 1990, the state played a fundamental role in increasing deforestation by encouraging development in the Amazon through special colonization projects intended to complement the new road network, with the *Carretera Marginal* the most emblematic. These 'special projects', implemented by INADE (National Institute of Development), were:

- PEJSIB (Jaén-San Ignacio-Bagua)
- PEAM (Alto Mayo)
- PEHCB (Huellaga Central and Bajo Mayo)
- PEAH (Alto Huallaga)
- PEPP (Pichis Palcazu)
- PERS (Restoration of the Ucayali, Chontayacu and Purús river basins)
- PEMD (Madre de Dios)

Most of these projects were accompanied by road building or road improvement. It is no surprise that most of these regions had, and continue to have, high rates of deforestation (Map 2).

The increase in the commercial cultivation of coca – the raw material for cocaine – from the late 1970s caused further deforestation, with many

32 MINAM, 2009.

33 <http://fernandobelaundeterry.com.pe/la-carretera-marginal-de-la-selva/>

34 Malleux, 1975.

Box 2: Historic deforestation: Contested facts

The Peruvian state has historically had little interest in keeping a reliable record of the total forest area in the country, let alone total or annual deforestation rates. This has changed in recent years following intermittent initiatives by PROCLIM (National Capacity-Building Program for Managing the Impacts of Climate Change and Air Contamination)^I and MINAM (Ministry of the Environment).^{II}

A fundamental difficulty in measuring deforestation is defining what is and what isn't the Amazon, in addition to methodological problems in distinguishing primary forest from secondary forest. Crucially, for measurements of deforestation in indigenous lands, limitations of satellite detection systems for forest loss in Peru leads to the confusion of temporary forest clearance (the result of indigenous rotational farming) with permanent forest loss, leading to the overestimation of deforestation in indigenous lands (see Box 7). On the other hand, Dourojeanni has discussed in detail how the lack of baseline studies has led to historic deforestation in Peru being underestimated by 6 million ha.^{III}

If MINAM^{IV} estimates are used (7.2 million ha deforested by the year 2000) with those of Hansen *et al.*^V (1.48 million ha deforested between 2000 and 2012 at an average rate of 123,000ha/year) then this yields a rough estimate of 8.9 million ha total deforestation by 2014. This figure probably represents an underestimate of total deforestation for the following reasons:

1. It does not distinguish between primary forest and secondary forest which is over 20 years old.
2. In recent years there is likely to have been a significant increase in deforestation.
3. The question of at what altitude forest existed prior to 1975 requires further definition.

If Malleux's 1975 figure of 4.5 million ha of deforestation^{VI} is accepted as an initial estimate and combined with the annual deforestation rates from that year onwards, the total figure comes to 10.5 million ha. This figure, however, is almost certainly an overestimate as part of the deforestation detected annually by remote sensing took place on previously deforested lands. The altitudinal limit of forest cover and the methodological differences between Malleux's (1975) estimate in the pre satellite era and the more recent estimates are also potential sources of error or blindspots.

In conclusion, and for the objectives of this document, the total accumulated deforestation of dense Amazonian forests lies somewhere in between 8.9 and 10.5 million hectares. Considering the 78.5 million ha of Amazon determined by MINAM (2012a), this is equivalent to a total deforestation of between 11.3% and 13.4%.

I PROCLIM, 2005.

II MINAM, 2012a and 2012b.

III Dourojeanni, M., 2012. <http://www.actualidadambiental.pe/?p=19955>

IV MINAM, 2009.

V Hansen et al. (2013) use Landsat images and analyse all the countries of the world in a consistent manner between 2000 and 2012. As a result, subtle details from each country are beyond the scope of the analysis but it permits a general comparison between countries and, over time, there are no blind spots due to changes in methodology or satellite use. The level reported by MINAM is less but the difference in methodology between the 2 results remains unclear.

VI This included forests on the Western slopes of the Andes in the regions of Piura, Tumbes and Lambayeque which are deciduous and which therefore raises special methodological problems for estimating deforestation. The MINAM study (2009) only mentions that deforestation in Piura constitutes 2% of national levels. Hansen et al. (2013) include all dense forest, in other words covering over 75% of the ground which would probably exclude a large part of the dry forests of these regions.

agricultural migrants initially growing it adjacent to the newly-built roads. Efforts to eradicate it forced cultivation, and the corresponding deforestation, into more remote areas.³⁵ Similarly, road building and road improvement were used to encourage commercial cultivation of crops *other* than coca – part of a crop substitution policy, supported by the USAID's Alternative Development Project – which led to further deforestation.³⁶

Agrarian credit

In 1986 and 1987, the Peruvian state started providing agrarian credit on a large scale across the Amazon, leading to a substantial increase in deforestation rates. Although this is not reflected in nationwide analyses of deforestation, it was remarked upon by the indigenous peoples interviewed for this report (L. Huanzi, FERISHAM), and it has been documented in Madre de Dios where one study found that deforestation rates were higher when agrarian credit was available and that the highest rates were within 8 km of the Inter-Oceanica Highway.³⁷

Other research on Madre de Dios, focusing on the 1980s through to 2003, has found a clear link between agrarian credit, road building and deforestation:

*“The amount of mature forest decreased from 97 % in 1986 to 85 % in 1991, rose slightly until 1996, decreased slowly until 2003, and then decreased in accelerated fashion thereafter. Especially interesting are the impacts of these investments on the forest dynamics, from the decrease during the provision of credit and incentives for cattle-ranching during Garcia’s administration (1986-1991), the increase after those incentives were withdrawn by Fujimori, who later offered incentives for reforestation (1991-1996), and then the rapid decrease after 2003 during preparations for paving the Interoceanica Highway during the Toledo administration.”*³⁸

Other studies also confirm the direct impact of agrarian credit on deforestation. Regarding Pucallpa and the surrounding region, one such study found:

“...upon provision of subsidized agricultural credit and guaranteed minimum prices for agricultural products in the latter half of the 1980s, 94 percent of farmers increased production (predominantly of rice and maize) ... and by hiring more labour for slash-

*and-burn production of annual crops. A sharp increase in forest clearing resulted; 75 percent of farmers reported clearing more primary forest for agricultural use. When subsidized credit and guaranteed prices were eliminated in the context of structural adjustment, production levels and deforestation sharply declined in the region around Pucallpa.”*³⁹

Retreat from the Amazon

However, following these years of optimism, the situation changed entirely in the 1980s and 1990s with violence and economic crisis. Public and private investment shrank. In the Huallaga, Apurímac and Aguaytía valleys, for example, commercial activity decreased so significantly that whole areas were abandoned⁴⁰ and vegetation recovered.⁴¹ Today, many such areas appear as mature forests in satellite images.

Peace in the late 1990s meant that many indigenous and non-indigenous peoples returned to the areas where they had lived previously, although this sometimes led to conflicts and disputes if other people had settled there in the meantime.

Throughout the history of deforestation in the Peruvian Amazon most of it – 75 % or more – has been caused by the State’s road building, agrarian credit and colonization programs encouraging migration – although such colonists, limited by time constraints and a lack of capital, have tended to only clear a few hectares over the years.⁴² While it is true that some extensive swathes of forest have been deforested in past decades – especially for cattle ranches – it is mainly in the last few years that there has been a qualitative and quantitative leap in deforestation, which will be discussed later. It is precisely this central and historic role played by an alliance between the State and the ideology of ‘development’ which makes the current situation of the Amazon of such concern.

1.3 INDIGENOUS PERSPECTIVES ON DEFORESTATION

To date, most deforestation in Peru has been associated with the most important roads and population centres, beyond the boundaries of indigenous territories, although there are some exceptions, such as the upper River Mayo, where

35 Bedoya, 2005.

36 CDC, 2004.

37 Álvarez and Naughton-Treves, 2003, cited in Zambrano et al., 2010.

38 Chávez, 2014: 15 (authors translation).

39 Yanggen, D., 2000, cited in White et al., 2005: 347.

40 L. Huanzi, from the Shawi people (FERISHAM), says that in the River Paranapura basin in San Martín there are 20 to 25 year old fallows (*purmas*) dating back to the agrarian credit years.

41 CDC, 2004.

42 INDUFOR, 2012.

Box 3: Traditional rotational farming: The scientific evidence supporting sustainable agriculture

Shifting cultivation involves clearing forest for a plot of land, cultivating it for a few years, and then, as soil fertility declines, abandoning it in favour of clearing further forest for another plot of land while the first plot lies fallow and recovers its fertility. Widespread use by indigenous and non-indigenous Amazonian people has been shown to be an effective response to the fact that 93 % of Amazon lands located on firm ground are highly acidic, lack deep layers of organic matter, and therefore are not sufficiently fertile.ⁱ Drawing on historical research and ethnographic fieldwork, it has been shown that many supposedly ‘natural’ landscapes in the Amazon have actually been created and managed in a sophisticated fashion by indigenous peoples as well as non-indigenous peoples living on the floodplains, such as the so-called ‘ribereños’,ⁱⁱ or other communities living in the forest.ⁱⁱⁱ This approach is described by a member of the Achuar community of Wijint on the river Huitoyacu.

“We do not farm those lands with lots of clay or those that are very steep, those places with lots of mud, flooded areas or swamplands. Normally we would not make farms where there are dead trees no where we find *iji pujawai* (a harmful fungus that sticks to the yucca and slows its growth) nor in the *núngka arantuti*, ‘sacred lands’ or *núngka shámrumtin*, dangerous lands.”

Numerous studies have shown that rotational farming can be highly sustainable in the Amazon when land is allowed to lie fallow for sufficient time. The Kayapó, for example, are famous for creating ‘forest islands’ (*apete*) to cultivate crops and plant trees. Of a total of 120 species found in 10 *apete*, it has been estimated that 75 % may have been planted.^{iv} Similarly, the Awá on the Colombia/Ecuador border practice a form of shifting cultivation known as ‘*tumba y pudre*’ which involves cutting back the natural vegetation and waiting until it turns into mulch and creates a temporary plot where maize and beans can be planted. Once yields decline, the field is left fallow and allowed to regenerate as enriched, secondary forest.^v

There are also studies showing that shifting cultivation by small-scale farmers encourages much greater biodiversity than commercial agriculture and, in addition to providing vital food and livelihood security for millions of smallholders, also provides a range of other ecological services far superior to commercial agricultural lands, including significant carbon sequestration and a reduction in soil erosion and run-off. One of these studies shows that an average of 37 species of tree seedlings can be tolerated, even encouraged, in each ‘slashed-and-burned’ hectare in the Peruvian Amazon.^{vi} Shifting cultivation is a cyclical farming system in which forest is transformed into field, field into forest. The “sustainability of swidden systems emerges when it is seen in broader spatial and longer temporal scales”.^{vii}

In the Gran Pajonal region in Peru’s central jungle, research over a 50 year period has compared the traditional shifting cultivation of the Asháninka with cattle-ranching by colonists who have migrated from the Andes. Asháninka agriculture is based on small, 1-2 ha plots featuring a variety of plants and requiring an average fallow period of 25 years, although recently the cultivation of high-quality coffee for export has been successfully integrated into their system. By contrast, cattle-ranching by their neighbours is based on clearing the forest and planting permanent pasture. Since the 1950s, the Asháninka have maintained almost the same proportion of forested land to agricultural land, and more than 91 % forest cover despite the fact their population has tripled. The colonist population is almost the same as it was in the 1980s, but deforestation has increased by almost 50 % with no noticeable improvement in income generation or poverty levels.^{viii}

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Despite this clear contribution to biodiversity and forest conservation, shifting cultivation in many countries has often been criminalized, condemned, and described in pejorative terms such as ‘slash-and-burn’ farming. Much of the criticism argues that it is only sustainable when plots can be left fallow for long periods. However, recent research emphasises that there is a great deal of diversity in shifting cultivation. In San Martín, for example, Kechwa Lamista communities have used their traditional ecological knowledge to accelerate and improve the fallow period. As a result, they have been able to cultivate commercial crops such as coffee alongside subsistence food crops and restore degraded land to production.^{ix}

- I Gasche, 2010.
- II Balee, 1994; Posey, 1985.
- III Gasche, 2010.
- IV Posey, 1985.
- V Orejuela, 1992, cited in Folke and Johan Colding.
- VI Padoch and Pinedo-Vasquez, 2010.
- VII Ibid: 551.
- VIII Hvalkof, 2013.
- IX Marquardt et al., 2013.

State-backed projects have promoted intense colonization in areas very close to indigenous communities (Box 32).

Despite that, deforestation and degradation caused by colonists or extractive industries has had substantial impacts on the forest and its ecosystems and therefore serious consequences for indigenous peoples’ capacity to manage their lands and resources, in addition to the abuses that such operations bring with them. In other words, deforestation and degradation have indirectly had serious consequences for indigenous peoples even without directly violating their rights.

Deforestation is seen as integral to the way wider Peruvian society impacts on indigenous people, and as one of the consequences of the aggression against their territories. Other consequences include invasions, the over-exploitation of timber and non-timber resources (degradation), contamination, and, in the case of gold-mining and oil palm development, utter devastation.

Indigenous people, however, distinguish very clearly between different types of deforestation: temporary deforestation caused by traditional rotational farming (Box 3) which is adapted to the Amazon’s ecology, and permanent deforestation by cattle-ranching, mining or commercial agriculture. Conventional analyses of deforestation often fail to distinguish between the two forms.

Traditional shifting cultivation for subsistence purposes involves deforesting significantly less

than 1 ha for each family per year. Moreover, most cultivation takes place in already deforested areas. According to A. Lopez, from the Kukama people, the president of ACODECOSPAT:

‘In the Amazon lands occupied by the Kukama-Kukamiria the cycles of slash-fallow-slash last between 5 and 6 years. This is possible because the floodplain forests are so fertile.’

In other parts of the Amazon, the cycles are longer and can last up to 20 years.⁴³ In general in such traditional indigenous systems a mosaic landscape is created which is relatively stable in which most deforestation takes place on secondary forest and little primary forest is touched.

There is no doubt the forest can regenerate when traditional shifting cultivation is practiced and/or sufficient time passes. L. Huanzi (FERISHAM) says of the River Paranapura in the Amazonas region:

‘Our grandfathers were cultivating *barbasco* and rubber in their plots in the 1950s, but later abandoned them when markets collapsed. Those *purmas* (fallows) are more than 50 years old and similar to primary forest. They even have valuable timber species. There are also *purmas* that are 20 to 30 years old dating back to the special [colonization] projects promoted in the 1980s, but they’re still very different to primary forest.’

In other words, deforestation resulting from

43 Dourojeanni et al., 2009.

Box 4: Estimates of deforestation in Peru

Authors	Years analysed	Annual deforestation (ha)	Annual deforestation %
Malleux (1975)	1975	150,000	Information not available
INRENA (1996)	1985-1990	261,000	Information not available
PROCLIM (2005)	1990-2000	149,600	Information not available
RAISG (2012)	2000, 2005 and 2010	150,400	0.21 %
MINAM (2012a)	2000, 2005 and 2009	123,203	0.23 %
MINAM (2012b)	2009, 2010 and 2011	105,975	0.17 %
Hansen et al. (2013)	Every year from 2000 to 2012	123,300	0.17 %

traditional shifting cultivation is both a temporary state and an integral part of indigenous peoples' work and lives, rather than a problem that needs resolving, given the care taken to regenerate the cleared area and its capacity to enrich the forest.⁴⁴

Instead, the problem arises when the State, companies or colonists operate in different ways. Not only do they have little experience of what crop works best where, they are functioning on a much larger scale because their motivation is to earn profit rather than support their subsistence, which involves an entirely different logic. It is also a problem when indigenous peoples themselves, for various reasons, have been forced to adopt this logic, as has occurred in the upper River Mayo (Box 32).

1.4 CURRENT TRENDS IN DEFORESTATION AT THE NATIONAL LEVEL

National figures

For years, countries have reported deforestation rates to the FAO, but FAO figures are problematic because of the different definitions used by countries to determine 'forest' and the different methodologies used to assess deforestation.

In Peru, various estimates have been made recently using different methodologies. Hansen et al. (2013), who use the same methodology for every country and therefore enable direct comparisons between them, found that Peru has 74.5 million ha of forest, the 7th highest amount of dense forest of any kind in the world, and the 4th highest amount of dense

tropical forest in particular.⁴⁵ According to Hansen et al., 1,480,000 ha were deforested in Peru between 2000 and 2012 at an average of approximately 123,000 ha per year, although various sources report a significant increase in deforestation in 2012, including, in some cases, more than 250,000 ha deforested in this year.⁴⁶ These latest figures will no doubt be confirmed or refuted by future studies.

Other sources (Box 4) agree with Hansen et al. that Peru has one of the lowest rates of deforestation among tropical countries, equal to or less than 0.23 %. In the Amazon, only Venezuela and the Guyana shield countries currently have lower rates.

However, considering the factors discussed in this report, it is expected that deforestation in Peru will increase significantly and rates will become more similar to neighbouring countries. These factors include an investment climate encouraging large-scale projects, pressure from national and international oil palm companies, the expansion of local and regional road networks, and the increased wealth of the population in general.

The regional situation

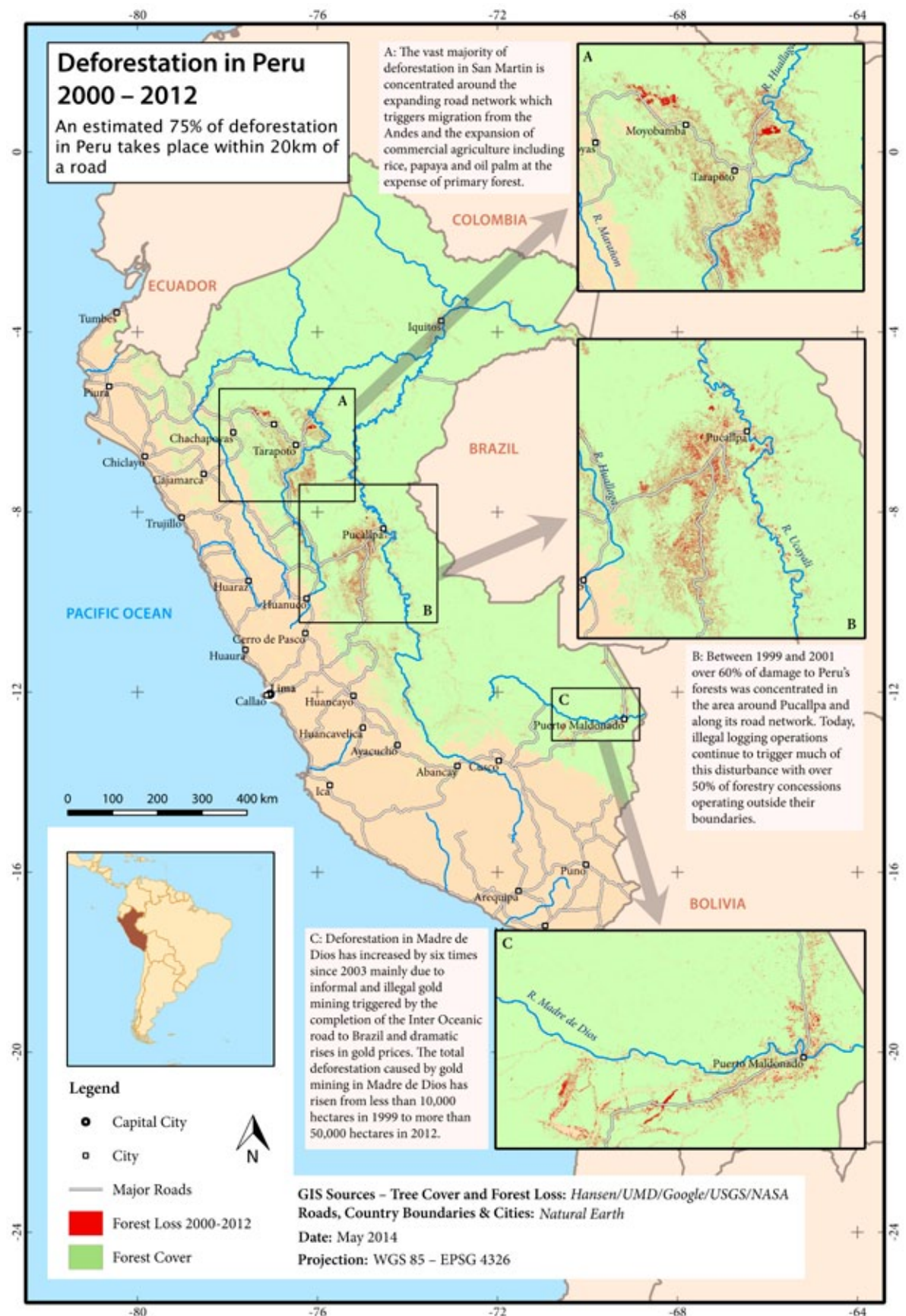
Loreto is the largest region in Peru and has had more hectares deforested than any other. According to MINAM (2009), most deforestation is around Yurimaguas, along the Iquitos-Nauta highway, and along the central channel of the River Amazon between Caballococha and the border with Brazil.

In **San Martín**, the region where in the past deforestation rates have been highest, there was

⁴⁴ This may be one of the reasons why REDD generates such suspicion among indigenous peoples: it places a restriction on something indigenous peoples can't live without. As many of those interviewed stated, this does not correspond to the '*buen vivir*' (good life).

⁴⁵ For dense forest the order is Brazil, Russia, Canada, USA, Democratic Republic of Congo, Indonesia and Peru.

⁴⁶ Global Forest Watch used MODIS satellite imagery to generate a figure for 2012 of 246,456 ha compared with 118,005 for 2011. Meanwhile, InfoAmazonia figures cite 167,000 hectáreas for 2012 compared with 97,000 ha for 2011: <http://es.mongabay.com/news/2013/0814-deforestacion-en-paises-amazonicos.html>



Map 2: Deforestation in Peru 2000-2012. FPP

Box 5: Annual deforestation (in hectares) in Amazon regions between 2000 and 2012^I

Region	Period				
	1990-2000 ^{II}	2000-2005	2005-2009	2009-2010	2010-2011
San Martín	2,765	9,310	27,502	39,760	30,798
Loreto	30,751	16,672	31,932	24,211	36,201
Ucayali	7,931	16,679	22,057	16,342	9,942
Huánuco	6,816	11,830	16,790	12,785	7,777
Madre de Dios	12,461	4,325	3,707	5,402	5,959
Pasco	1,465	4,203	10,483	3,998	3,938
Amazonas	35,589	3,818	9,336	3,981	4,542
Cusco	14,175	11,773	24,450	740	1,498
Junín	11,141	4,498	9,882	333	1,514

I Modified from MINAM, 2012a and 2012b.

II <http://dgffs.minag.gob.pe/index.php/deforestacion-e-incendios-forestales>

a significant increase after 2005 but a decrease in recent years (Box 5). Deforestation occurs almost everywhere in the region, except for the lowland areas, and it is particularly intensive in the upper River Mayo, along the Tarapoto-Yurimaguas highway near the border with Loreto, and along the Highway to Huánuco (Map 2).

In **Ucayali**, most deforestation occurs along the Federico Basadre Highway linking Pucallpa to Lima, and the roads running to Aguaytía and the Pachitea valley (Map 2).

In **Madre de Dios**, most deforestation is connected to mining, particularly in areas such as Huetupe, Mazuko and Delta I. New areas like Quebrada Guacamayo and stretches along the Inter-Oceanic Highway are now being impacted (Map 2).

According to one study, 86 % of total deforestation and forest disturbance in Peru between 1999 and 2001 occurred in Ucayali and Madre de Dios. The highest rates were around Pucallpa, a major logging centre, and neighbouring regions connected by road, accounting for 64 % of total forest damage in Peru. This was followed by the 'corridor' centred on Puerto Maldonado, Madre de Dios's capital, which runs along the Inter-Oceanic Highway and accounted for 23 % of total damage.⁴⁷

In San Martín, Ucayali and Huánuco – all of which have been seriously impacted by narco-trafficking and violence – deforestation rates in the 1990s were much lower than in subsequent years.

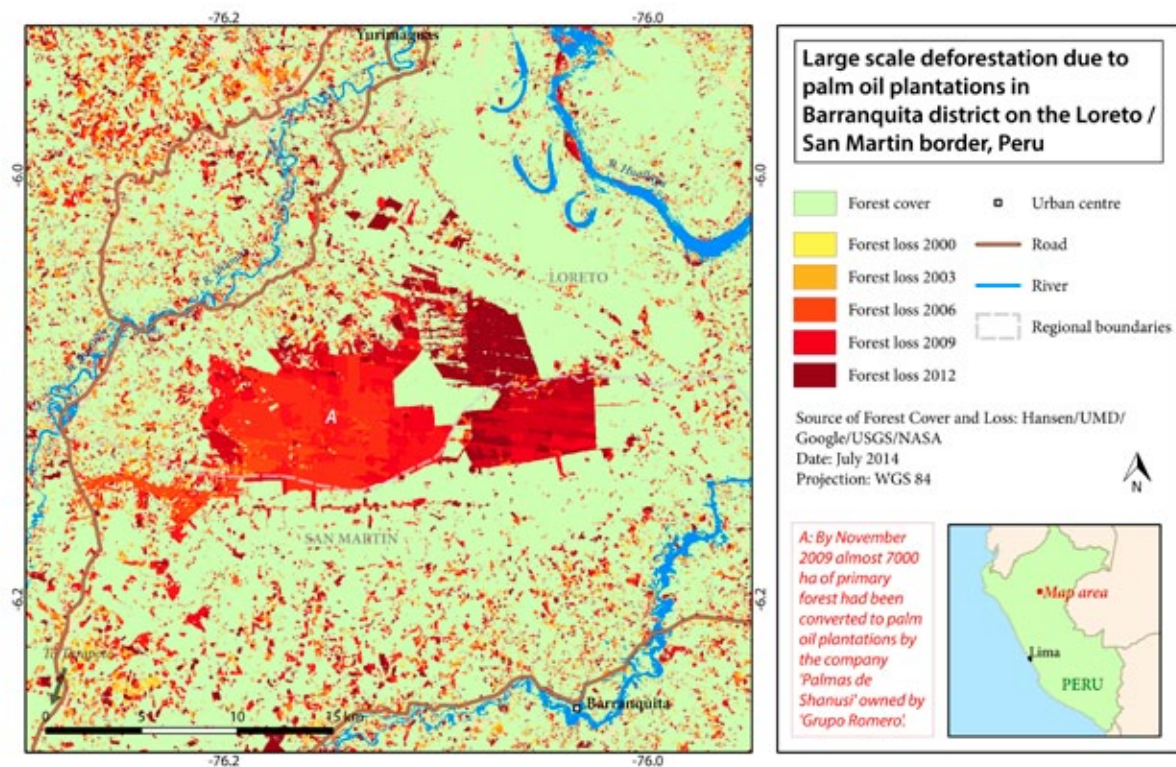
In regions that are only partly Amazonian (Huánuco, Pasco, Junín, Cusco and Puno), deforestation rates are currently lower than in previous years, despite pressure from colonists often coming from the Andean parts of those regions. In some cases, such as Cusco and Pasco in 2005-2009 and 2009-2010, it is not clear if there really was such a dramatic decrease in deforestation or whether a methodological error has been made.

In the tropics worldwide, 6 types of deforestation have been identified.⁴⁸ Four of these are found in the Peruvian Amazon:

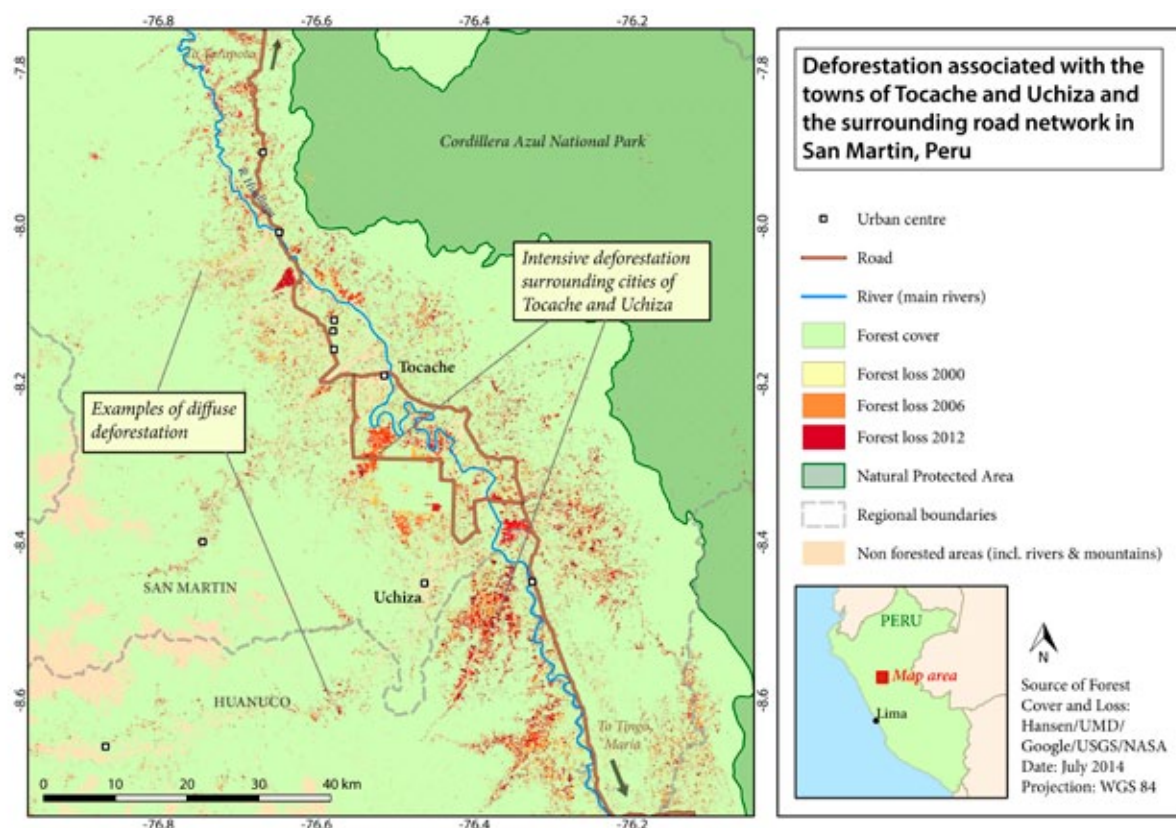
- **Deforestation in large blocks** resulting from agricultural investments such as oil palm and cattle-ranching (Map 3)
- **Deforestation in 'corridors'** along roads and major rivers (Map 6)
- **Deforestation around cities** or large towns (Map 4)
- **Deforestation that is dispersed or 'mosaic'**, by traditional inhabitants or long-established colonists (*riberaños*) who don't participate in the globalized market economy and in general remain isolated from road networks (Map 4)

47 <http://www.sciencemag.org/content/317/5842/1233.full>

48 Geist and Lambin, 2001.



Map 3: Large-scale deforestation for oil palm plantations in the Barranquita district on the Loreto/San Martín border. FPP



Map 4: Deforestation connected to the towns of Tocache and Uchiza and the surrounding road network in San Martín. FPP

PART 2

DIRECT CAUSES OF DEFORESTATION

2.1 DEFORESTATION BY LAND USE CATEGORY

Deforestation is a complex issue, difficult to understand and therefore subject to various approaches trying to comprehend its causes and consequences. Direct causes are often confused with indirect or underlying causes.⁴⁹

Analyses of deforestation often break down rates according to different land use categories or ownership types. Box 6 highlights key elements of the official figures for this breakdown in Peru.

According to this analysis, deforestation is highest on private land (2.27 %), reforestation concessions (0.74 %), campesino communities (0.26 %), and areas where no rights have been allocated (0.24 %). All these land categories have rates at or above 0.24 %.

By contrast, indigenous communities (0.11 %), logging concessions⁵⁰ (0.07 %), and conservation and eco-tourism concessions (0.14 %) have intermediate rates of deforestation between 0.07 % and 0.14 %. Meanwhile the lowest rates are found in protected natural areas (0.02 %), non-timber forest concessions⁵¹ (0.04 %), and territorial reserves for indigenous peoples in isolation (0.02 %). All these areas have annual rates lower than 0.04 %.

Independent studies and official reports cite agriculture – particularly practiced by recent agricultural migrants, and particularly along roads – as the main cause of deforestation, accounting

for 75 % of the total.⁵² The indigenous people interviewed for this report point out that such migrants focus on cultivating crops for national and international markets such as corn, rice, papaya, palm, cocoa, coffee, manioc, banana and sachu inchi, among others.

Cattle-ranching⁵³ and mining also have a significant impact, although mining is underestimated by this source. Coca, so important in past decades, is now less relevant as a direct cause of deforestation (Box 8).

Nevertheless, the analysis shows that more than 50 % of deforestation occurs in areas where no rights have been allocated. Most migrant agriculture falls within this category, given that very few colonists have obtained title and therefore are not considered within the private land category.

Estimates for cattle-ranching do not appear in other studies, probably because of the difficulty in distinguishing between pasture and crops, making it necessary to wait for further studies for confirmation. The indigenous peoples interviewed for this report generally didn't consider cattle-ranching as an imminent threat, and although it is significant in some areas such as Puerto Inca or Aguaytía it doesn't appear that there will be a significant increase in the near future. For the purposes of this report, cattle-ranching is included within agriculture in general.

49 Geist and Lambin distinguish between 'proximate and underlying factors', but other authors use the terms 'direct and indirect causes', or threats and factors. In this report we use 'direct and indirect causes.'

50 Finer et al. (2014) argue that wood-laundering – illegally extracting wood from beyond concession boundaries – is reflected in the higher levels of disturbance in the surrounding areas, as does Oliveira et al. (2007).

51 Such as brazilnut, aguaje, palm heart and animal rearing etc.

52 Climate Investment Funds, 2013, Peru R-PP.

53 As INDUFOR (2012) reports for the Climate Investments Funds, 2013.

Box 6: Deforestation by land category^I

Use category and ownership type	Standing forest (ha)		Annual deforestation rate (%)	Area deforested per year (ha, cumulative)
	2000	2009		
Forest area without allocated rights	20,806,729	20,305,072	0.24 %	55,739.67
Privately owned land	649,083	515,765	2.27 %	14,813.11
Titled native communities	11,510,213	11,383,967	0.11 %	14,027.33
Timber concessions	7,413,846	7,364,880	0.07 %	5,440.67
Reforestation concessions	132,665	123,121	0.74 %	1,060.44
Protected natural areas	16,885,055	16,848,661	0.02 %	4,043.78
Total tropical forest in Peru	71,424,855	70,436,169	0.14 %	109,854.00

I Extract from a table in the 2011 R-PP, cited in the Forest Investment Plan (INDUFOR, 2012).

Box 7: Deforestation statistics: A note of caution

However, these figures must be treated with caution. Satellite data for Peru is not fully able to distinguish forest loss from traditional rotational farming with permanent forest removal. This means that rates of deforestation in indigenous lands are likely to be significantly overestimated. In addition, these figures tend to obscure the fact that the land use category doesn't necessarily reflect how the land is actually used in practice. Moreover, the rightsholder isn't necessarily the one responsible for the deforestation.

For example, recent studies have found that more than 50% of logging concessions extract timber from outside their concession boundaries^I (see section 2.4), that less than 50% of indigenous lands are legally recognized as indigenous communities^{II}, and that a significant portion of those areas classified as Natural Protected Areas are considered to be and used as part of the ancestral territories^{III} of various indigenous peoples so these lands are excluded from the analytical category of 'indigenous lands'.

I Finer, 2014.

II AIDESEP, 2014.

III No comprehensive data exists about the level of overlap between such natural protected areas and indigenous territories but, according to data from the IBC (2014), this is at least 2,963,87 ha or at least 15% of the total extent of these protected areas.

Box 8: Direct causes of deforestation per year in overarching land use categories^I

Use	Agriculture	Cattle-ranching	Mining	Coca
Estimated deforestation per year (ha)	60,000-67,000	40,000-48,000	5,000-7,500	1,500

I INDUFOR, 2012.

Image 5: Clandestine runway used by drug traffickers in the Pichis-Palcazu valley.

Source: *La República*



2.2 AGRICULTURE

2.2.1 COMMERCIAL COCA CULTIVATION

In 2011, Peru once again became the world's leading producer of coca. According to a report by the UN, more than 60,000 ha were under coca cultivation in 2012, compared to 48,000 ha in Colombia.⁵⁴ However, it is estimated that the annual rate of deforestation caused by coca is 1,500 ha, accounting for a little less than 1 % of Peru's total deforestation.⁵⁵

There is considerable demand in Peru for unprocessed coca leaves, but, according to the UN report, such demand could be satisfied by cultivating less than 7,000 ha. This suggests that the majority of coca produced in Peru is used for processing cocaine, and makes clear the ongoing demand for it in regional markets and Europe.

Clearing forest to grow coca is an important cause of deforestation in Peru, although much less so than in the past. It has long been cultivated in areas such as the Monzón, Apurímac and Ene (VRAE) valleys, and relatively new areas now include the upper River Tambopata in Puno, the upper River Urubamba, and lower Amazon river. According to estimates, cultivation peaked in 1992 and then declined to 39,000 ha, but has recovered in recent years.⁵⁶

In addition to causing deforestation, coca has the potential to destroy the environment because of the rapid loss of soil fertility once it is planted, forcing cultivators to move to other areas and meaning that it expands more quickly than other crops.⁵⁷

Moreover, cocaine production involves using highly toxic substances such as kerosene, sulphuric acid and acetone which are later dumped into rivers and lakes.⁵⁸

In addition to its environmental impacts, coca cultivation involves other dynamics. It appears that drug traffickers collaborate closely with loggers, who clear the forest to sell the wood and thereby open up an area for coca to be planted.⁵⁹ Indeed, the colonists who have the biggest impact on indigenous peoples in Ucayali and the lower River Urubamba have migrated from the VRAE. According to R. Guimaraes, from the Shipibo people and the vice-president of FECONAU, the colonists don't simply invade:

"They bring with them a cocktail of illegal activities: logging, coca, gold-mining. Indigenous leaders trying to stop it receive death threats, and some have been assassinated. In 2013, one leader from the Patria Nueva community in the [River] Callería basin was killed by coca growers invading their territory."

Coca cultivation is invariably linked to violence, either because of connections to terrorist and/or guerrilla operations in the VRAE and upper Huallaga valley, or to clandestine production of cocaine paste, or to drug trafficking, or to the money-laundering that is so characteristic of Peru's illegal gold-mining industry (see section 3.4). Given the need to formalize the profits earned, companies are established in the agriculture, mining and logging sectors that are simply a front to hide the true origins of their capital, and ultimately cause more deforestation.

54 According to the annual report by the United Nations' Office on Drugs and Crime. Perú: Monitoreo de Cultivos de Coca 2012.

55 INDUFOR, 2012.

56 Pedroni and Yepes, 2010.

57 Rodríguez Valladares, 2010.

58 <http://infosurhoy.com/es/articles/saii/features/main/2011/09/01/feature-02>

59 Ibid.

Box 9: Oil palm: Carbon store or carbon sink?

There are many problems associated with oil palm, but in terms of carbon it has no positive impacts in terms of climate change except when it replaces grasslands. In every other case, removing the vegetation cover emits greenhouse gases (GHG) that can't be recovered during the life of the plantation and the use of the oil as a substitute for fossil fuels. In other words, when plantations are established through replacing primary or mature secondary forests, oil palm plantations and the biofuel that is produced emit more GHG than the equivalent energy produced by fossil fuels (PUCP, 2009). In addition, establishing a commercial oil palm plantation means the forest won't be able to recover for several decades. In this way, whatever the arguments used by the proponents of oil palm to justify its cultivation, its carbon neutral nature is certainly not valid except if it can be demonstrated that it is replacing permanent pastures.

2.2.2 OIL PALM

Oil palm is replacing other crops as a source of oil for human consumption worldwide. The biggest producer is Malaysia, where more than 4 million ha are under cultivation, followed by Indonesia, where there are approximately 3 million ha. In recent years, the deforestation linked to oil palm in Indonesia has reached half a million ha per year.⁶⁰

In Peru, despite efforts made by the state for 40 years to encourage oil palm (oil palm has been one of the principal crops promoted as an alternative means of development in coca producing areas), official figures show that in 2012⁶¹ there were 57,752 ha – much less than the 370,000 in Colombia and 230,000 in Ecuador. However, one recent study found that in San Martín and Ucayali alone approximately 100,000 ha of oil palm were established between 2000 and 2009 by large- and small-scale producers.⁶² According to this study, small-scale plantations cover 80,000 ha, 24,000 (30 %) of which replaced primary forest, while large-scale plantations cover 20,000 ha, with 14,000 (70 %) replacing primary forest. This means that a total of 38,000 ha of primary forest were cleared in order to establish oil palm plantations in 9 years, at an average of 4,200 ha per year. This is significant for Peru, albeit low in comparison to south-east Asia.



Image 6: Deforestation in Shanusi, Loreto.

Source: Barranquita Resiste⁶³

Other figures suggest that a massive expansion of oil palm is both imminent and planned. Peru currently imports a considerable amount of oil palm, and this is used by those promoting the expansion to justify future growth alongside an argument that approximately 140,000 more hectares are required to satisfy domestic demand.⁶⁴

Case study: The Romero Group's Grupo Palmas

One of the main investors in oil palm in Peru is the Romero Group which, through its subsidiary group, Grupo Palmas (composed of the companies Palmas del Espino, Palmas del Shanusi and Palmas del Oriente), has approximately 20,000 ha under

60 Teoh, 2010.

61 MINAG, 2012.

62 Gutierrez-Vélez et al., 2011.

63 <http://cordilleraescalera.wordpress.com/2009/12/18/barranquita-resiste>

64 Information collected for the Draft Law for the Promotion of Oil Palm Cultivation submitted in 2012.

cultivation in the San Martín-Loreto border region (Image 24 and Map 3).⁶⁵ Grupo Palmas includes Palmas del Shanusi with 7,029 ha (acquired from the Ministry of Agriculture at 17.50 soles per ha, Yurimaguas-Loreto), Palmas del Oriente with 3,000 ha (Caynarachi valley), and Palmas del Espino with 13,200 ha.⁶⁶

As various observers have reported, establishing these plantations has involved a series of problems including boundary disputes, irregularities in administrative proceedings, and conflicts with the local population who lived in and occupied the area without land titles.⁶⁷ Another of the group's projects, Palmas del Caynarachi (with 3,171 ha adjudicated at \$150/ha – Barranquita-San Martín) was abandoned by the company in 2010 after resistance from the local population.^{68 69}

Unfortunately, each one of its operations is marked by social conflicts with local populations. In the case of Palmas del Shanusi, conflicts with local people have been reported since the project's inception in 2006: *'On 5 August there was a clash between people living in the Nueva Italia sector and company employees. [The latter] have destroyed the crops and homes of, and even abused and detained, posesionarios [people occupying the land without property title] under the new citizens' arrest law. One farmer was sent to prison for a month and even now is under conditional bail.'*⁷⁰

Palmas de Espino's operations have led to similar conflict: 'hundreds of posesionarios (inhabitants) have been waiting for property title since 2007 but have been denied by the simple fact that they've cleared very little forest, they've kept much of the primary forest standing, and because the company has requested the area.'⁷¹

In the case of Palmas del Caynarachi, issues reported include the overlaps with those occupying the land without property titles and their legal actions in protest as well as the use by the company of a legal loophole permitting primary forest to be classified as suitable for agriculture:

"In these territories there are people living who have been ignored by the site visits of the previous authorities from PETT (land titling agency) and efforts have been made to reclassify primary forest categorized as 'permanent production forest' so it can be used for oil palm. This project has been declared in the 'regional interest' with a simple letter by the regional ex-president, and there was no EIA as required by law. Nor has it respected the region's Ecological Economic Zonification which has been legally enforceable since 2006. In 2008, the Barranquita population filed an injunction requesting that their properties be titled and the cancellation of the contract of sale (Resolution 255.AG.2007). To date, the majority of the farmers in the conflict area have not received title, and COFOPRI (current land titling agency) has refused to demarcate those lands within the 3,000 hectares (belonging to the company)."⁷²

Due to these problems the project was abandoned in 2010 by the Romero Group but 2,100 ha had already been deforested.⁷³

As a result of these conflicts, the Grupo Palmas is currently facing 5 lawsuits, filed by San Martín's regional government, for clearance of primary forest.⁷⁴ In one of these cases involving Palmas de Shanusi, 600 ha were purchased from 58 posesionarios using a perverse incentive in which the company paid more for each deforested hectare (1,000 soles, approximately US\$370) than a hectare of standing primary forest (only 600 soles) (see section 3.2.2 for more details).

The plantations of Grupo Palmas have also affected indigenous peoples living in the region. In particular the areas that overlap at least 4 Kechwa and Shawi communities whose territories remain untitled. In August 2014, FERISHAM representatives visited the region to investigate denunciations made by San José, one of the Shawi communities, regarding the deforestation of more than 50 ha of their traditional territory (see Image 7):

"Only one month ago I visited one of our local members, the Shawi community of San José which shares a boundary with a plantation belonging to the Romero Group but it has cut down more than 50 ha of forest within the ancestral lands of the community. We have denounced them for environmental crimes to the environmental prosecutor in Yurimaguas. In this area there were

65 <http://www.larepublica.pe/27-01-2014/peru-tiene-600-mil-hectareas-para-cultivar-palma-aceitera>. For more information about Grupo Romero see <http://idl-reporteros.pe/2013/09/12/deforestacion-entre-palmas/>

66 <http://www.palmas.com.pe/palmas/preguntas-frecuentes>

67 <http://www.climaperu.com/estudios-de-caso/shanushi>

68 <http://www.inforegion.pe/portada/55727/grupo-romero-renuncia-a-adjudicacion-de-6129-hectareas-de-bosques-amazonicos-en-barranquita/>

69 CRS, 2012.

70 <http://cordilleraescalera.wordpress.com/2009/12/18/barranquita-resiste/>

71 Ibid.

72 Ibid.

73 CRS, 2012.

74 <http://idl-reporteros.pe/2013/09/12/deforestacion-entre-palmas/>



Image 7: Deforestation by the Romero Group in traditional territory belonging to San José, a Shawi community, August 2014.

Source: FERISHAM

"The Romero Group has stolen an area within our communities where we used to hunt and obtain food for our families. Now no one can enter. The rivers are all blocked as they have to be diverted elsewhere... Ancestral areas and forests have been destroyed... They only had permission for agricultural activities but they arrived with documents backing them up..."
CEPKA leader, Tarapoto, 2011⁷⁶

"There are two Kechwa communities, Los Angeles and dos de Agosto, which do not have a land title and which is why they have longstanding problems with the Romero Group plantations that they neighbour. Recently we have received reports, albeit unconfirmed that about 800 ha of forest has been cut down in these months, although this still needs to be verified in the field." Jaime Tapullima, CODEPISAM

old farms and virgin forest as well, it was an area where the people used to go and hunt and fish but now its all deforested." Ely Tangoa, FERISHAM.

"Perhaps 80% of the communities [in this region] have been impacted by deforestation connected to the Romero Group's oil palm plantations. Land of some communities was first affected and then the forest was cleared after they employed the facility in the law allowing them to change the land use category. Now some people from these communities are working as workers on the plantations while the communities bordering them have less access to the forest. Members of other communities find themselves unable to cross the plantations and blocked by armed guards. That's to say, freedom of movement along traditional paths has been restricted." J. Sangama, technical advisor to FEPIKRESAM

In the case of Palmas del Oriente, the deforestation of 2,100 ha⁷⁵ has had serious impacts on indigenous peoples and their use of the forest:

The Grupo Palmas, together with the Ministry of Agriculture, has also been accused, by the NGO Environmental Investigation Agency (2013), of encouraging the deforestation of 7,000 ha of primary forest as part of the planned 10,000 ha Tierra Blanca agro-industrial project in Loreto while the remaining 3,000 ha are considered to be the 30% reserve.⁷⁷

How to exploit a legal loophole: The rapid and imminent expansion of oil palm in Peru

Oil palm cultivation in Peru is facilitated by a loophole in the legislation. According to the current Forestry Law (no. 27308), primary forests can't be used for agriculture or anything else affecting the forest canopy, but the Ministry of Agriculture can make an exception if it deems the land in a particular area of primary forest suitable for agriculture. This is what is known as 'greater land use capacity' and overrides the forestry law so that the ownership of the land changes.⁷⁸

⁷⁵ <https://cepesrural.lamula.pe/2010/06/15/la-deforestacion-continua-grupo-romero-continua-planos-de-expansion/cepesrural/>

⁷⁶ CRS, 2012: 35.

⁷⁷ Law 27308, article 26 states that on forest lands declared suitable for agriculture a minimum of 30% of the forest and a strip no less than 50 metres from rivers or other water bodies must be kept standing.

⁷⁸ <https://idl-reporteros.pe/deforestacion-entre-palmas>

For example, in 2008 the Caynarachi company of the Grupo Palmas (the project was subsequently abandoned but it resulted in over 2,000 ha of deforestation) managed to secure permission from the Regional agricultural authority of San Martín (DRASAM) to change the classification of 1,041.52 ha of forest and thereby convert it.⁷⁹ This, despite significant local opposition.

“This resolution was subsequently backed by the General Environmental Authority with the approval of the EIA via a resolution on the 16.11.09 (No 047-09-AG-DMV-DGAA). Despite this, on the 22nd January 2010 the DRASAM suspended (No 021-2010-GRSM/DRASAM) the change of land use because the EIA was presented 1 year and three months after the initial approval. It also referred to the fact that the original Ministerial Resolution that permitted the acquisition of the lands as part of the rural property ‘Palmas del Oriente’ established that within these lands only an area of 1,372 ha was suitable for pasture and not for the development of permanent agricultural activities as indicated in the Technical report No 048-2006-INRENA.”⁸⁰

Exploiting this loophole, Grupo Palmas is currently planning a US\$200 million investment in 4 oil palm plantations in Loreto. Palmas has applied to “exploit” 34,268 ha in total – more than 70 % of which is classified as primary forest – and is proposing that approximately 16,719 ha are set aside for plantations. Independent studies assessing the potential environmental impact reveal that the company is avoiding the restrictions on primary forests by classifying them as secondary forests, despite the fact ‘in different official studies they are clearly defined as primary forests. In addition, they also refer to land that was ‘classified in prior studies as lands with forestry and/or protection potential’ as land in the agricultural ‘greater land use capacity’ category.⁸¹ Worse still, according to these studies, up to 23,143 ha of primary forest and permanent production forests will be deforested – 6,424 ha more than Palmas claims.⁸²

In summary, through a series of questionable or irregular measures on the part of permissive authorities, primary forest can be converted to an oil palm plantation in a way that is both legal and with the consent of regional and national opinion using the argument that it leads to increased growth,

investment in the jungle and employment.⁸³

Weaknesses implementing the law

Investment in oil palm is seen by Peru’s central and regional governments as one of the principal means in the agricultural sector to secure the supposed ‘development’ of the Amazon. As a result there are policies promoting it and legal loopholes facilitating it that are being used by certain companies. However, in practice the situation is even worse because the laws, contradictory or flexible as they already are, are so rarely enforced. Like so many well-known cases in Indonesia,⁸⁴ the operations of some companies in Peru are extremely questionable and possibly illegal and criminal. Several of these operations are associated with palm oil plantations in Malaysia and a commercial group referred to as “the Malaysians” which has established 13 different companies in Peru to implement projects in Loreto and Ucayali, including the 2 cases which we examine next.⁸⁵

The Tamshiyacu case

The company Cacao del Perú Norte SAC acquired its land in Tamshiyacu by acquiring 45 rural properties of 50 ha each. One recent study alleges that ‘each property was bought by extortion and intimidation, according to denunciations made by the farmers themselves.’⁸⁶ In subsequent research, other Tamshiyacu residents denounced that they are being pressured to sell their land by threats and intimidation:

“At the very same time, we’re threatened that if we don’t sell we’ll be invaded and that without rights we can’t stay... I don’t want to sell and never will. These lands are for my sons and grandsons.”⁸⁷

Others have denounced that their land has been invaded and destroyed:

“The problem is that the company [Cacao del Norte SAC] is carrying on without anyone’s authority... We can’t take one step there, but they

79 Por medio de resolución Administrativa N° 208-2008-INRENA-IFFS-ATFFS-SANMARTÍN, con fecha 29-08-2008.

80 CRS, 2012: 34.

81 EIA, 2013, cited in <https://idl-reporteros.pe/deforestacion-entre-palmas/>

82 <https://idl-reporteros.pe/deforestacion-entre-palmas/>

83 http://www.rpp.com.pe/2012-04-02-peru-tiene-1-4-millones-de-hectareas-para-producir-palma-aceitera-noticia_467818.html

84 For example see: <http://es.mongabay.com/news/2014/es0909-hance-wcn-lukas.html>

85 Dammert, 2014 and <https://idl-reporteros.pe/deforestacion-entre-palmas/>

86 SPDE, 2013.

87 Denunciation by Tamshiyacu residents interviewed for Panorama (August 2014): http://servindi.org/actualidad/110788?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Servindi+%28Servicio+de+Informaci%C3%B3n+Indígena%29



Image 8: Deforestation in Tamshiyacu. September 2013. Google earth image showing illegal deforestation of more than 2,000 ha by the company Cacao del Perú Norte which, in just a few months, dwarfs the impact on the forest of hundreds of people occupying the area for decades.



Image 9: Deforestation in Tamshiyacu. December 2013. Further expansion of approximately 1,000 ha of the plantations in only 4 months.

can enter when they want and do what they want with our land – which we have title for.”⁸⁸

In this particular case the company failed to conduct either a soil classification study or an environmental impact assessment,⁸⁹ and failed to obtain permission for changing the land use. These offences have been confirmed by subsequent research that found that ‘all the relevant regional government institutions washed their hands of the matter: DISAFILPA exempted itself by saying the lands were private property, and the Forestry Program argued it had never authorized the forest clearance.’ Meanwhile, the Regional Agrarian Office said that the deforestation would be offset by ‘planting those lands again’ and the company manager said, ‘According to Peruvian law, no permit is required.’⁹⁰ By the end of 2013, Cacao del Perú Norte SAC had deforested more than 2,000 ha as can be observed in the above images.

The case of Plantaciones Ucayali

Another example is the company Plantaciones Ucayali SAC which bought 4,759 ha from Loreto’s regional government, despite the fact it was classified as primary forest and therefore an illegal practice. The company did not only deforest the area it had acquired, but clear-cut forest beyond its property’s boundaries. ‘Workers with heavy machinery and armed security guards were involved, causing serious damages to the lands and goods of small-scale farmers and cattle-ranchers from 21 neighbouring settlements.’⁹¹

Mechanisms of deforestation

A recent study analysing the Tamshiyacu and Plantaciones Ucayali cases summarises the different methods used to acquire land and turn it into plantations:

⁸⁸ Ibid.

⁸⁹ SPDE, 2013.

⁹⁰ <http://servindi.org/actualidad/102129>

⁹¹ SPDE, 2013.

Box 10: Applications for the adjudication of lands for the implementation of oil palm plantations in Loreto

N°	Owner	Project	Size of area	Location
1	Empresa Agrícola La Carmela S. A.	Tierra Blanca	10,000 ha	District of Sarayacu, province of Ucayali, Loreto
2	Empresa Desarrollos Agroindustriales Sangamayoc S. A.	Santa Catalina	10,000 ha	District of Sarayacu, province of Ucayali, Loreto
3	Islandia Energy S. A.	Manití	8,850 ha 2,051 m ²	District of Indiana, province of Maynas, Loreto
4	Palmas del Espino S. A has currently transferred its ownership to Palmas del Amazonas S. A. / Plantaciones del Maniti SAC	Santa Cecilia / Plantaciones del Maniti	6,676 ha	District of Indiana, province of Maynas, Loreto
5	Plantaciones de Tamshiyacu	Plantaciones de Tamshiyacu	8,850 ha	Caserío Santa Cecilia, distrito de Indiana, provincia de Maynas, Loreto
6	Plantaciones del Perú Este SAC	Plantaciones del Perú Este	10,000 ha	Tamshiyacu highway, district of Fernando Lores – Indiana, Province of ~Maynas, Loreto
7	Plantaciones del Perú Este	Plantaciones del Perú Este	10,000 ha	Tamshiyacu highway, district of Fernando Lores – Indiana, Province of ~Maynas, Loreto
8	Plantaciones de San Francisco SAC	Plantaciones de San Francisco	10,000 ha	Tamshiyacu river, district of Fernando Lores – Indiana, province of Maynas, Loreto
9	Plantaciones de Marin SAC	Plantaciones de Marin	5,771 ha	Tamshiyacu highway, district of Fernando Lores – Indiana, Province of ~Maynas, Loreto
10	Plantaciones de Loreto Sur SAC	Plantaciones de Loreto Sur	9,389 ha	Tamshiyacu river, district of Fernando Lores – Indiana, province of Maynas, Loreto
11	Plantaciones de Loreto Sur SAC	Instalación de cultivos bioenergéticos	10,000 ha	Sapuena – Yaquerana Sector, District of Jenaro Herrera, Province of Requena, Loreto

*"The business groups with interests and investments in oil palm cultivation acquire rural properties by offering economic incentives to traffic land, to extort and intimidate small-scale farmers into forcing them to sell, and to invade them, and by liaising directly with state officials. Meanwhile, the Ministry of Agriculture and the regional governments of Loreto and Ucayali continue promoting deforestation for oil palm by adjudicating forests as rural lands, by re-classifying lands suitable for forestry as suitable for agro-industry, by authorizing changes of land use, and by approving Environmental Impact Assessments for agro-industrial projects."*⁹²

Another study that is ongoing highlights the bad practices of the companies associated with the Malaysian investors of encouraging and enabling colonists to clear forest, mobilise those with influence to title their lands and then, because the colonists are

indebted, facilitate the expansion of the plantations at the expense of primary forest.⁹³

Exponential growth

In the second half of 2013, oil palm companies deforested 13,076 ha of primary forest in Ucayali and Loreto alone, making oil palm the second biggest cause of deforestation after migrant agriculture, although it should also be considered as part of this category.⁹⁴

Examples such as these suggest that oil palm cultivation is one of the biggest threats to the Peruvian Amazon in the near future, and it is entirely possible that it reaches the scale of the disaster occurring in Malaysia and Indonesia. The cause

⁹² Ibid: 1.

⁹³ Oxfam America, presentation of advance version of report in Lima, 2014.

⁹⁴ SPDE, 2013.

for alarm is the speed and its apparent immunity from any form of control with which it is advancing. This is made even more serious when we see the applications for new plantations in Ucayali and Loreto (Box 10).

Box 10 with data from 2012⁹⁵ describes only some of the applications for lands to grow oil palm which no doubt will follow the same pattern of tricks and corruption and lead to the destruction of over 100,000 ha of primary forest.

2.2.3 PAPAYA

In Ucayali, San Martín and Madre de Dios one crop has emerged that is significantly increasing deforestation rates: papaya. According to official figures, there are 10,000 ha of papaya cultivation in these three regions – 5,000 ha in Ucayali – producing approximately 180,000 tons.⁹⁶ In Peru, papaya is almost entirely for domestic consumption (99%), and supermarket chains like Wong and Metro have entered the production chain (R. Guimaraes, FECONAU).

The problem with papaya is that there are no varieties resistant to what is known as ‘papaya ringspot virus’, which reduces production by 60%. According to experts, the only way to avoid the virus is to establish plantations in new locations.⁹⁷ The involvement of the supermarket chains explains the surge in popularity of papaya as a crop, and the current solution to the virus means farmers are being aggressive in finding new land as they need to open up new land every 4 years. This is why ‘*papayeros*’ are now appearing on the agricultural frontiers of Loreto, Ucayali, Amazonas, San Martín and Madre de Dios. Assuming that farmers must open up new land every four years, this means they must deforest approximately 2,500 ha per year in order to maintain current levels of production.

Renting land is the most common way of obtaining access to it. In the Paranapura river basin, papaya farmers pay a fee between 800 and 1,200 soles per year per hectare to smallholders or even indigenous people. L. Huanzi (FERISHAM) describes how the *papayeros* operate:

“They clear the forest completely, for 10 to 15 hectares, much, much bigger than what is cleared traditionally. They remove all the vegetation, they make channels, they do the sowing, and they use herbicides, pesticides and fertilizer which,

along with their litter, contaminate the water. It’s already a problem for some communities. Sometimes the papayeros take advantage of the situation and illegally take out wood.”

According to K. Quicque, from the Hara kmbut people and president of FENAMAD, in Madre de Dios:

“The papayeros are agricultural businessmen with a lot of capital and mainly from San Martín. They rent land from communities and small-scale farmers. That’s how they’re able to access new land so quickly. By renting, they avoid problems caused by multiple ownership, the authorities, and overlaps. Some indigenous communities in Madre de Dios experimented with renting land for papaya and other crops, but in the end they stopped because of the deforestation and contamination.”

2.2.4 COCOA, COFFEE, BANANA AND OTHER CROPS

Cocoa, coffee and bananas were mentioned by the indigenous peoples interviewed for this report as the crops receiving most support from the central and regional governments. Some crops, like coffee and rice are very well-established (San Martín), but others, like sachá inchi or copoazú in Madre de Dios, are more novel. As will be seen in Part 5, San Martín produces more agricultural products than any other region. While rice has been cultivated there for many years, the regional government, in common with other regional authorities, is now promoting cocoa, coffee, sachá inchi and palmito.

In 2012, there were 405,000 ha of coffee under cultivation in Peru. Between 2002 and 2012, the area under cultivation increased by 140,000 ha at an average of 14,000 ha per year.⁹⁸ As yet, there are no studies that indicate what proportion of these new plantations were established on former plantations, degraded, secondary or primary forests and so there is no means of estimating the deforestation resulting from its cultivation.

To produce all of these crops, third parties often obtain land from the state and buy or rent to small-scale farmers or sometimes members of indigenous communities. In other cases, it is indigenous peoples themselves who find the capital to establish production on a small scale. State support comes and goes, although, according to the indigenous peoples interviewed, it has increased in recent years, possibly as a result of efforts by DEVIDA (national commission for development

95 Juan Luis Dammert, 2014: 45-46.

96 <http://www.inei.gob.pe/estadisticas/indice-tematico/economia/>

97 <http://agraria.pe/noticias/peru-debe-definir-que-tipo-de-papaya-quiere-eeuu-y-comenzar-producirla>

98 <http://juntadelcafe.org.pe/>



and a life without drugs) to substitute coca with alternative crops such as palm and cocoa. However, the State often fails to integrate production with a secure market. In other words, the State encourages production, but doesn't support the commercialization of the future product.

According to A. López, from ACODECOSPAT:

"In Loreto the regional government supported *sacha inchi* cultivation, but didn't do any feasibility studies and the plantations failed. Despite that, Agrobanco is carrying on with it. It'll probably fail again and the only things to show for it will be deforestation, some colonists here to stay, and indigenous peoples in debt... There are many cases of people getting excited, deforesting 3 to 5 hectares, and then finding themselves in debt because later they abandon cultivation because the yield is too low or there's no market."

2.2.5 AGRICULTURAL COLONIZATION AND LAND TRAFFICKING

Despite some progress in the titling of indigenous lands, colonists continue to invade titled communities, particularly if they are close to the most important roads where deforestation rates are high. Longstanding efforts by indigenous peoples, such as the Awajún, to raise these issues with local authorities and the justice system have often received little or no support, and failures by the State have

Image 10: The impacts of gold-mining in Madre de Dios near the community of Puerto Luz involves total removal of the forest and up to 5 metres of soil.

Source: FENAMAD/Solveig Firing Lunde

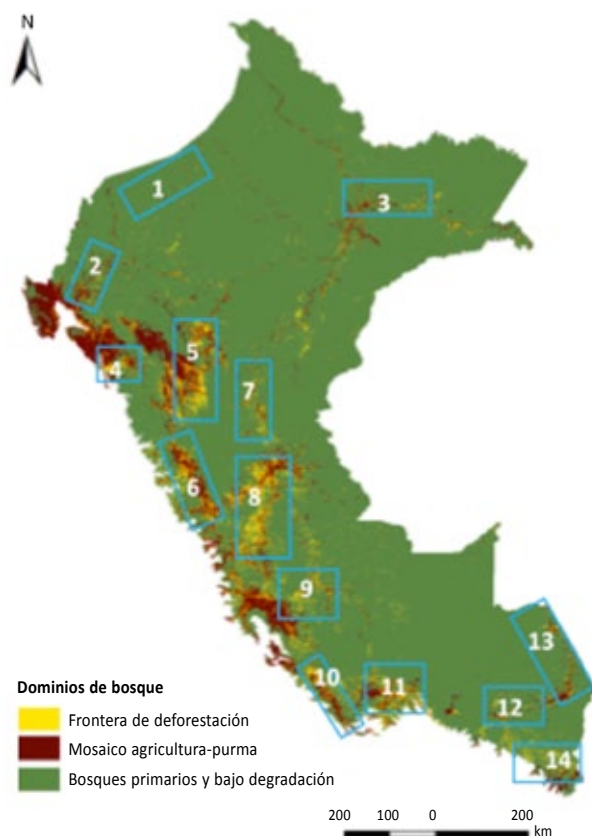
often led to violence. This is what occurred in the case of the community of Naranjos where some of the community land title was titled in favour of colonists and, in 2002, 15 people died as a result (see section 3.2.1).

However, despite lack of support from the State, many indigenous peoples have managed to protect their lands by evicting colonists peacefully.

For example, the Kechwa community of Yurilamas in San Martín has its own system of 'community protection' ('vigilancia comunal') in which every three months members patrol their land and often with positive results.

"In January 2014 we evicted some colonists who had entered our community and cleared 2 hectares of forest." Yurilamas resident

Many of these problems have emerged because, despite community land titling from the 1970s onwards, satisfactory processes to annul prior claims ('saneamiento'), including individual land titles held by colonists, were never properly introduced. The result has often been a complex web of claims that



Map 5: Current focal points of deforestation and degradation in Peru.

Source: FIP technical team, November 2013

remain unresolved and continue to act as a source of conflict. For example, in the Kechwa community of Cachipampa in San Martín, most deforestation has been caused by just one colonist and his family who held title to the land prior to communal title. This continues to be a source of conflict despite successful legal victories for the community:

"This colonist didn't leave when Cachipampa obtained community title and he has cleared approximately 200 hectares. He has deforested almost all of his own land and is now venturing elsewhere and inviting his family and friends. This is all going on despite the fact the community has won lawsuits against him twice." Leader, FEPRIKESAM

These problems are exacerbated when community lands lack formal recognition. The difficulties facing indigenous peoples wanting to obtain title has led to violent conflicts, particularly in areas where deforestation rates are high. Leaders opposing land grabs have been killed by hired assassins working for land traffickers. In addition to the assassination of 4 leaders from Saweto in September 2014 (Box 12), another recent incident occurred in April 2014 when the leader of a Kampu Piyawi (or Shawi) settlement

in the upper River Shambira in San Martín was assassinated while trying to mobilise residents to secure title to their lands.⁹⁹ Local Shawi leaders report increasing waves of colonization while their lands remain untitled, and the colonists defend themselves by claiming they have permission.

"Indigenous leaders are defenceless and face repeated death threats from land traffickers, mafias, and business groups opposed to the recognition and titling of our communities."
FERISHAM declaration, April 2014

2.3 GOLD-MINING

Peru is currently the biggest gold producer in Latin America and the 6th biggest producer worldwide, generating billions of dollars in exports every year. These figures don't include Peru's illegal, informal mining sector which has grown at an exponential rate over the last few years due to the increase in gold prices and improved road access, and has meant thousands of colonists migrating from the Andes to the Amazon to participate in small- and medium-scale mining, sometimes on indigenous lands and in supposedly protected areas. The increase in gold-mining has paralleled the rise of international prices, which quadrupled between 2002 and 2011 and peaked at US\$1,800 per ounce, although it has been found that deforestation rates linked to mining increased more rapidly than the price of gold.¹⁰⁰ Recent research shows that informal gold-mining accounts for between 15 % and 20 % of all Peru's gold production, and has much in common with the market for cocaine.

"Gold surpasses cocaine—it's Peru's largest illicit export. It's pretty staggering... It's important to look at the parallels and difficulties of combating drug trafficking: huge profits, bribing local officials, and greed, in an area that's a 'no man's land'."¹⁰¹

One recent study¹⁰² using high resolution LIDAR technology, and therefore more able to detect small-scale operations, estimates that the total deforestation caused by gold-mining in Madre de Dios alone has increased from less than 10,000 ha in 1999 to more than 50,000 ha in 2012.¹⁰³ Prior to 2008,

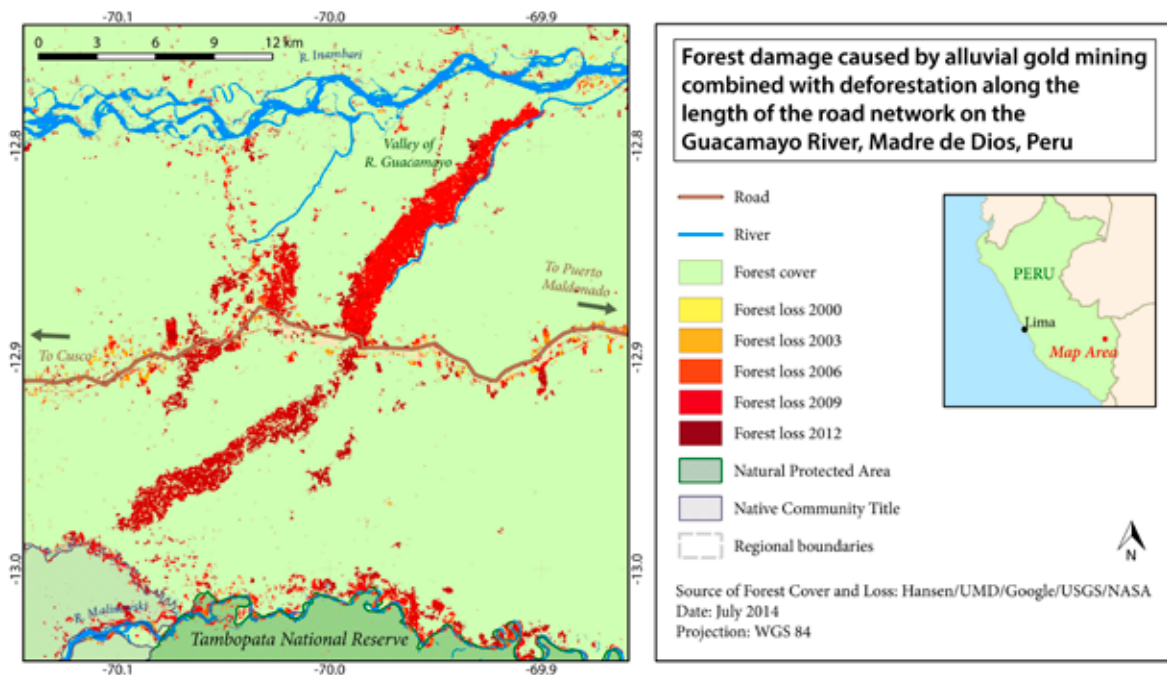
99 <http://www.forestpeoples.org/region/peru/news/2014/04/community-organisations-denounce-assassination-shawi-leader-san-martin-peru>

100 Swenson et al., 2011.

101 <http://www.newyorker.com/online/blogs/currency/2013/10/whos-to-blame-for-perus-gold-mining-troubles.html>

102 Asner et al., 2013.

103 This is almost triple what was estimated by Brack et al. who reported that at least 18,000 ha had been destroyed by mining in Madre de Dios, at an average rate of 400 ha per year.



the deforestation rate was estimated at 2,166 ha per year, but this study estimates it is now three times higher at 6,145 ha per year.

The impact of gold-mining on indigenous peoples is extremely high because it involves permanently destroying the forest and contaminating the rivers on which they depend. That is to say nothing of the violence, conflict, and social problems gold-mining brings with it, as described in more detail in Part 4.

“We used to fish in the River Puquiri, but it’s not a river anymore due to the tailings and sediment. The miners work there now and there’s no fish. It’s all mud.” *Indigenous leader, Madre de Dios*

Despite efforts by the government to sanction illegal mining, it has still failed to formalize a significant number of the gold-miners, meaning that negative impacts can’t be controlled. Impacts include the invasion of indigenous and non-indigenous lands with or without rights to use resources, destruction of the riverbanks, and contamination of the rivers by mercury.

There is now artisanal and small-scale gold-mining (ASSM) in every region in Peru, but no estimates of the deforestation it has caused other than in Madre de Dios. However, clearly total deforestation as a result of gold-mining in Peru will be significantly greater than in Madre de Dios alone.

Map 6: Deforestation caused by gold-mining combined with deforestation along the length of roads in the river Guacamayo region, Madre de Dios.

Source: FPP

2.4 LOGGING

In Peru, logging has been and continues to be one of the main direct and, above all, indirect causes of deforestation and degradation. This is despite the fact that logging in the Peruvian amazon tends to be selective, focuses only on the most valuable species, and leaves 50 % or more of the forest cover standing, unlike in south-east Asia. In Peru, the tendency is to extract one tree per hectare or less, meaning that deforestation as a direct result of logging is limited to road building, the spaces left by the felled trees, and the areas cleared to store them.

In recent years, Peru has become synonymous with illegal mahogany logging. This is partly due to the decrease in mahogany production in Brazil and Bolivia in the late 1990s and the ban on Brazilian exports in 2001, all of which led to a spectacular increase in exports from Peru where weak governance could not stop a flood of illegally-sourced wood, mainly from Madre de Dios and Ucayali.¹⁰⁴

The failure of the concession system

In 2001, in an attempt to control illegal logging, a new forestry law established a concession system

¹⁰⁴ <http://www.swietking.org/cites.html>

Box 11: Mahogany and cedar threaten the survival of indigenous peoples in isolation

In Ucayali, illegal loggers have established roads to support their operations in the Murunahua Reserve (Image 11). The loggers have been repeatedly denounced by indigenous organizations and NGOs, such as the Upper Amazon Conservancy (UAC), which has helped journalists fly over the region and proved the existence of logging camps and felled trees in the reserve.^I According to the UAC, the new road network 'also serves as a funnel for further settlement by farmers, drug traffickers, hunters and miners, and allows loggers using tractors to drag the mahogany across a watershed divide to the Ucayali River, where the logs are floated downstream to Pucallpa and eventually trucked to Lima.'^{II}

In 2001, in Cusco, the Kugapakori-Nahua Reserve was invaded by 150 loggers who cut more than 300,000 board feet of mahogany and cedar. This led to violent conflict with the Nahua in initial contact.^{III}

In 2003, the recently-created Madre de Dios Reserve continued to be invaded by illegal loggers. One hundred and seventy-six logging camps were documented along the River Las Piedras in the reserve and the adjacent Alto Purús National Park, despite repeated denunciations by local indigenous organization FENAMAD. The loggers declared that, in 2001 and 2002, they had 18 distinct encounters with indigenous peoples in isolation.^{IV} In May 2005, two loggers died after being shot with arrows along the upper River Las Piedras – the number of indigenous peoples who died isn't known.

I <http://upperamazon.org/illegal-mahogany-loggers-penetrate-heart-of-uncontacted-tribal-reserve/>

II <http://upperamazon.org/illegal-mahogany-loggers-penetrate-heart-of-uncontacted-tribal-reserve/>

III Shinai, 2004.

IV Schulte-Herbrüggen, 2003.

involving 40 year contracts, inventories, and annual operating plans (AOPs). However, studies evaluating the impact of the concession system on deforestation have shown that they caused a significant increase in deforestation in other areas. For example: '... outside the concession areas granted in 2004 in the remote northern Iquitos region, disturbance and deforestation rates increased by 468 % and 304 %, respectively. This leakage effect was also prevalent in the central Pucallpa logging region, where deforestation and forest disturbance outside concessions rose almost 400 % to a combined rate of 1,086 km² in 2005.'¹⁰⁵

These findings coincide with other more recent studies showing that 80 % of wood exported from Peru is illegal,¹⁰⁶ despite national laws, efforts by some companies to obtain certification from the Forest Stewardship Council (FSC), and international commitments like the Forest Sector Governance Annex of Peru's recent trade agreement with the USA. Between 2008 and 2010, at least 100 of the permits approved by CITES (the Convention on International Trade in Endangered Species of Wild

Fauna and Flora) to export mahogany and cedar to the USA included wood from concessions where OSINFOR, the forestry sector supervising agency, found evidence of numerous illegalities.¹⁰⁷ Essentially, the concession holders were using, and continue to use, the concession system to launder illegal wood from adjacent indigenous lands and protected areas. This process involves combining the legal and illegal wood, and using the concession permits to avoid detection.

The illegalities in Peru's concession system were made even more apparent by a study published in 2014 reviewing OSINFOR documents which concluded that of the 388 concessions investigated (out of a total of 609 concessions):¹⁰⁸

- 46 % have been cancelled due to confirmed violations.
- 55 % are operating outside concession boundaries and 68 % are using permits to facilitate extracting illegal wood.
- Almost 80 % committed violations regarding

105 Oliveira et al., 2007: 1235.

106 Urrunaga, 2012.

107 <http://eia-global.org/the-laundering-machine/table-of-contents/6.-hundreds-of-shipments-the-us-peru-trade-in-illegal-wood>

108 Finer et al., 2014.

the concession's management plan and annual operating plan. These violations mainly consisted of false declarations about the existence of trees in the concession so they could be extracted from somewhere else.

This high level of illegality probably explains the low deforestation rates in the concessions themselves reported by official sources (0.07 %). Other studies have found more forest disturbance outside the concessions than within.¹⁰⁹

"The exploitation of the forestry concessions is as irrational, unsustainable and damaging in social and environmental terms as completely informal logging. It's just the scale of it that's different. The informality within the formal system is at its most scandalous with the current law's 'reforestation concessions' in which nothing is ever planted but wood is extracted with practically no restrictions... Wood is frequently stolen from forests that aren't in the concession itself by invading other concessions, public land, protected areas or that belonging to indigenous people."¹¹⁰

Forest degradation from logging goes hand in hand with deforestation as it often constitutes the first wave of attack against forests which is then followed by agricultural colonization. Up to 14 focal points of degradation and deforestation were identified by MINAM in Peru (Map 5) during the design phase of the Forest Investment Programme (FIP).

Impacts on indigenous peoples

The most damaging impact of logging is without a doubt how it violates indigenous peoples' rights and affects their lives and lands. An extreme example can be found in the most isolated parts of Ucayali and Madre de Dios where, until a few years ago, indigenous peoples were enslaved or forced into labour. Informal loggers used a system of '*habilitación*'¹¹¹ to make indigenous men work for them indefinitely, often without pay or while they became increasingly indebted. This forced them to work for the loggers during the next harvesting season.¹¹²

Today, an increasing number of logging companies pressure indigenous communities to permit them to extract wood from their territories, with the aim of 'legalising' and laundering the timber that they extract from other areas. All across Peru illegal loggers and supposedly 'legal' logging companies

employ devious and manipulative strategies to obtain access to indigenous communities' resources, as has been particularly the case in the upper River Purús (Box 13). The loggers and logging companies often invent informal written agreements, or sign formal agreements with leaders, without the knowledge or consent of the rest of the community. In many communities there are no effective processes for collective decision-making, and the loggers exploit this by negotiating deals with particular individuals or small groups.

"It's tragic! The new concession owners are using their contracts with the government to cover up illegal logging. They continue entering indigenous territories and protected areas adjacent to their concessions to extract mahogany and cedar. They're doing the same with the communities' own logging permits and the tax codes, which they use to launder the illegal wood secretly extracted from elsewhere. The only things they leave behind are a depleted forest and enormous debts that the community has no way of paying." The late Kruger Pacaya, former president of ORAU¹¹³

"Communities are pushed towards the webs of the big loggers. On the one hand, the State neither believes in nor supports or invests in community forest management. Instead it has turned its back and on the contrary prioritises, supports and subsidizes the big timber companies. Not only does it let them extract and transport their illegal timber with impunity but backs it up with an extensive network of state corruption. In this context, communities that want to implement their own forest management confront a closed door and are only enabled to end up trapped in a cycle of debt, which is the only option available, in which they end up signing contracts, almost always misleading, with timber companies to let them extract their wood. However, in the end, the logger takes 99% of the profits while the community suffers 100% of the damage, in addition to any future fines from some "official supervisors" who know that the loggers are all responsible but all fines and punishments are imposed on the community; who in order to be able to pay must initiate yet another perverse and damaging cycle with the same loggers. This cycle must be broken where it began: change the indifference of the State and invest significantly in community forest management. Rhetoric promoting the latest law and forestry regulations is not enough, instead they must move from paper to the field of action to change this historical

109 Oliveira et al., 2007.

110 Dourojeanni et al., 2009.

111 A system of debt peonage.

112 Bedoya and Bedoya, 2005. Based on the denunciations of AIDSESP in 1988 to the ILO about the case of Atalaya.

113 Speaking in 2004 and quoted at: <http://wrm.org.uy/oldsite/bulletin/98/Amazon.html>



abuse perpetrated by the State itself.” Jorge Pérez, ORPIO

Even when the communities reach an agreement with the logging companies, the latter often fail to comply with it. According to one Asháninka leader from the River Tambo:

“In reality, these loggers aren’t working like they should, cheating people and cutting wood where it isn’t permitted. When they do have permission, they don’t take it from there anyway. They go somewhere else. We Asháninka don’t know where they are and this does not constitute respect for us.” CART leader, 2011¹¹⁴

Impacts on indigenous peoples in isolation

Most of the remote areas where the loggers are operating are part of indigenous peoples’ traditional territories, including some who live in isolation and are particularly vulnerable. Although some of their territories have been recognized as reserves where logging is specifically prohibited, in recent years, as the more easily accessible areas have been exhausted, loggers have been venturing increasingly deeper into the forest and such reserves in search of the most

Image 11: Illegal logging road through the Murunahua reserve for isolated indigenous peoples. Logging companies active in the Peruvian Amazon often cut timber outside their concessions on indigenous peoples’ forest lands and launder the timber through their ‘legal’ concessions. *Source: Chris Fagan, UAC*

valuable timber: mahogany (*swietenia macrophylla*) and American cedar (*cedrela odorata*).

The failure of government intervention

The Peruvian government has launched a series of initiatives to combat illegal logging under pressure from regional indigenous organizations such as FENAMAD, collaborating with NGOs and other civil society organizations.¹¹⁵ In addition, it has adopted various measures to specifically protect indigenous peoples in isolation, including, in April 2002, establishing a reserve in the headwaters of the River Las Piedras in Madre de Dios and, several months later, signing an agreement with FENAMAD to set up control posts along the reserve’s southern limit (known as Line 343).

¹¹⁵ In 2005, at least 20 out of 24 companies exporting mahogany from Peru – equivalent to 83 % of the total – exported illegally-sourced mahogany, according to this report: <http://www.forestpeoples.org/topics/other-private-sector/news/2010/10/perus-mahogany-exports-threaten-survival-indigenous-tribes->

¹¹⁴ CRS, 2012: 10.

Box 12: A death foretold: assassinations and illegal logging in Saweto

In September 2014, Edwin Chota, a leader of an Asháninka community called Saweto, was assassinated together with Jorge Ríos Pérez, Leoncio Quinticima Meléndez and Francisco Pinedo. Chota had spent more than a decade fighting to secure a land title for Saweto, and the four men were assassinated just days after a visit by Peru's forestry authorities to document illegal logging in their lands. Chota had received frequent death threats made by loggers working in the region in response to his campaigning, but repeated appeals by Saweto to the government to resolve the situation were ignored. It is suspected that a logging mafia was behind the assassinations.

Unfortunately, the experience of Saweto, a village in the Upper Tamaya river, is very common in the Peruvian Amazon. Like many communities, their land title is still pending even though they applied for it more than 10 years ago and the community secured formal recognition in 2002. Despite that, logging concessions overlapping Saweto territory were established in 2001. The concessions are officially inactive, but according to community members the concession owners have encouraged rampant illegal logging. Chota described the situation in April 2014: **"As long as we don't have land title, the loggers won't respect our property. They threaten us. They intimidate us. And they're armed."**

...To date [April 2014], no concrete results of the fight against illegal logging can be seen... It has intensified in the headwaters of the River Cañanya, an affluent of the River Putaya, and in the upper river Tamaya along tributaries such as the Grimaldo, Coto (shenontse), Jergón (chengare) and Shanshuya."^I

In a tragic premonition of what was to come, in April 2014 the community informed the forestry authorities that their lives were in danger because of their denunciations of the illegal logging: **"In retaliation the death threats and baseless allegations made against me and other community members are increasing. I request that any attempt on my life be prevented."**^{II}

Chota repeatedly denounced the failings in the government's monitoring system. The nearest control post to Saweto is several days travel away, downriver, meaning that when the loggers arrive at the post they can claim the wood came from a nearby concession when actually it comes from Asháninka territory.

The assassinations took place just two days after an OSINFOR inspection. Saweto's leaders had previously denounced OSINFOR for failing to visit areas where loggers were operating illegally, despite offering to guide them. They had little faith in the investigation.

"Welcome to the land without law," Chota said. 'From that inspection post all the way back here, there is no law. The only law is the law of the gun.'"^{III}

I Letter from the Alto Tamaya indigenous community to the Executive Director of Ucayali's Forestry and Wild Animals Office, 23 April, 2014.

II Ibid.

III <http://ngm.nationalgeographic.com/2013/04/mahogany/wallace-text>

In October the same year the government established a Cross-sectoral Commission to Fight Illegal Logging, and, as part of national and regional round-tables on forestry policy, invited proposals about how to deal with illegal operations. In addition, numerous decrees and resolutions have been made to regulate logging, punish illegal operators, and investigate corruption.

However, despite all this, indigenous peoples say they have seen little real change.

“We’re tired of so much dialogue and forestry round-tables. The government wants to keep talking about how to combat illegal logging, but it isn’t disposed to do anything serious about it. Even the new concession system encouraged wood laundering. What we need now is a series of real measures to apply the law and protect indigenous peoples’ lands. Now is the time to properly apply all the decrees, resolutions and agreements.” Jorge Payaba, former president of FENAMAD¹¹⁶

One government initiative, in 2000, was a total ban on mahogany and cedar in four river basins, including the Purús. As recent studies have shown, the logging companies evaded it by reaching agreements with indigenous communities to extract other species instead.

“Based on the [Annual Operating Plan] of the indigenous communities along the river Purús, during 2003 to 2007, when there was a complete ban on mahogany and cedar, the forestry authority permitted felling the equivalent of 2,293 mahogany trees and 933 cedar trees!... A significant amount came from protected areas, territorial reserves for indigenous peoples in isolation, and other prohibited areas.”¹¹⁷

Nevertheless, since 2007 the illegal logging of mahogany and cedar has decreased – apparently in large part due to the much stricter export quotas established for both species (mahogany was reduced to 715 in 2008).¹¹⁸ For example, since 2007, loggers from the town of Sepahua on the boundary between Cusco and Ucayali reported that there had been a significant reduction in the demand for mahogany which still existed in relative abundance in nearby rivers. Members of the Nahua, an indigenous peoples in the area informed that this had resulted in a significant drop in pressure of loggers to extract mahogany from the Mishagua watershed.¹¹⁹

These quota reductions in turn were the result of persistent efforts by indigenous organizations and NGOs in Peru to denounce the flagrant violations of indigenous peoples’ rights, the destruction of the environment, and Peru’s legal obligations following its ratification of CITES and its recent trade agreement with the USA.

Overlapping logging rights and indigenous territories

The problems experienced by Saweto, discussed in Box 12, are representative of a much wider problem across the Peruvian Amazon in which indigenous territories are frequently overlapped by logging concessions.

Logging interests have even been able to determine the boundaries of the reserves for indigenous peoples in isolation. For example, the eastern boundary of the Madre de Dios Reserve borders logging concessions despite the fact that the studies conducted to establish the reserve demonstrated the presence of isolated people in those areas. That was corroborated in 2013 by a team of FENAMAD and SERNANP representatives who visited the region and found evidence of them. Jorge Payaba, a FENAMAD leader, said at the time:

“This shows that their traditional territories extend beyond the boundaries of the reserve and include areas that have been opened up to logging. We are demanding that logging activities in the areas bordering the reserve are abandoned, and that the reserve itself is expanded according to the actual extension of their territories.”¹²⁰

Environmental impacts

Although the impacts of forest degradation are perhaps not as dramatic as wholesale forest destruction, because of the extensive areas over which they take place they cause a considerable impact on the forest and on the lives of its inhabitants: these impacts include the following:

Local extinction of fauna

Logging companies often contract a ‘mitayero’, or hunter, to supply game to their workers. J. Huanaquire, from a community near the Tamshiyacu Tahuayo Regional Conservation Area, says:

“I’ve worked in logging. When we arrived in an area for the first time the mitayero brought

116 Speaking in 2005 and quoted at: <http://wrm.org.uy/oldsite/bulletin/98/Amazon.html>

117 Rubio del Valle, 2013: 18.

118 <http://www.indiaenvironmentportal.org.in/files/Converting%20mahogany.pdf>

119 C. Feather, personal communication, 2014.

120 <http://es.mongabay.com/news/2012/es0814-hill-isolated-people-road-peru.html>

Image 12: Illegal timber from the river Tamaya denounced by leaders and residents of Saweto.

Source: UAC



everything: monkey, peccary, and agouti. We ate meat all day. But then the amount of game got scarcer, and the mitayero took longer to return and had less with him every time."

Hunting doesn't just devastate local animal populations, but has serious impacts for indigenous peoples who live in the region and depend on them for their subsistence. A 2003 study on the River Las Piedras in Madre de Dios found that, in just one year, loggers killed 54,190 primates, including white-bellied spider monkeys (*Ateles belzebuth*), equatorial saki monkeys (*Pithecia aequatorialis*) and red howler monkeys (*Alouatta seniculus*). As a result, there was a serious decrease in white-bellied spider monkeys and red howler monkeys in areas near logging operations.¹²¹

Local extinction of valuable tree species

Mahogany (*Swietenia macrophylla*), the most valuable wood of all, is an emblematic example. Despite awareness of how difficult it is to regenerate and the efforts made by the forestry authorities to control mahogany logging, in practice it has continued and mahogany in Peru is now commercially extinct. Only a few stands remain in the most remote parts of the country, such as the Alto Purús National Park.¹²²

Reduction of carbon stock

The extraction of the largest trees causes a considerable decrease in the carbon stock of the areas where forestry extraction takes place. One recent study uses estimates of up to 30 % reduction in biomass. In addition it also points out that the GHG emissions from the degradation caused by

the forestry concessions (204 million MT) could be higher than emissions from projected deforestation itself in the next ten years (140 million MT).¹²³

Impacts on the ecological functions of the forest and other species

Logging increases the forest's exposure to the sun and therefore the risk of fire, reduces food sources for animals, changes species composition, and results in a cascade of other impacts that now are reinforced by the impacts of climate change.¹²⁴

An indirect cause of deforestation

Finally, and perhaps most importantly, logging facilitates access to the forest by establishing roads which colonists use to enter previously inaccessible areas and settle along. In addition, the colonists often complement their income by selling timber from their land or adjacent areas. As stated above, logging concessions appear to have little impact on the forest but deforestation rates increase in the surrounding areas,¹²⁵ either to supply the concession, or because concession workers settle temporarily or permanently, or because of the access provided to colonists, or other third parties, created by the roads.

Some of these impacts have been noted by R. Guimaraes (FECONAU):

"Loggers transform the social dynamic. Communities allow them to enter in exchange for payment that usually doesn't reflect the value of the wood, and later they see how gradually

121 Schulte-Herbrüggen et al., 2003.

122 National Agrarian University-La Molina, 2010.

123 Asner et al., 2014.

124 Meijaard et al., 2005.

125 Oliveira et al., 2007.

Box 13: Ongoing destruction of forests and indigenous peoples: Industrial forestry in the upper River Purús region

Between 2003 and 2007, recent investigations estimate that more than 2,000 mahogany trees and 900 cedar trees were felled, supposedly in lands titled to indigenous communities in Alto Purús, despite the 10 year ban on mahogany and cedar that started in 2000. This is how Emilio Bardales Montes, the current leader of the Federation of the Native Communities of Purús Province (FECONAPU), remembers this traumatic period:

“Between 2000 and 2006 the loggers were operating in every [river] basin. They almost finished off all our wood and mahogany trees... They had no respect. They entered the communities and made off with the paiche in our lakes, insulting us.”

The loggers took advantage of the fact that, like everywhere else in the Peruvian Amazon, the communities in Purús couldn't run their own operations without resorting to help from intermediaries because of the high costs and complex bureaucracy involved.

One recent investigation shows how this was rigorously exploited in Purús by companies which financed and supported the logging but were often facilitated by an intermediary, usually a local lawyer or trusted company ally equipped with power of attorney to represent the community.ⁱ

“Given that the permit and subsequent operations are complex and costly for the communities, there's an opportunity for the logging companies to intervene... In practice, in the majority of cases, [those who do so] exploit for their own benefit the communities' ignorance about the legal requirements as well as community needs for material goods and lack of alternatives to acquire them ... and so take advantage of the fact that the communities give them a 'carte blanche' to do what they want with the forest.”ⁱⁱ

This happened despite the fact that the logging companies operated using forest management plans, which included specific GPS coordinates for each mahogany and cedar trees they planned to fell. In practice, this information was 'invented' and later 'verified' by forestry authority officials from their desksⁱⁱⁱ to enable laundering from neighbouring protected areas – very probably, in this case, the Alto Purús National Park.

“The people who have most excelled at these illegal activities are the forestry consultants preparing the PGMF and the AOP stating they have identified the number of trees, which really is invented, and the state official responsible for verifying it and issuing a report saying they have been located with GPS ... when really it's all lies.”^{iv}

This was observed by a member of the Nuevo Luz community. **“When the permit for our community was being processed an engineer came and took the coordinates for a lupuna tree. Nothing else. That [annual operating] plan was written in someone's office.”^v**

According to the agreements between the loggers and the communities, the profits were based on the volume of the wood extracted. This often favoured the loggers disproportionately because the wood was valued at a risibly low rate – 50-60 centimos for each board foot of mahogany^{vi} – and they received 80% of the profits while the communities received only 20%.^{vii} Worse, most community members didn't fully understand how volumes were calculated and therefore could easily be ripped off even using this derisory valuation.

“[They] didn't know anything about how the volume was calculated. They'd get 100 soles for a tree that would later be sold for 30,000.” Emilio Montes Bardales, FECONAPU

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The loggers also had complete control over the costs of the operations, which they discounted from the community's profits and for which they did not provide evidence.

In Santa Rey, the community's 'representative' Lizandro Levod **"claimed he had spent 98,000 soles on the permit process...As for the value of the goods advanced, Levod often named a price without providing receipts."**^{VIII}

The loggers didn't only inflate their costs. They also inflated the value of the goods which they advanced to the communities as payment instead of money.

The forests were devastated and the communities benefited little. In 2007, these problems were compounded when payments weren't made to the government tax department (SUNAT) and an OSINFOR inspection revealed the illegality of the operations. The result was the annulment of the communities' permits and severe fines including penalties of more than US\$30,000 for the communities of La Colombiana and El Triunfo, as well as threats of imprisonment for up to 6 years for the village leaders. Meanwhile, the logging companies and their intermediaries all escaped punishment.^{IX}

I Rubio del Valle, 2013.

II Ibid: 33-34.

III In some cases they visited the area to conduct verification but, according to community reports, they stayed in the communities and did not visit the actual logging sites.

IV Rubio del Valle 2013: 34.

V Ibid: 70.

VI Ibid: 47.

VII Ibid: 45.

VIII Ibid: 46.

IX Ibid: 27.

Image 13:

Illegal logging camp located on the border of the Alto Purús National Park near the Sepahua River. Despite government commitments, illegal logging remains rampant in the Peruvian Amazon.

Source: UAC



Box 14: Key failings of the new forestry law^I

- The boundaries of the permanent production forests (PPF) remain the same, ignoring indigenous peoples' rights to the territories overlapped by them.
- Communities are only protected from an overlap with forest concessions if procedures to title their lands are already underway.
- Customary rights to lands of indigenous peoples are limited to those who happened to be engaged in ongoing 'procedures' to secure a land title. Instead, such customary rights should be treated as inalienable and in which case the term ongoing 'procedure' should simply refer to a simple declaration that the area is occupied. This is the case for over 1,100 communities without secure rights to land.
- It doesn't consider excluding areas in concessions where encounters with indigenous peoples in isolation have been reported.
- It doesn't respect indigenous peoples' rights to products seized in their communal territories which on the contrary are often designated to other beneficiaries by the local forestry authorities.
- It fails to improve the only regulation regarding community forestry management (RJ 232-INRENA); through ensuring the necessary funds are allocated and that it is not treated as inferior to large-scale logging enterprises.
- Community forestry management doesn't receive the same benefits as plantations. These include waiving payment for exploitation rights for the first 6 years, and nor does it enable titling of forest lands.
- It places too much emphasis on plantations and permits the accumulation of lands, and it doesn't adequately address the dangers of privatization and effectively tackle corruption in the forestry sector. In this sense it is as weak and permissive as the current legal framework.

I As noted by AIDESEP in numerous statements and letters. For example: <http://www.aidesep.org.pe/reglamento-de-ley-forestal-avances-problemas-y-correctivos>

the loggers start to expand and use more of the forest and its resources, particularly the wild animals. This impacts the amount of food available and the communities' food security. On many occasions coca cultivation or illegal mining begins to appear, either inside the communities or in the surrounding regions, adding to the cocktail of problems that arrive with migrants from the Andes or the upland forest escaping violence and poverty such as those coming still from the Apurímac and Ene valleys (VRAE). These people all put more pressure on fishing and hunting."

A. López, from ACODECOSPAT, says the same problem occurs in Loreto:

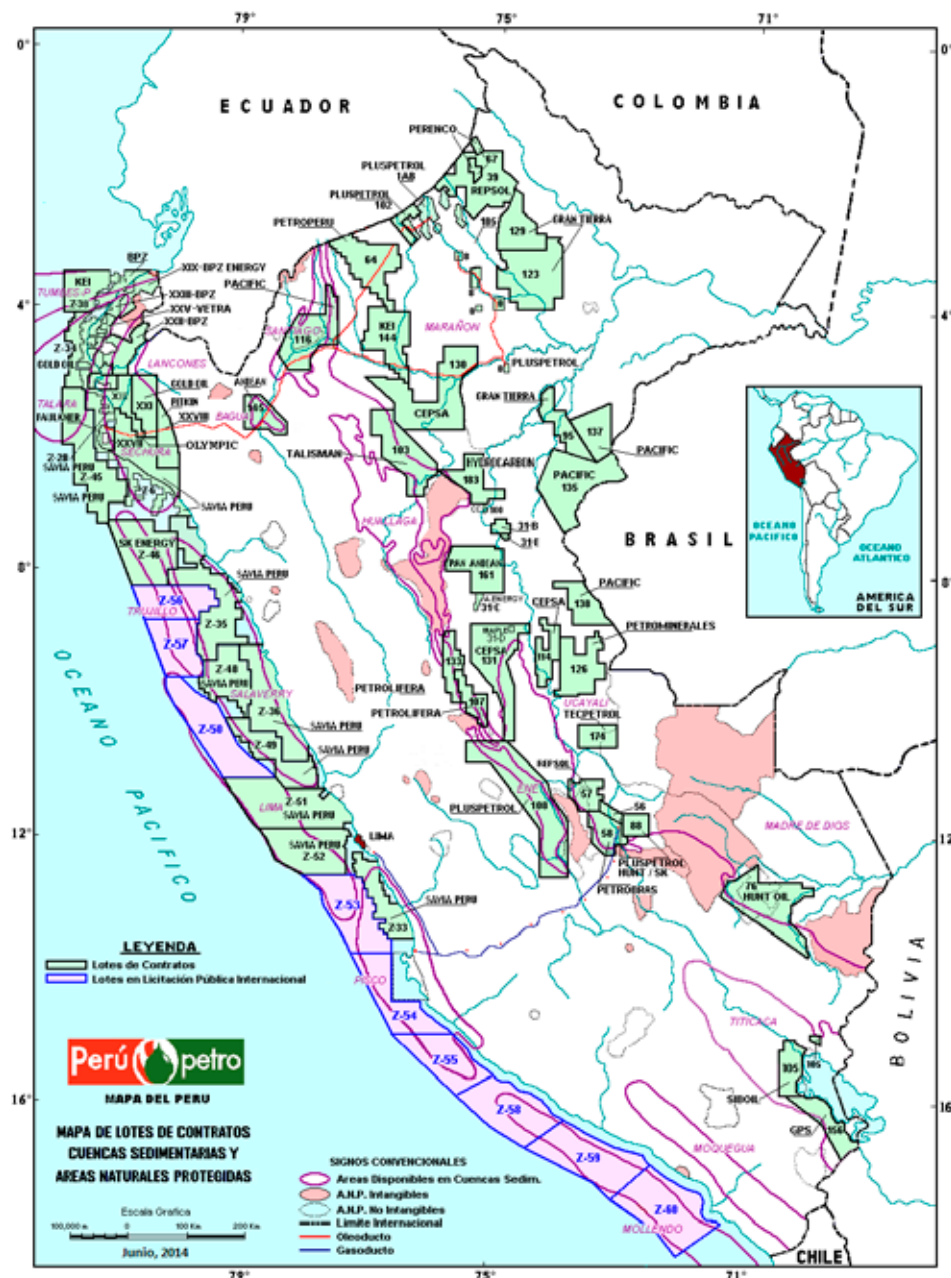
"The first problem is logging rights overlapping the ancestral rights of indigenous communities. Some concessions overlap land title requests. That's why such requests have gone nowhere. Some communities have been titled with help from the

regional government, but the area titled has been cut so they border with a concession. The loggers aren't just cutting wood: they're cutting our ancestral territories too."

A new forestry law: the same old problems

In 2011, Peru passed a new Forestry and Wild Animal Law (no. 29763), a measure that drew many critical observations from indigenous organizations (see Box 14). One of the fundamental problems with the new law is its continued bias against indigenous territories which aren't legally recognized. It only prohibits overlapping concessions or other forestry permits of territories that have 'title or are in the process of obtaining it.'¹²⁶

126 'Extraction permits for timber or wildlife will not be awarded in areas in which procedures are underway for the recognition, titling or extension of peasant and native communities'. 5da Disposición Final, Ley forestal y de Fauna Silvestre No 29763, 2011.



Map 7: Map of the Peruvian Amazon covered by oil and gas concessions.

Source: PerúPetro, 2014

In the process for developing the regulations for the new law, and after many days of debate with the State and significant resistance on the part of officials, some important modifications were made to advance the recognition of indigenous peoples' rights. Nevertheless, a formal process of consultation as required by law is still pending. Despite these advances, indigenous organizations observe that on many occasions commitments on paper are not implemented.

"In Peru we are flooded by laws that are not applied, stuck in bureaucracy, distorted or "frozen" for lack of funding or political will. We are tired of so many commitments made on paper so that Peru can appear favourably in the eyes of the

world but then never materialize or worse still are distorted to continue to trample on our rights. This is why we always say that 'anything can be written on paper' and that 'once the law is made, the trap is set'. It costs nothing to speak, now we want to see that they follow up these commitments." Nery Zapata, Coordinator CORPIAA

2.5 OIL AND GAS OPERATIONS

By 2012, Peru had taken the decision to concession up to 84 % of its Amazon to oil and gas interests, more than any other Amazon country. In this time, almost 70 % of all oil and gas concessions across the

Amazon were located in Peru.¹²⁷ These concessions take a variety of forms but can persist for 30 years or more, and permit both exploration and exploitation. Between 2003 and 2013, concessions went from covering approximately 15 % of the Peruvian Amazon to more than 80 %, and they now overlap more than 66 % of recognized indigenous territories.¹²⁸ Currently, the area covered by these concessions has diminished, but it still overlaps a significant portion of native communities and natural protected areas.

Despite supposedly low social and environmental impacts of hydrocarbon operations in the Peruvian Amazon, including those which have been subjected to considerable national and international scrutiny (e.g. Camisea), the impacts on indigenous peoples have been extremely serious and harmful.

For the Kukama-Kukamiria, oil operations in a concession called Lot 8x, within the Pacaya-Samiria National Reserve, is an ongoing conflict. They have repeatedly denounced the failure to restore seriously contaminated areas:

“Oil operations lead to deforestation, heliports are built, and there are well-platforms in the aguajales (palm swamps) which have dried up, but most importantly they contaminate the forest and the aguajales. It’s irresponsible that they’re still using the same tubes – with leaks everywhere – as they have done for more than 40 years, but the company accuses us of sabotaging them. On 5 December 2013 the president [Ollanta Humala] was lauding the benefits of Perenco operating to the highest standards in Lot 67 when a spill occurred there.¹²⁹ The company officially reported it a month after the spill took place.” A. López, ACODECOSPAT

Another example is the Camisea gas project where, since the beginning of operations in 2001, hunting and fishing stocks have been considerably reduced,¹³⁰ and a study by Peru’s Council of Ministers (PCM) found that, far from improving conditions for indigenous people, the changes caused by the project have been for the worse. For example, child malnutrition increased from 54 % in 2000 before the start of the project to 70 % in 2012.¹³¹

However, even more controversial are the plans by the Camisea project consortium to expand operations deeper into the Kugapakori-Nahua-Nanti and Others Reserve (KNNOR), a supposedly strictly protected area for indigenous peoples in isolation and initial contact. Reflecting the different political influences of various state institutions as well as an understanding of the social and environmental impacts of hydrocarbon operations on indigenous people, the EIA for the expansion was approved in January 2014. This was despite the fact that, just 6 months before, the formal assessment of the EIA by the Vice-Ministry of Inter-Culturality concluded that the ‘health’, ‘traditional economic activities’, and ways of life of indigenous peoples in isolation and initial contact in the KNNOR would be seriously affected by the expansion, and that two peoples, the Nanti and the Kirineri, could be made ‘extinct.’¹³²

Social and environmental impacts

Hydrocarbon operations are complex and impact the Amazon and the people living there to different degrees. The following is a summary of the impacts of exploration, exploitation, production and transportation.

Exploration involving seismic detonations causes only limited deforestation (heliports, campsites and access roads to the seismic lines) and limited or temporary degradation (seismic explosions, large numbers of workers), but it also provides opportunities to third parties, such as hunters and loggers, who ultimately cause bigger impacts. In addition, exploration can affect local economies and disturb the social equilibrium: e.g. members of the younger generation suddenly have a lot more money. For indigenous peoples living in isolation specifically, the exploration phase is extremely dangerous because it opens up enormous areas, generates unwanted and hostile encounters, including forced relocation as in the case of Camisea,¹³³ and makes it possible for diseases to be transmitted to them.¹³⁴ For example, the Nahua’s population decreased by almost 50 % after contact with loggers in 1984 caused in part by the explorations of Shell which had opened up the area.¹³⁵

A typical hydrocarbon concession covers hundreds of thousands of hectares and overlaps any other kind of land use category, except national parks and national sanctuaries, despite Peru’s obligations to respect indigenous peoples’ rights under national law and policies. For example, the exploration phase

127 According to RAISG (2012), 1,082,704 km² across the Amazon are covered by hydrocarbon concessions, 659,937 km² of which are in Peru.

128 According to RAISG (2012: 26-27), 659,937 km² of the Peruvian Amazon’s total 782,820 km² are included within hydrocarbon concessions.

129 <http://servindi.org/actualidad/99604>

130 Castro de la Mata et al., 2011.

131 Information presented by an official from Peru’s PCM during one of the annual meetings organized by the IDB about the Camisea Project.

132 Vice-Ministry of Inter-Culturality, 2013.

133 Forest Peoples Programme, 2014.

134 Napolitano and Ryan, 2007.

135 Shepard, 2003.



of the Camisea project expansion in the KNNOR involves at least 200 km² of 2D seismic lines and more than 300 km² of 3D seismic lines, with each line 2 metres wide, and perforating 18 exploratory wells and clearing forest for 80 heliports,¹³⁶ scores of fly camps,¹³⁷ and 3,800 drop zones.¹³⁸

Exploitation/production causes some limited deforestation that can involve, in particularly large operations, several 100 ha. In the past, such operations also caused severe contamination because of the inadequate management of waste products. This included discharging untreated production waters into rivers and lakes which destroyed forest cover, killed fish stocks by increasing salt levels, and contaminated the food chain with heavy metals that have eventually found their way into the blood of local inhabitants.¹³⁹

To date, 700 wells have been perforated in the Peruvian Amazon with approximately one billion barrels of oil produced, and it is estimated that,

Image 14: Oil spill, Timu Entsa, river Corrientes, Lote 1AB.

Source: FECONACO

for each barrel of oil, between 10 and 20 barrels of production waters are extracted. This means that, in 2005 alone, approximately 2 m³/second of production waters were discharged into the River Pastaza, River Corrientes and River Tigre.¹⁴⁰ Although such waters were diluted by the rivers, the almost total lack of fishing in the River Corrientes has become notorious and the contamination of local inhabitants has been proven. FECONACO and other indigenous organizations fought to ensure that from 2010 onwards the company running the operations, Pluspetrol, which took over from Petroperu and Occidental, reinject 100 % of its production waters – after 40 years of dumping. Whether this has led to tree death has not been established, but the disappearance and/or changes to *aguajales* in the River Trompeteros basin in Lot 8 is widely known.

¹³⁶ Each heliport will be 0.24 ha (Pluspetrol and ERM, 2012: 217).

¹³⁷ Approximately 0.14 ha each (Ibid: 219-220).

¹³⁸ Approximately 0.003 ha each (Ibid: 219).

¹³⁹ MINSA, 2006.

¹⁴⁰ Assuming daily production of 60,000 barrels, 180 litres per barrel and 15 litres of water per litre of oil the result is 1.88 m³ per second.



W. Pineda Ortiz, from PUINAMUDT,¹⁴¹ which represents 4 indigenous organizations, summarizes the serious impacts on the River Pastaza, River Corrientes and River Tigre of these operations:

“There are direct impacts from the construction of campsites, the platforms, the wells, and the pipelines. The communities can’t fish because the levels of heavy metals caused by the contamination are too high. The game is moving elsewhere. Food security in the communities is deteriorating. The groundwater is also contaminated, to the point that it’s not fit for human consumption. One 2006-2007 study of Achuar children and teenagers found that more than half had dangerous levels of lead and cadmium in their blood due to contamination by oil operations.”

Transporting the oil, via pipeline and/or boat, also causes only limited deforestation, but this is potentially deceptive. In the north-east of the Peruvian Amazon a good part of the installations were built in the 1970s and have never been replaced, meaning that leaks in the pipeline cause low-level, constant contamination that gradually spreads further afield into the forest, rivers and lakes.¹⁴²

¹⁴¹ PUINAMUDT is a ‘platform’ of indigenous organizations united in its position with respect to hydrocarbon operations in the northern Peruvian Amazon. It is made up of FECONACO, FECONAT, FEDIQUEP and ACODECOSPAT.

¹⁴² ELAW, 2014.

Image 15: Pastaza river, remains of what used to be the giant Ushpayacu lake, Lote1AB. *Source: FEDIQUEP*

In addition, transporting the oil often involves accidents that have more serious, more visible impacts. For example, the pipeline transporting oil from the northern Amazon to the Pacific coast has ruptured numerous times, and the pipeline moving gas from Camisea ruptured 7 times in the 2 years following the start of production. In the River Pastaza alone, monitoring by indigenous organizations such as FEDIQUEP recorded 112 spills between 2007 and 2011. “More than half of these have their origin in pipeline failures. The other main causes are tanks and pools overflowing.”¹⁴³ Another major cause is weak regulations permitting oil to be transported by boats with low performance standards, including those with just a single hull, which has meant repeated accidents spilling thousands of barrels of oil and contaminating rivers and lakes.

In sum, hydrocarbon operations have impacts on the forest that can’t be simply measured by the number of hectares deforested. They affect the water, various elements of the ecosystem and, ultimately, as Aurelio Chino, a FEDIQUP leader observes, the entire landscape:

¹⁴³ Congressional Commission on the Environment, Ecology and Andean, Amazonian and Afro-Peruvian Peoples, 2013: 32.

Box 15: 40 years of oil exploitation in the northern Amazon – Chronicle of a human and environmental tragedy

In 1971, Occidental Petroleum began operating in the River Tigre, River Corrientes, River Pastaza and River Marañón basins in northern Peru. In 1996, Pluspetrol Norte SA acquired the rights to Lot 8 in the River Corrientes and Lot 8X in the River Marañón within the boundaries of the Pacaya Samiria National Reserve, and in 2000 it acquired the rights to Lot 1AB in the River Pastaza, Corrientes and Tigre – the ancestral lands of the Achuar, Kechwa, Kichwa and Kukama Kukamiria.

During the 44 years of operations, indigenous organizations have repeatedly denounced pipeline spills, toxic waste leakage, and large-scale discharging of production waters with temperatures up to 90 degrees Celsius and high barium content into the rivers. In 2005 alone it was estimated that Pluspetrol discharged the equivalent of approximately 1.1 million barrels of waste into the River Corrientes, River Tigre, River Pastaza and River Marañón. These operations have had a devastating impact not only on indigenous peoples' territories, but on their health and the animals and fish forming the basis of their diet. Despite numerous protests, demonstrations and abundant evidence, it was only in 2012 that the government established a cross-sector commission to investigate the true extent of the devastation. The commission's conclusion was to declare, in May 2014, a 'health and environmental emergency' across the four river basins.

River Pastaza: Environmental emergency in March 2013

- Potentially fatal levels of heavy metals and hydrocarbons – up to 352 times over legally permitted levels – found in soil samples and water.
- Extremely high concentrations of hydrocarbon derivatives – up to 1,000 times over legally permitted levels – found in sediment in the River Ullpayacu and the Chirunchicocha Lake.¹

River Corrientes: Environmental emergency in September 2013

- All 29 points monitored by the ANA (National Water Authority) exceeded international Environmental Quality Standards (EQS) for cadmium in sediments.
- 22 points monitored exceeded international EQS for Total Petroleum Hydrocarbon (TPH). Heavy metals such as barium, zinc and arsenic found in alarming proportions.
- Out of 48 soil samples, 35 exceeded by more than 50 times the maximum permitted limits for TPH.

River Tigre: Environmental emergency in December 2013

- 39 out of 45 water samples contaminated with lead.
- No water fit for human consumption in the communities.
- 5 sources of water that were evaluated are contaminated with TPH, including the tap for the source of drinking water. 9 sources contaminated with nickel, 16 with iron and aluminium, and all have traces of coliforms.

River Marañón: Environmental emergency in May 2014

- Soil samples contained high levels of TPH, and heavy metals such as lead, mercury and arsenic exceeded up to 95 times the permitted levels.
- The Pacaya Samiria National Reserve was not saved from contamination. High presence of chlorides and petroleum derivatives were found in the Lot 8X area. Fluorene, chrysene and

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→

pyrene were found in lakes in the PAC (Supplementary environmental plan). All have terrible health impacts.

Health implications

It is proven that all these metals cause a variety of illnesses, including cancer, and affect the nervous system, the brain, heart, kidneys, liver and blood, and lead to abortions and infertility. This almost certainly explains the numerous cases of strange deaths and illnesses – including cancer and birth defects – that indigenous peoples living in the area have denounced over many years.¹¹

Social and environmental responsibility failures

A report by a Peruvian congressional commission found that the Adaptation and Environmental Management Programme (PAMA) had not been complied with between 1996 and 2002, and the Supplementary Environmental Plan (PAC) had not been complied with between 2005 and 2009.

The report also stated that Occidental and Pluspetrol are ‘responsible for the environmental damage caused by exploring, exploiting and producing oil’ for 4 decades, and that the Peruvian state was ‘co-responsible’ for ‘not having appropriate control mechanisms to ensure that corporate-led development respects indigenous communities and the environment.’

Despite the legal requirement to clean up their own waste as well as the contamination left behind by their predecessors, indigenous organizations have denounced Pluspetrol for their failure to do so. In 2013, the company was fined more than US\$17 million for failing to implement a recovery plan in Lot 8X, and for causing irreversible environmental damage to Shanshococho lake in Lot 1AB in the River Pastaza region. Despite this, Pluspetrol has appealed these administrative fines, which remain unpaid.

The Ministry of Energy and Mines declared the indigenous territories within Lot 1AB as an industrial zone which allowed them to permit abandoning contaminated sites with up to 30 times the concentration of hydrocarbons TPH permitted by international norms.

The Ministry of Energy and Mines has also permitted that the company Pluspetrol North update its oil pipeline to be aligned with current environmental standards only by August 2015 at which point their contract expires. Meanwhile, along the length of the pipeline in the last 3 years the state has registered approximately 60 spills, while community monitors have registered over a hundred.

Only in 2013 were environmental quality standards for soil approved, but to date there are still no similar standards in place for sediments. Meanwhile, the standards for water do not establish limits for all organic contaminants. Only recently (2013) was an environmental management tool approved that permits the decontamination of soils, but to date no similar tool exists for the decontamination of water bodies.

Indigenous demands

In 2011, four indigenous organizations (ACODECOSPAT, FEDIQUEP, FECONACO and FECONAT) formed a ‘platform’ organization, PUINAMUDT which channels the organization’s demands. This coalition of organizations, alongside ORPIO and AIDSESEP with which they are affiliated, are demanding that the government:

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- → Conducts a comprehensive assessment of the damage to the forest, soil and water caused by the oil industry in indigenous lands
- Protects water sources
- Starts to decontaminate the soil and water
- Title community lands including those occupied by the companies
- Provides remediation for their territories
- Provides compensation for use of community lands
- Provides compensation for impacts and harms caused

Despite the government's declarations of a health and environmental emergency in these 4 river basins, no remediation process has begun and communities continue to drink water contaminated with toxic substances.

Source: www.observatoriopetrolero.org

- I <http://observatoriopetrolero.org/wp-content/uploads/2013/02/SOURCE-Informe-sobre-los-reportes-de-calidad-ambiental-en-la-zona-de-extracci%C3%B3n-petrolifera-del-r%C3%ADo-Pastaza.pdf>
- II <http://servindi.org/actualidad/99023>

“The deforested areas have impacted, and continue to impact, the ‘chapana’ zones – places where people go to hunt game. There are more than 500 km of pipeline and so many roads. All this has not only changed the landscape but the communities’ way of life. Now they have to go much further to hunt.”

Using a technology that allows high resolution measurement of carbon, a recent study sustains that forest degradation and destruction generated by oil and timber exploitation means that 30 % of the carbon from primary forests in these concessions is at imminent risk of being emitted. Taking into account the huge surface area of these concessions, these carbon emissions from forest degradation would be more than those caused by the next ten years of deforestation if deforestation rates mirror those of the previous decade.¹⁴⁴

Cumulative impacts

It is also rare that oil and gas activities operate in isolation; instead they tend to be accompanied by other operations as they promote the

industrialization of an area and multiple projects once one project and its associated infrastructure has initiated. This situation could be observed in numerous locations, including along the River Napo in 2012 where hydrocarbon operations were effectively industrializing the region. Lot 39 and Lot 69 both overlap areas inhabited by indigenous peoples in isolation:

“Lot 39 is in a densely concessioned area... It borders Lots 67 (Perenco), 121 (SubAndean), 129 (Burlington), 117 (Petrobras) and 1AB (Pluspetrol), two of which are in the production stage. This area is threatened by the cumulative impacts that hydrocarbon operations and others like logging, highways, river transport, and settlement could bring with them, and about which no kind of strategic evaluation has ever been conducted.”¹⁴⁵

Such cumulative impacts are rarely considered in state planning or environmental assessments, despite the legal obligations to do so. Indigenous communities are often presented with a project apparently limited to just one area, but with no future scenario taking into account the impacts of other, nearby projects and associated infrastructure.

Transformation of local economies

One of the biggest, most damaging impacts of

144 Asner et al., 2014. The study notes that oil and timber concessions in the carbon rich lowland areas pose an imminent threat to 0.58Pg C based on a 30 % loss rate. Meanwhile, oil exploitation in the montane forests threatens approximately 0.08Pg C. This far outstrips the 0.14 Pg C which is estimated to have been released since 2000 as a result of deforestation from agriculture and infrastructure projects.

145 CRS, 2012: 46.



Image 16: Oil spills from wells and pipelines in the Peruvian Amazon (as pictured here on the Marañón River in 2000) are causing widespread pollution of water sources leading to severe damage to human health, fisheries and forest animals.

Source: PUINAMUDT

hydrocarbon operations is the way they transform local, regional and, to a certain extent, national economies. Partly, this is a result of what is known as ‘Dutch Disease’, in which hydrocarbon operations inhibit the development of any other economic activity because they make them comparatively much less profitable.¹⁴⁶

Investment of capital into a regional economy in Peru always has a significant impact, but the impact is even greater if it involves hydrocarbons and now that the region receives 50 % of the royalties which must be distributed between the producing and non-producing regions. This money must be spent according to specific government guidelines (SNIP- National system for public sector investment), but given the lack of strategic planning or implementation capacity, or out of political expediency, the simplest course of action for regional and municipal governments is to spend it on infrastructure projects. Such infrastructure in turn encourages other threats to the Amazon, such as the expansion of the agricultural frontier and other, unsustainable natural resource extraction.

The Camisea project is an emblematic example. The direct impacts of exploration, exploitation and transportation are clearly lower than they would have been decades before, and the decision to forgo building a road, together with the fact that most of the lower River Urubamba is titled to indigenous

communities, has meant deforestation rates are low, despite the huge royalties received by the municipality. However, these royalties constitute a Damoclean Sword for the future of the region.

The royalty law has meant that royalties from Camisea has earned the district of Echarate hundreds of millions of soles in annual income. Between 2007 and 2010, the Ministry of Finance and Economics (MFE) transferred 560 million soles per year to Echarate – 123 million of which was spent on building roads suitable for cars and trucks, mostly in the upper River Urubamba. Yet this road network is now beginning to impact the lower River Urubamba too,¹⁴⁷ so that precisely what took so much effort to avoid in planning the Camisea project – i.e. the construction of a road – will now be built with money from the royalties.

For example, the road between Kimbiri and Kepashiato inaugurated in 2010 crosses the Vilcabamba mountain range and effectively connects the upper River Urubamba with the VRAE, one of the most troubled areas in Peru. One direct consequence has been an increase in violence, including the occupation of Matsigenka schools in some communities by police unsuccessfully attempting to control the movements of narco-traffickers and other subversive groups. Indeed, it is estimated that 400 tons of cocaine leaves the VRAE per year via the road built with funds from

¹⁴⁶ Wunder, 2003.

¹⁴⁷ Propuesta ciudadania, 2011.

Camisea royalties, before it is transported by boat to clandestine runways along the River Urubamba and River Ucayali and then flown to Bolivia or Brazil.¹⁴⁸

2.6 INFRASTRUCTURE AND TRANSPORT

One of the reasons approximately 90 % of Peru's Amazon forests are still standing is the scarcity of roads across the majority of the region. As Map 2 shows, most deforestation in Peru occurs along the length of the major highways. For this reason, the experiences of San Martín and Ucayali, where roads have been promoted over the last 50 years, have been quite different to the rest of the country.

However, in recent years this situation has begun to change:

*"Peru's Amazon is experiencing a new cycle of public and private investment aimed at exploiting natural resources. The volume, diversity and aggression is unprecedented."*¹⁴⁹

Do roads mean progress?

Peru has always promoted road building in the Amazon by arguing it will lead to 'progress' and generate economic growth, and tending to focus on the possible benefits but playing down the negative consequences for the forest and the indigenous peoples living there.

Indigenous peoples are fully aware that a road is like a 'double-edged sword' and emphasize that much depends on the reasons it is built. Although they may provide opportunities for communities to improve communication, roads are usually built for other purposes. As one Asháninka leader has said about the River Tambo where roads have been built by loggers and failed to benefit the communities:

"The road is for the loggers... It has reduced the flow of river transport. Now there's no way for us to regularly get our products to market."¹⁵⁰

R. Guimaraes (FECONAU) says:

"A road can be beneficial to the communities, but it has consequences that end up accelerating deforestation."

Claims about progress and economic growth were particularly invoked to obtain support for the Inter-Oceanica Highway connecting Peru to Brazil, but indigenous peoples' experience with the southern stretch, the Inter-Oceanica South, which connects Madre de Dios to Acre in Brazil, has forced them to question government discourse about the supposed advantages brought by roads. K. Quicque, from FENAMAD, says:

"The government said it would benefit Peruvians because products would be exported to Brazil. But all it's done is enable Brazilian products to enter Peru."¹⁵¹

The IIRSA project in Peru

The Inter-Oceanica South is part of the Initiative for the Integration of Regional Infrastructure in South America (IIRSA), including a network of roads, which, once completed, will connect the Atlantic coast ports in southern Brazil with the Pacific coast ports in Peru and, according to IIRSA itself, provide a key channel for the integration and development of both countries. However, an independent study of the project warned that the lack of attention and debate, as well as the absence of an Environmental Impact Assessment of the entire initiative, will cause massive deforestation.¹⁵² In total, IIRSA includes approximately 500 different projects spanning the infrastructure, energy and communications sectors, among others, across the whole of South America. To date, with support from the Development Bank of Latin America (CAF), the Inter-American Development Bank (IDB) and Fonplata, IIRSA has managed to finance a significant number of these projects, some of them in Peru.

The following three transport 'corridors' have been proposed for Peru within IIRSA. The stated aim is to better integrate Peruvian and Brazilian markets, and to act as a gateway between Brazilian markets and Chinese markets:¹⁵³

- IIRSA south, now complete, connecting the ports of Ilo, Matarani and Marcona with Puerto Maldonado and the Brazilian border.
- IIRSA central, extending the Lima-Pucallpa highway to connect with Cruzeiro do Sur in Acre.
- IIRSA north, including a waterway from Yurimaguas to Iquitos in the central navigable channel of the River Huallaga, River Marañón and River Amazon.

148 <http://www.larepublica.pe/12-05-2013/por-kepashiato-narcos-traslada-400-toneladas-de-droga-cada-año>
149 Dourojeanni et al., 2009.

150 CART leader in 2011, cited in CRS, 2012: 12.

151 <http://www.theguardian.com/global-development/poverty-matters/2013/dec/20/amazon-dams-roads-threat-rainforest-indigenous>

152 Zambrano et al., 2010; Babbitt, 2009; and Dourojeanni, 2009.

153 http://www.mtc.gob.pe/portal/home/concesiones/conces_IIRSA.htm

Box 16: IIRSA projects involving Peru^I

Name of project	Participating countries	Stage in Peru
Binational Centre for Border Drainage	Bolivia and Peru	Completed
Paíta-Tarapoto-Yurimaguas road, ports and logistics centres	Peru	Completed
Lima-Tingo Maria-Pucallpa highway, ports and logistics centres	Peru	In concessioning process ^{II}
Paving the highway between Iñapari-Puerto Maldonado-Inambari and Inambari-Juliaca/Inambari-Cusco	Peru	Completed
Bridge over the River Acre	Brazil and Peru	Completed
Social and environmental aspects of the upper reaches of rivers draining into the Amazon	Colombia, Ecuador and Peru	Information unavailable
Use of current infrastructure and new connections to increase communications infrastructure	Bolivia, Colombia, Ecuador, Peru and Venezuela	Completed
Binational Centre for Border Issues (CEBAF) Huaquillas-Aguas Verdes	Ecuador and Peru	Completed
Alignment of the regulations for the electricity, oil and gas sectors	Bolivia, Colombia, Ecuador, Peru and Venezuela	Completed

I Information based on IIRSA document (2011).

II PROINVERSION has had to suspend the bidding process for the last 3 years due to problems associated with the stretch leaving Lima, but apparently this will be resolved imminently. <http://gestion.pe/noticia/285628/anuncian-que-proinversion-relanzara-concesion-carretera-iirsa-centro>

Many of the IIRSA projects in Peru were proposed years ago, but the difference now is that they are being implemented much more rapidly and several have been completed. This is partly because of the amount of capital available from multilateral banks (a result of globalization), the amount of capital available from the State (a result of increased royalties and tax collection), and, ultimately, the fact that successive governments have opened Peru to domestic and foreign investment and have encouraged integration with other countries.¹⁵⁴

Indirect impacts of roads

Although the construction of roads leads directly to deforestation – for example, the 400 km of the Inter-Oceanica South with a 25 metre right-of-way required deforesting 1,000 km – it is the indirect impacts that are even more significant as this is the key factor that creates the conditions for uncontrolled and unplanned migration and occupation of forest.

Since most migrants to the Amazon come from the Andes, roads also change the composition of the population. In north-east Loreto, where there are almost no roads, there are almost no people of Andean origin, but in Madre de Dios, where there has been a road for decades, a significant part of the population is from the Andes.

“A key impact of the roads is migration. Lets take

the case of the IIRSA south, which has increased the number of settlements along the road and the gold-mining that the government is finding so hard to control. Imagine what will happen when they build the road from Cruzeiro do Sul to Pucallpa.” R. Guimaraes

Indigenous peoples’ experiences of the indirect impacts of roads in the Peruvian Amazon have been confirmed by numerous studies, concluding that the majority of deforestation is around the most important roads and colonists’ settlements. One study analysing deforestation in Madre de Dios and Acre found the following:

“Three-quarters of deforestation ... between 1978 and 1994 was within a 50 km radius of a main road (normally paved).”¹⁵⁵ Indeed, in the Peruvian Amazon between 1999 and 2005, 75 % of forest disturbance was found within a 20 km radius of a road.¹⁵⁶ Another study evaluated the relationship between deforestation and road building in Huallaga, Aguaytía and the VRAE, and found that one kilometre of highway was linked to deforesting approximately 1,000 ha over the following 15 years. This was concentrated in the first 10 km of forest on both sides of the road.¹⁵⁷

¹⁵⁵ Alves, 2002, cited in Zambrano et al., 2010.

¹⁵⁶ Oliveira et al., 2007. http://www.fic.nih.gov/News/GlobalHealthMatters/Pages/0408_deforestation-peru-amazon-infectious.aspx

¹⁵⁷ CDC, 2004.

¹⁵⁴ As stated by Dourojeanni et al. (2009).

The roads whose impacts have attracted most publicity to date are the Inter-Oceanica South and the Inter-Oceanica North, but perhaps more serious and more damaging are the hundreds of roads being built by logging companies and regional and municipal governments. This is something completely new for the Peruvian Amazon, and can largely be explained by the economic bonanza derived from oil, gas and mining royalties.

The concentration of forest damage along the road between Iquitos and Nauta is one clear indication that controlling roads and the access provided by them could be the most important way to control deforestation rates and degradation in the remote Peruvian Amazon, where the enormous distances and complex network of rivers probably act as the best form of protection, and where logging could be limited to the access provided by existing roads.¹⁵⁸

Indigenous peoples' scepticism

Experiences of IIRSA, logging and the impacts they cause fuel indigenous peoples' scepticism about numerous government initiatives to build more roads crossing some of the most remote regions of the Amazon.

Loreto's regional government has invested tens of millions of soles in feasibility studies for building a railway that will supposedly cause less deforestation than a road, yet many doubts remain. A. López (ACODECOSPAT) says:

"I don't believe the train will avoid encouraging huge migration and therefore a lot of deforestation along the railway line."

One notorious example of a proposed road that has been opposed by indigenous organizations in both Purús and Madre de Dios is one that would run between Puerto Esperanza and Iñapari (Map 9).

"This is why we don't want the road, there are big trees growing in abundance, animals in abundance. There's no deforestation or colonization like in other places. We live peacefully, without any kind of problems, and we don't need a road. A road will bring criminals, colonization and murder." Emilio Montes Bardales, FECONAPU

158 Oliveira et al., 2007.

PART 3

INDIRECT CAUSES OF DEFORESTATION

3.1 NATIONAL AND INTERNATIONAL MARKETS AND INVESTMENTS

The Amazon is sufficiently productive to support its inhabitants in a sustainable manner. However, due to globalization, the potential market for products from the Amazon has increased and it is now expected that the Amazon produces not just for the local population but for the larger population elsewhere in Peru, as well as internationally.

Global trade has had a serious impact on Peru's forests and this has increased in recent years due to the reduction in international trade barriers. Peru is one of the Amazon countries that has lowered its tariffs the most through free trade agreements with the USA, the European Union, China and other countries.

Peru is also one of the easiest countries in which to invest, particularly for foreign companies. The legal stability of mining and oil and gas contracts,¹⁵⁹ the relative abundance of resources, and the political support provided in many recent cases involving 'bureaucratic' obstacles (e.g. Camisea) or local opposition (e.g. Conga) make Peru an attractive country for foreign investment in resource extraction. The positive consequence is that Peru has become recognized as the second freest economy in Latin America after Chile, which is far ahead of every other country.¹⁶⁰ In recent years, Peru has attracted more foreign direct investment in proportion to the size of its economy than either Brazil or Mexico.¹⁶¹

This means that products from the Amazon can be exploited, by large Peruvian or foreign companies,

with few restrictions. These companies can operate at scales that make it possible and profitable to do things that couldn't be done before, such as renting or buying land through front men in order to acquire huge areas for oil palm plantations (see section 2.2.2).

In addition to these factors, major economic growth in countries like China and India, for example, has led to the emergence of a middle class numbering millions of people with new demands for gold, energy and vegetable oil, among other products. Due to globalization, these demands can be met by the Amazon.

As we have seen in part 2 of this report, production in the Peruvian Amazon involves a great degree of informality and illegality, especially for products such as gold and wood. In both these cases two parallel markets exist, one legal and the other illegal, with the majority of people operating in both.

The resources in the Amazon for which there is the greatest international demand are the following:

Gold

Between 2002 and 2011, the international price of gold rose by seven times from US\$285 per ounce to US\$1,885 per ounce,¹⁶² causing a jump in deforestation in Madre de Dios and which is spreading elsewhere in the Peruvian Amazon.¹⁶³ Although the price decreased a little since 2011 and then stabilised between June 2013 and June 2014 at around US\$1,300 per ounce, and despite efforts by the government to reduce operations outside

159 A typical contract lasts for 15 years in which the tariffs paid remain stable regardless of what happens to the price of the product in the market.

160 http://americasmi.com/en_US/expertise/articles-trends/page/colombia-and-peru-the-rising-stars-of-latin-america#sthash.bJ6VqCII.dpuf

161 http://americasmi.com/en_US/expertise/articles-trends/page/colombia-and-peru-the-rising-stars-of-latin-america

162 <http://www.bullionvault.com/gold-price-chart.do>

163 The enormous increase in gold prices is connected to the global commodities boom in this period which in turn is connected to the growing and apparently incessant demand for commodities from China and other BRIC countries. Gold was particularly valuable because it served as a safe investment during times when there was little trust in the financial system: <http://www.bloombergview.com/articles/2013-05-05/the-oil-and-gold-booms-are-over>

the permitted areas, deforestation due to mining continues to increase. Peru legally exported 150 tons of gold in 2012, but it is estimated that a further 20 % was illegally exported, which would make Peru the 5th biggest gold producer in the world.¹⁶⁴ The majority is exported to Switzerland, where approximately 70 % of the world's gold is refined. Universal Metal Trading exported 19.2 tons of gold worth US\$901 million to Switzerland in 2011, most of it from Madre de Dios (thereby almost all of it illegal), making it Peru's biggest gold exporter (see section 3.4).

Oil and gas

Since January 2014, Peru has the 8th largest crude oil reserves in Central and South America, with 633 million barrels of proven reserves, much of which is located in the Amazon. The international price for oil has increased by 5 times since 2002¹⁶⁵ and 2014 – partly as a result of a growth in the demand from BRIC countries – and has driven exploration of more than half of the Peruvian Amazon.

Current oil production in Peru doesn't meet domestic demand for light crude used for transport, which means it must import the shortfall. Most of what Peru produces is heavy crude which can't be processed in Peruvian refineries and must be exported – largely to the USA.

Peru's oil deficit has been offset by the production of natural gas and natural gas liquids from the Camisea project, and the conversion of part of the country's energy infrastructure to gas. In 2014, the proven reserves of natural gas in Peru were 436,100 million cubic metres, the third highest in Central and South America, behind Venezuela and Mexico.¹⁶⁶ Peru became an exporter of natural gas in 2010 and exported 5,918 million cubic metres in 2013 to Spain, Japan, South Korea and Mexico. At the same time, domestic consumption has increased sharply, from 453.1 million cubic metres in 2002 to 11,840 million cubic metres in 2012.¹⁶⁷

Cocaine

In 2012, Peru overtook Colombia to become the world's biggest producer of coca, the raw material for cocaine, after 'Plan Colombia' reduced the area under cultivation with a series of measures including the

use of glyphosate as a fumigating agent.¹⁶⁸ The price plummeted in the late 1990s, but in recent years it has recovered. It is estimated that Peru produced 317 tons of cocaine in 2009, most of which is exported to Europe and the USA.¹⁶⁹

Logging

Despite the recent restrictions on export quotas, precious hardwoods, especially mahogany¹⁷⁰ and cedar, continue to account for a significant part of the total value of Peru's total wood exports, which exceeded US\$168 million in 2010, despite the fact that the bulk of the wood exported was other species, mostly sawn timber, frames and plywood.¹⁷¹ However, some recent studies estimate that up to 80 % is exported illegally. Both mahogany and cedar are highly valued for doors, furniture, windows and other aspects of high-end interior design, and interest in cedar has grown since the export restrictions on mahogany were imposed in 2008. By volume, other hardwoods used in floors, veneer or construction, such as cumala,¹⁷² lupuna,¹⁷³ tornillo¹⁷⁴ and shihuahuaco,¹⁷⁵ now constitute the bulk of exports.

Peru's principal markets – the USA (including Puerto Rico), China and Mexico – account for 89 % of the total sales value of Peruvian wood. After doubling in the first decade of the 21st century, exports stabilized following the global economic crisis. However, the amount of timber exported to China has increased rapidly in the last decade and compensated for a decrease in exports direct to the USA. Chinese importers are particularly interested in species that can be used for flooring, while Mexico imports the majority of Peru's veneer and plywood and the US market is reserved for high value sawn timber.

Coffee

Peru produced 331,000 tons of coffee in 2011 and had 405,000 ha under cultivation in 2012, making it Latin America's 3rd largest producer after Brazil and Colombia.¹⁷⁶ Ninety-four percent is exported¹⁷⁷ and 25 % is certified organic, making Peru the world's top organic producer. Between 2002 and 2012, the

164 <http://www.insightcrime.org/news-analysis/breaking-down-the-chain-of-illegal-peruvian-gold>

165 <http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=RWTC&f=D>

166 <http://www.eia.gov/countries/country-data.cfm?fips=pe>

167 Ibid.

168 <http://es.insightcrime.org/analisis/4-razones-de-por-que-peru-se-convierte-en-el-maximo-productor-de-cocaina-en-el-mundo>

169 Pedroni and Yepes, 2011.

170 The current price is approximately US\$1,900 per cubic metre.

171 <http://www.majestic-trees.com/preis-mahagoni.html>

172 *Virola* spp., *Iryanthera* sp.

173 *Chorisia integrifolia*.

174 *Cedrelinga cateniformis*.

175 *Dipteryx micrantha*, *Dipteryx* spp.

176 <http://juntadelcafe.org.pe/>

177 http://www.rpp.com.pe/2013-08-23-el-94-de-la-produccion-peruana-de-cafe-se-exporta-noticia_624902.html



area under cultivation increased by 140,000 ha at an average rate of 14,000 ha per year.

The role of international financial institutions

International financial institutions such as the World Bank, the IDB, the CAF and Brazil's National Development Bank (BNDES) have changed their role in financing natural resource extraction megaprojects in the Amazon. In the past they tended to finance entire projects, but today they also play a crucial role in leveraging funds from private banks or other multilateral banks. For example, in 2004, as part of its involvement in the Camisea gas project, the IDB committed US\$75 million of its own funds and leveraged a further US\$850 million to build a pipeline.¹⁷⁸ In this way it effectively gave a 'green seal of approval'¹⁷⁹ to the controversial project, while ensuring that the remaining capital came from the CAF, BNDES and Peruvian bonds.

The Camisea project is also a useful example of how ineffective the self-imposed social and environmental standards of banks can be. Civil society efforts to ensure that the state institutions and various companies involved meet the commitments imposed

Image 17: Felled timber in the port in Pucallpa.

Source: UAC

by the IDB in return for its loan, only managed to partly modify the implementation of the project.

An independent study¹⁸⁰ of the compliance of 21 commitments agreed by Peru's government in return for the IDB loan shows that the majority were only partly met, while some were not met at all. This contrasts with the IDB's own assessment concluding the commitments had been met which enabled the disbursement of the loan. One common response by IDB officials was that they couldn't intervene in a country's internal affairs, although it was clear that the reverse was true by supporting what should never have gone ahead.

The reality is that the IDB played a catalytic role in the Camisea project in 2002 and 2003 despite having no specific policy for projects impacting on indigenous peoples. When the bank adopted one in 2006, it ignored a key provision to respect the rights of indigenous peoples in isolation by subsequently granting a US\$400 million loan to develop a natural gas liquefaction plant in 2007. In addition, the purported efforts by the bank to 'protect' the KNNOR for indigenous peoples in isolation has proved ineffective and been completely undermined

178 <http://www.iadb.org/en/news/webstories/2005-03-10/two-idb-projects-win-deal-of-the-year-2004-awards,1978.html> and <http://www.iadb.org/en/news/news-releases/2003-09-10/idb-approves-135-million-in-financing-for-camisea-natural-gas-project,554.html>

179 The expression used by the Minister of Energy at the time.

180 Gamboa, 2008.

by the approval of subsequent plans to expand operations deeper into the reserve.¹⁸¹ Moreover, the people affected by these operations can't seek redress through the IDB's complaints or accountability mechanisms, because complaints must be made within 2 years of the final disbursement.

Both private and public (e.g. BNDES) banks currently have much more capital available than a few decades ago. Public banks are increasingly financing infrastructure projects by making indirect investments or loans to private banks or private investment companies, making it even more difficult to ensure that they are publicly accountable. For example, in 2010 more than half of the US\$18,000 million loaned by the World Bank's private sector arm, the International Finance Corporation (IFC), was made to these financial intermediaries.¹⁸² With so much capital available from alternative banking sources, it is difficult to apply much pressure to the World Bank, the IDB or other development banks since they clearly have higher standards than private banks. A typical remark by IFC or World Bank officials considering financing the second phase of the Camisea project with a US\$400 million loan was that if they rejected it, the project's promoters would resort to private banks that didn't have any kind of social or environmental standards. It is difficult to know whether an alternative to the World Bank or IDB would have been worse in terms of the environmental and social performance.

In many cases the lobbying by a project's backers makes it difficult to confront. For the proposed dams in Peru supplying electricity to Brazil, for example, the Brazilian government is using geopolitical arguments while BNDES is providing some of the funds, and large Brazilian companies such as Odebrecht are winning large contracts, in this case to secure electricity which in part will cover future energy demands in Brazil. National interest in Peru appears to be limited to secure large-scale foreign investment and the royalties, while apparently not considering strategic considerations such as energy sovereignty and the cost of mitigating the social and environmental impacts.

3.2 LAND OWNERSHIP AND USE RIGHTS

In general, the issue of land in the Peruvian Amazon has always been characterized by unclear ownership and overlapping rights. According to analysts, this is a

barrier to the success of projects using 'degraded' land as a way of reducing pressure on forests, particularly in the upland areas, where there are more roads and it is closer to the Andes.¹⁸³

3.2.1 INDIGENOUS TERRITORIES

There are currently approximately 1,300 titled indigenous communities covering an area of almost 11 million ha in the Peruvian Amazon. However, and as this Achuar leader from the river Huasaga describes, in the vast majority of cases these titled areas only represent a portion of their traditional lands.

"This state land title is not fit for purpose. From times gone by our parents and grandparents lived and occupied the land in all this space way beyond the land title. They made it theirs, they made a farm, they hunted animals and got skins and their remains lie there still, far away. Far over there lie their bones. They occupied this area for generations. In addition, our rivers and streams rise in the most isolated areas of our territory and form a part of all that is ours from which we live. In this big space there is water, animals and plants that sustain us and that gives us life. All this we consider to be ours. We do not see it as the land of other people, it is ours. We do not want other peoples or companies to come here, we do not want them to harm or contaminate our place."

Currently and according to indigenous organizations,¹⁸⁴ requests for approximately 20 million ha more remain pending. The details of these claims include the following:¹⁸⁵

- The integrated titling of collective territories in their entirety of the following peoples: Ese'Eja, Achuar, Kampu Piyawi, Shiwilo, Kandosi, Kukama, Kechwa, Awajún, Wampis and Shapra alongside those other peoples who are preparing files to support their claims.
- Hundreds of indigenous communities whose very existence has no state 'recognition', which means they are currently 'invisible' in the eyes of the State but have customary rights of possession and resource use. This recognition is the first step towards securing a land title.
- More than 294 communities currently identified but pending legal recognition.
- 616 communities which are legally recognized but whose title remains pending.

181 <http://www.forestpeoples.org/topics/extractive-industries/news/2013/04/idb-camisea-and-peru-sorry-sorry-safeguards-story-0>

182 http://www.brettonwoodsproject.org/2010/11/art-567190/%20-%20_ftn3

183 Dourojeanni et al., 2009.

184 AIDESEP, 2013.

185 Peru's Directory of Native Communities (IBC, 2012a) provides similar figures: 1,270 titled communities, 537 communities recognized but without title, and 126 communities which haven't been recognized or titled.

Box 17: Principal categories of indigenous land ownership in the Peruvian Amazon

Category	Ownership and use rights according to Peruvian legislation
Indigenous community	Ownership rights over agriculture and fishing. Forest rights are assigned separately, but ownership is retained by the state and commercial exploitation requires permission from the forestry authorities. According to Peru's 1993 Constitution, ownership titles are no longer inalienable or untransferable ¹ with the objective of promoting the sale of communal lands, a situation that AIDESEP continues to fight to ensure it will never occur.
Territorial reserves for indigenous peoples in isolation	Titles without demarcation protecting land until the inhabitants establish themselves as indigenous communities. No settlements or commercial activities are permitted, although this has been violated by the oil and gas industry in the Camisea region and a controversial 2007 legal loophole that was created permitting it if deemed to be a 'public necessity', which is always a debateable concept.
Communal reserves	Indigenous territories recognised as protected natural areas that are co-managed by the relevant State authority, SERNANP, together with a local indigenous organization contracted to do so. Subsistence and some commercial activities are permitted by neighbouring communities, according to a management plan approved by SERNANP. Commercial use of the forest is prohibited, and the State retains the rights over the exploitation of subsurface resources.

¹ Article 89 of Peru's Political Constitution: 'Ownership of their lands is imprescriptible, except if they are abandoned. . . ' Article 163 of the Political Constitution from 1979 recognized the communities as 'imprescriptible, untransferable and inalienable.'

- More than 262 titled communities whose expansion remains pending. These communities now have few resources as they were titled 40 years ago when the only criteria used was the availability of agricultural resources rather than any other resource use.
- 6 communal reserves pending establishment which cover more than 3.9 million ha and whose technical files have already been submitted to the government.
- 5 territorial reserves for indigenous peoples in isolation and initial contact pending creation. These would cover more than 4.1 million ha.
- Overlap of indigenous territories by protected natural areas pending resolution. The protected natural areas include Pacaya Samiria, Manu, Bahuaja Sonene, Ichigkat Muja, Escalera, Imiria and Chayá Nain.
- The correction of erroneous maps which in effect reduce the areas used by communities.

Legal loopholes

The legal framework governing indigenous land ownership¹⁸⁶ has 2 key weaknesses.

1. The constitutional provisions safeguarding communal territories and establishing indigenous communities' land as inalienable, imprescriptible and untransferable – in other words, they can't be sold or dissolved – were weakened in 1993. Only

the protection of imprescriptibility remains.

2. The State retains ownership over the forests and divides indigenous land titles into 2 parts:
 - a) Land suitable for agriculture and cattle-ranching which the community has the right to sell. This normally includes settlements, areas used to cultivate crops, and purmas. In the past this has meant giving title to communities for areas that were too small to satisfy growing numbers and non-agricultural activities such as hunting and fishing.¹⁸⁷
 - b) Land suitable for forestry, which continues to belong to the State but can be ceded to the community by contract. In theory, these lands can revert to the State if a community breaks the contract or abandons the area.¹⁸⁸ Although this has never taken place due to the vigilance of indigenous organizations, the concept generates a permanent level of apprehension. Since the 1970s, AIDESEP has been demanding the annulment of this

¹⁸⁷ Chirif and García, 2007.

¹⁸⁸ In the context of the signing of the Free trade agreement with the US, the Peruvian government assumed extraordinary powers to enact laws. As a result, various laws were decreed that threatened indigenous peoples' land ownership rights and rights to use natural resources. Among other things, the laws encouraged the privatization and sale of collective lands, the recognition of the rights of 'squatters' on indigenous lands, and the possibility of opening up unproductive and 'unused' lands in the Amazon to agro-industry – all of which led to massive, but peaceful, protests by indigenous peoples throughout the Peruvian Amazon. In June 2009, continued protests and the government's violent and repressive response culminated in the regrettable violence in Bagua.

¹⁸⁶ Law No. 22175 for 'Native Communities and Agrarian Development in the Forest' passed in 1978, and Law No. 26505 Law for 'Private investment in the development of economic activities in national territory and in native and campesino communities' passed in 1997.

Box 18: Law 30230: Threat to the property rights of indigenous peoples¹

The investment projects that are referred to are those declared by law as in the public or national interest, those in the interest of national security and large-scale projects which are declared in the national interest either before or after the coming into force of the present law. These include concessions awarded by the national government or with the participation of PRONVERSION or ministerial authorisations either prior to or subsequent to the coming into force of this law (article 38). In other words, practically any project could be deemed to be in the national interest depending on the criteria of the central government, including those projects which only exist in the form of project proposals, potentially triggering a whole series of rights violations.

The Law 30230 legitimises ‘territorial regularisation’ in favour of these investments in the face of any other rights and would lead to the violation of any rights previously recognised to third parties. Articles 46 and 47 highlight the prevalence of these rights over and above any prior inscription in the national land registry (SUNARP) where there are errors in the georeferencing, where coordinates are overlapping with those of others or in which there is any cadastral or technical contradiction. This is “the case of hundreds if not thousands of native and peasant communities” and we should remember of course that these ‘errors’ are a result of State policies and practices.

To ensure that this space remains wide open, article 48 of the law establishes that: “None of the circumstances contained in the current subchapter can be constrained by other rules, requirements or procedures established in other normative texts. SUNARP will not need to use any other criteria other than those established in this law and its regulations”

In other words, nobody can amend the registration of lands in favour of these large-scale investment projects. The only recourse for indigenous peoples would be via the courts which would be lengthy, costly, highly impartial and weighted against indigenous peoples while any delay would favour these mega projects which ironically constitute the main drivers of deforestation in Peru.

I Blog “la mula.pe”, 23.10.14.

unconstitutional provision (according to legal experts) and the integrity of collective land titles of indigenous peoples and communities.

“In reality what we’re facing is a quiet expropriation of indigenous peoples’ right to own their territories, something which is absolutely unconstitutional ... [It] also violates the International Labour Organization’s Convention 169 on indigenous peoples which describes territory as covering ‘the total environment of the areas which the peoples concerned occupy or otherwise use.’”¹⁸⁹

The insecurity of indigenous peoples’ ownership rights was heightened in July 2014 by a packet of legal measures (no. 30230) intended to promote investment in development projects and removing supposed obstacles such as environmental regulations (see section 3.6) and property guarantees. In this way

it puts in danger the legal guarantees for communal property via ‘extraordinary actions to enable the legal and physical clarification of parcels contained within the area of direct or indirect influence of an investment project independently of the actual or future use of the parcel.’¹⁹⁰

“The State has become well practiced in talking about cats in place of hares; in other words to speak of one issue while inserting another through the back door. In 2009 the pretext was to align us with the free trade agreement and now in 2014 it is to reduce the bureaucratic obstacles and now with the Law 30230 they are trying to close the door on the ever increasing demand of indigenous peoples to secure their territories”. Roberto Espinosa, Technical team, AIDSEP

Legal specialist, Vladimir Pinto has summarized in

189 IDL, September, 2014: <http://servindi.org/actualidad/113577>

190 Ley 30230, título III, capítulo I, el artículo 37°.

Box 18 the following articles of the Law 30230 that affect indigenous peoples.

Even more dangerously, Section 57 of the Law confers on the SBN (National Superintendency of State Assets) powers to facilitate ‘the reversal, retirement or termination of ‘contracts of use’ to the State and thus opens the possibility of seizure of forests within the titles of native communities that are not recognized as property but as ‘contracts in use’, an area which represents a vast proportion of the titled lands of communities in Peru.¹⁹¹

Given the seriousness of the threat, the Human Rights ombudsman Eduardo Vega Luna expressed concern regarding the legal uncertainty affecting the property rights of many indigenous communities.

He recommended the simplification of procedures for recognition and titling in order to adequately protect the right to communal property. “The norms governing the procedures for recognition and titling of communities are complex, dispersed and in some cases contradictory. This added to the fact that regional governments do not have precise guidelines that enable them to resolve disputes in the event of overlapping rights in the lands of communities that are engaged in an ongoing titling process paralyses the titling process, to the detriment of rights of communities seeking recognition of their property rights,” he explained.¹⁹²

In an official document sent in October 2014 to the President of the Council of Ministers, Ana Jara, he noted that, “This law, having not undergone a process of consultation, can not alter the collective right to land ownership of indigenous and peasant communities. The interpretation or application of regulatory changes on communal property without prior consultation process is in violation of the Constitution.”¹⁹³

In order to build trust with indigenous peoples that the State would ensure the protection of their collective rights, Vega said the executive should issue a public statement indicating that Act No. 30230 can not imply any change in the property rights of a community as it has not undergone a process of consultation.

191 The SBN is empowered to issue resolutions declaring the reversion, or transfer, termination of appointment or extinguishment of “contracts in use”, state reserve lands, or other forms of designation, allocation, approved even before the enactment of this Act if they have not complied with the assigned purpose, regardless of the device, act or hierarchical level to which they have been granted...” Article 57, Supplementary Provisions, Chapter III, Law 30230, July 11, 2014.

192 <http://www.defensoria.gob.pe/portal-noticias.php?n=12571>

193 Ibid.

Ineffective procedures

In addition to these legal problems, there are also a series of technical and political obstacles impeding millions of hectares of indigenous territories from being titled and acquiring even a minimum form of protection. A. Lopez from ACODECOSPAT says that in Loreto the titling process has been blocked by logging concessions:

“The first problem is forestry rights overlapping the ancestral rights of indigenous communities. There’s one concession that runs from the mouth of the [River] Tigre to the Nahuapa basin and overlaps various communities. That’s why they don’t have title. Although some communities have been titled by GOREL [the regional government], they were reduced in size because of the concession. That’s to say, they’re not just cutting wood: they’re also cutting the communities’ territory.”

This situation is the same along the River Napo:

“The communities of Pinsha, Negro Urco, Nueva Libertad, Cerro de Pasco, Floresta and Nueva Antioquía have spent years in vain demanding their land titles, but COFOPRI reply saying it can’t be done because the area is concessioned for 40 years to one señora Rivadeneira. The majority of these communities have now been recognized formally, but it’s of little use to them because the forests of their ancestors, where their fathers, grandfathers and great-great-grandfathers hunted animals to feed their children and obtained plants to cure them, palm leaves to build their houses and trees for canoes to travel, are still not theirs. I heard similar stories from people living along the River Marañón and River Tigre during a recent indigenous gathering about the forestry problem.”¹⁹⁴

In practice, the titling process is so costly and slow it is almost impossible for a community to avoid seeking help from intermediaries. In Loreto, the costs amount to more than US\$10,000.¹⁹⁵

“We shouldn’t just rely on our own resources to obtain title. We should try to convince the state institutions to cover the costs of the travel they require us to do.” Emilio Montes Bardales (FECONAPU)¹⁹⁶

Given these difficulties, many communities strike

194 Interview with José Álvarez Alonso quoted at: <http://servindi.org/actualidad/54098>

195 <http://laprimerapeperu.pe/columna/masivo-trafico-de-titulos>

196 http://servindi.org/actualidad/113139?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Servindi+%28Servicio+de+Informaci%C3%B3n+Indígena%29

Box 19: Titled communities by date and government^I

Government	Communities	Average size	Titled area (hectares)
Juan Velasco 1974 – 1975	133	5,765	766,758
Francisco Morales 1976 - 1980	198	7,341	1,453,705
Fernando Belaúnde 1981- 1985	177	8,788	1,555,553
Alan García 1986 – 1990	91	5,235	476,406
Alberto Fujimori 1991 - 2000	549		5,505,479
Valentín Paniagua 2001	-	-	-
Alejandro Toledo 2002- 2006	64	10,028	347,604
Total	1,212	8,337 ha/community	10,105,505 has.

I Extracted from García (2013).

Box 20: Indigenous communities and overlapping rights

Logging concessions	In 2011, an initial analysis recorded at least 47 cases of concessions overlapping community lands. ^I However, this analysis did not include those communities whose recognition remains pending, so this figure is in reality much higher. For this reason, as part of the formal consultation of the regulations for the new forestry law, AIDESEP has insisted that the map that delineates the permanent production forests should be suspended until these overlaps are addressed.
Hydrocarbon concessions	In 2012, they covered 84 % of the Peruvian Amazon including 5 communal reserves (natural protected areas), more than 66 % of indigenous communities and 95 % of those areas proposed as territorial reserves for isolated indigenous peoples. ^{II} Although in the last two years the area covered by such concessions has reduced.
Mining concessions	In 2012, there were 1,813 mining concessions in production, exploration or on offer which overlapped titled indigenous communities, ^{III} and thousands of concessions and requested concessions overlapping traditional territories that have not been legally recognized. Mining concessions overlap 1.56 % of indigenous communities and 48.6 % of <i>campesino</i> communities. ^{IV} However, the reality is much higher due to the rise of informal and illegal mining, added to the fact that native communities are not considered to have ownership rights over subsurface resources.

I IBC, cited in ILC and RRI, 2011: 30.

II RAISG, 2012.

III RAISG, 2012.

IV CooperAccion, 2013 Mapa de tierras de comunidades campesinas y nativas con superposición de concesiones mineras.

a deal with logging companies which pay for and handle the titling process in exchange for access to the forest.¹⁹⁷

“Almost always, and under pressure from the loggers, the Apu grants absolute power to a logging company front man who takes control of the community’s forests as part payment for arranging the communal title. Triplayera Martín SAC, TRIMASA, is one of the companies reaping benefits. It operates with 30 communities in the [River] Putumayo basin and is expanding into the River Napo and River Pastaza, and exports lupuna and cumala to Mexico.”¹⁹⁸

The Peruvian State has come to adopt an ambiguous, or at least a very variable, position on indigenous

land titling. In recent years, community titling has advanced very slowly:

“Between 2006 and 2008 only 8 new titles were granted to native communities, and none at all in 2009 and 2010. This trend continues today, with the regional governments now responsible for titling.”¹⁹⁹

Box 19 provides an historical overview of this trend. Although it was during the government of Fujimori that most communities were titled, it was also during his administration that the key constitutional safeguards (untransferability and inalienability) of community lands were removed.

For many observers, this constitutes an explicit policy in favour of the extractive industries.

197 <http://laprimera Peru.pe/columna/masivo-trafico-de-titulos/>

198 Ibid.

199 COFOPRI, cited in IBC, 2012a.

Box 21: Logging rights overlapping the Kugapakori Nahua Reserve: Forest destruction through government inefficiency and incompetence

In 2001, more than 150 loggers from Sepahua invaded Nahua territory in the Kugapakori Nahua Reserve, following a Ministerial Resolution by INRENA (RM n.º 0249-2000-AG, 2 May, 2000) declaring a large part of it as an area of freely available forest. Despite repeated complaints by various NGOs and indigenous organizations and the recognition by INRENA itself that ‘it is not possible to grant forest exploitation contracts in the State Reserve for the Nahua and Kugapakori ethnic groups’,¹ the resolution wasn’t annulled. This gave the loggers a green light to enter the reserve. The Nahua actively opposed the loggers who invaded their community but were issued with death threats and so they travelled to Puerto Maldonado and Lima to find a solution with the authorities. After a long campaign, the loggers signed an agreement in February 2002 to permanently leave the reserve and respect Nahua territory. The loggers also provided some compensation for the damages done. The resolution was finally repealed in July 2002, **more than 2 years after it was passed.**

The Nahua were able to reassert control over their territory and stop others from entering as soon as the loggers left, yet new concessions were established that same year. This meant that some concession owners based in Sepahua were able to operate in some of the streams downriver of the community but still within the reserve. Despite repeated denunciations by the Nahua, these concessions were only modified in August 2004, **once again more than 2 years after they were established.**

I Letter from the Director of the Forestry Authority to the president of AIDESEP, 18 October, 2001.

“In Loreto 14 communities were titled in 2002. Since then, first PETT and then COFOPRI, which took over from PETT, abandoned titling native communities and opted to focus on urban titling instead. This was tactical and strategic and aimed at leaving them legally unprotected so that rampant extractive industries could take advantage of their lands and territories. It was never just innocent neglect or oversight.”²⁰⁰

In conclusion, ownership title only corresponds to land which can be used for agriculture and surrounds the houses and population centres. Even then, the communities obtain it only after a long, bureaucratic process which is frequently blocked by state officials and other interested parties. In the recent case of the assassination of the leaders from Saweto, the regional government of Ucayali had used the fact that the area was covered by a Permanent Production Forest to avoid proceeding with the land titling.²⁰¹ It is symptomatic of the wider problem that four of the concessions of the area belong to the Vice-president

of the regional government of Ucayali and which have been cancelled by OSINFOR because of their flagrant timber laundering.²⁰² In the words of Marcial Mudarra, Awajún leader and President of CORPI:

“The government wants to do business with the forests, that’s why it doesn’t want to title indigenous territories.”

Overlapping rights

An additional problem is when indigenous lands, both titled and untitled, are overlapped by other claims. Even when land is titled and regularised, it is possible that the title holders lose access to lands and resources. In some cases this is simply the result of error, negligence, the lack of an up to date database, or sometimes bad faith on the part of the State.

One example of the latter was when INRENA began to grant logging concessions between 2002 and 2005. INRENA blamed an apparent lack of available information about communities for the overlap of scores of communities who suddenly found concession operators installing themselves on their

200 <http://laprimera Peru.pe/columna/masivo-trafico-de-titulos/>

201 This issue was clarified by a Ministry of Agriculture resolution in the aftermath of the murders that clarified that there is no legal or administrative reason why the regional government of Ucayali should not be able to finalise a land title in an area overlapped by a Permanent Production Forest. Ministerial Resolution No 0547-2014- MINAGRI.

202 <http://www.larepublica.pe/02-10-2014/vicepresidente-de-ucayali-blanca-madera-de-la-tala-ilegal-segun-osinfor>

Box 22: Ecoamérica v Kampu Piyawi (Shawi) and Kechwa communities

The situation is even more precarious when territories have no form of legal protection at all which is the case, according to AIDESEP, of approximately 20 million ha. One emblematic case involves a timber company called Ecoamérica SAC which, in 2006, applied for a concession of 72,000 ha in San Martín, overlapping 2 Shawi communities and 1 Kechwa community. These communities were unaware of the application, and their territories had still not been titled despite being recognized as communities for several years. The case went to court and, in 2012, the Constitutional Tribunal ruled in their favour.^I

However, as long as requests for title remain unresolved, the communities can never feel secure.

“In our mother earth there are the forests that are home to the plants from which we obtain our medicines, animals which we hunt to feed our families... We want secure lands with titles and to be consulted when they want to insert logging, mining and oil and gas concessions in our territories.” Ely Tangoa (FERISHAM)^{II}

I <http://servindi.org/actualidad/72618#more-72618>

II Ibid.

lands to extract timber and hunt game. In some cases the state institutions responsible resolved the problem in favour of the communities, but only after extremely lengthy and inexplicable delays which allowed the loggers to continue operating. This was even the case with the KNNOR which found itself overlapped by concessions on 2 occasions and invaded by loggers from Sepahua (Box 21). Indeed, even with favourable rulings by the courts it has been impossible for indigenous communities to overturn overlapping concessions.²⁰³

On other occasions overlaps occur as a result of ineffective local authorities and gaps in their mapping databases. This was particularly striking in the case of Los Naranjos, an Awajún community in the Cajamarca region which obtained communal land title in 1977. However, in 1997 the regional agrarian authorities and state institution responsible for land-titling allocated 793 hectares to a group of 116 colonists known as ‘Flor de la frontera.’ Los Naranjos took legal action but, despite winning, the authorities, including the police, did nothing to evict the colonists. The result was violence in 2002 and at least 15 deaths. Peru’s Ombudsman concluded that:

“The conflict between the Naranjos indigenous community, members of the ‘Flor de la frontera’ agricultural association, and colonists from San Pedro demonstrates the lack of real protection for indigenous communities in the Peruvian Amazon... The legal framework is advanced, but state action to protect

their rights to ownership and possession, as well as their rights to use, manage and conserve the natural resources in their lands, is still insufficient... One of the reasons for indigenous communities’ rights to their lands being affected is the failure to implement a rural mapping database that would avoid overlaps and conferring rights over communal territories to third parties. This problem must be resolved in order to provide legal protection for indigenous communities owning their ancestral territories as well as those other people who, as a result of an error, harbour false expectations about the very same territories.”²⁰⁴

In addition to these serious problems highlighted by the Human Rights ombudsman, indigenous organizations point out that behind these delays in the recognition of indigenous territories is a lack of political will on the part of the state.

“Why does it take so long for the State to respond to our denunciations and complaints about the threats we receive, the invasions of our lands, the contamination that affects us or the demands for our land titles that never become reality? Is this simply a question of weak government institutions or a lack of resources? We see that it is the other way round when it is a question of a transnational company whereby everything is resolved quickly and in favour of the corporation. These delays in responding to our demands is just one more example of the agenda to prioritise business interests over the rights of indigenous peoples

203 Urrunaga et al., 2012.

204 Defensoría del Pueblo, 2002.

and the depth of racism towards us at both national and institutional levels.” *Marcial Mudarra, President of CORPI*

Overlapping mining and hydrocarbons rights

In the case of mining and hydrocarbon operations the issue is more fundamental. Using the argument ‘we are not interested in the surface, all that we’re interested in is the subsoil’, mining and oil and gas exploration and exploitation can be carried out anywhere in the Amazon. The only off-limit areas are those that have been explicitly declared ‘urban’ or are under strict protection, such as national parks and national sanctuaries.

To date, mining in the Peruvian Amazon has resulted in the establishment of thousands of concessions overlapping indigenous communities and protected natural areas.²⁰⁵ In Madre de Dios in 2012, for example, there were 26 titled concessions and 43 in process overlapping the Tambopata National Reserve (an ANP and ancestral territory of the Ese’Eja), and 1 titled concession and 15 in process overlapping the Amarakaeri Communal Reserve (an ANP and traditional territory of the Hara kmbut), and a total of 6,591 km² of mining concessions across the region as a whole.²⁰⁶ In the case of the Awajún-Wampis, it is estimated that 150 mining claims made without consulting them overlap their territory.²⁰⁷

“Unfortunately, MINAM has been created with the objective of protecting the forest, but instead of this it is negotiating with these resources. Our territory and its resources have become a business to hand over to investors and capitalists. They create the protected areas, the parks, communal reserves but it’s the same State that overlaps these areas with mining and oil concessions.” *Teobaldo Chamik, Wampis leader, River Santiago*

In the case of hydrocarbon concessions – covering 84 % of the Amazon in 2012 – the maps used to auction them have only marked strictly protected areas since 2006. However, even today, indigenous lands don’t appear on PerúPetro maps (Map 7) (and of course, untitled indigenous lands don’t appear either) despite the fact that companies must consult titled indigenous communities.

Despite the fact that Peru’s international human rights obligations require it to respect indigenous peoples’ right to free, prior and informed consent,²⁰⁸ Peruvian legislation is not aligned with such

obligations and makes it almost impossible for communities, titled or not, to block concessions from overlapping their territories. The result is seismic lines for oil exploration running right through villages, and local inhabitants feeling forced to allow gold-mining to go ahead. Although there have been a few successes confronting miners, many titled indigenous communities have been unsuccessful, while untitled communities have much fewer options (section 5.2.1). In practice, gold-mining trumps any other kind of activity, whether an agreement has been struck between parties or an invasion that effectively means communities have no choice.

Conservation areas

Overlaps with indigenous territories are not only related to extractive industries but also to areas protected for conservation purposes. As Luis Huanzi (FERISHAM) reflects on the situation of the Kampu Piyawi and the Cerro Escalera Regional Conservation Area:

“The Kechwa and Shawi peoples’ territorial rights are being violated. On one side, there are the cocoa, coffee and sacha inchi programs supported by the State. On the other, there’s the Cerro Escalera Regional Conservation Area in both San Martín and Yurimaguas which overlaps our ancestral lands.”

These overlaps create conflicts particularly when communities are not titled, as is the case of the Kechwa of the lower Huallaga river.

“Now the communities of Ricardo Palma and Allanayacu are overlapped by the Cordillera Azul national park administered by SERNANP and created without consultation. In the past it was their ancestral territory where they hunted but today this is totally forbidden.” *Carlos Cenepo Pizango, FEPKISAN (Indigenous Kechwa federation of the lower Huallaga of San Martín)*

3.2.2 OTHER AMAZONIAN PEOPLES

It is not only indigenous peoples who experience land tenure conflicts. Although there are some campesino (peasant) communities in the Amazon with forest cover, more important for the question of deforestation are the ribereño settlements. For AIDASEP, these in reality are the indigenous peoples who have lost their language but not their culture and should be titled as such, and not as peasant communities or worse still as individual land parcels. Many of these ribereño communities were founded during the Rubber Boom and are particularly vulnerable because Peruvian legislation considers the

²⁰⁵ RAISG, 2012.

²⁰⁶ MINAM and IIAP, 2011.

²⁰⁷ ILC, 2011.

²⁰⁸ See jurisprudence relevant to Peru in FPP, 2013: 36.

floodplains where they are located as unproductive land that the State can do with it as it pleases – such as including them in concessions. Although they have no legal personality per se, six ribereño communities managed to obtain titles as campesino communities in late 2011, and another 70 have attempted to do as indigenous communities.²⁰⁹

Incentives to deforest private land

Other people it is important to consider are individual landholders, some with title, and some without. One requirement to obtain title to rural land is proving direct possession and economic exploitation for more than 1 year,²¹⁰ and the activities that are recognised by this criteria are agriculture and cattle-ranching²¹¹ – in other words, deforestation.²¹² This is encouraged not only by Peruvian legislation, but incentives offered by agro-industrial companies.

In recent years in San Martín, small-scale farmers have deforested land in order to obtain a certificate of possession which they sold or rented to farmers to cultivate oil palm or papaya, given that in theory it is prohibited to convert forest into agricultural land. One example that we have already seen involves the Romero Group operating in Shanusi where, following a denunciation of illegal logging, the public prosecutor's office collected testimonies of small-scale farmers who in 2008 sold their land after finding themselves surrounded by the Romero Group.²¹³

“According to the prosecutor, the deforestation of 600 hectares was the result of the sale by 58 people of land allocated by the state to the Grupo Palmas. What is alarming about this transaction is that it ‘went ahead after the area was totally deforested at the request of the company.’ According to the prosecutor, the perverse incentive was paying more for deforested land. The price for a deforested hectare was 1,900 soles, while a hectare with forest was sold for just 600 soles.”²¹⁴

3.3 GOVERNANCE AND INSTITUTIONAL CAPACITY

Despite Peru's sustained economic growth at an average annual rate of 6.4% between 2002 and

2012²¹⁵ – much of which was due to the exploitation of natural resources, including from the Amazon – governance and institutional capacity is not developing at the same rate and in some cases the situation is stagnant or getting worse.

Weak environmental management

Environmental management is often equated simply with environmental impact assessments (EIA), with companies, state officials and even public opinion apparently content to assume or conclude that the existence of an EIA ensures that a project won't bring greater risks and the social and environmental impacts can be managed. However, as has been demonstrated by reports by the Independent Advisory Panel on Development Issues in South-Central Peru,²¹⁶ which evaluates and monitors the impacts of oil and gas projects in the southern Peruvian Amazon, EIAs have been transformed into cumbersome check-lists that don't fulfill their stated objectives. The Panel has identified the following problems:

- Conflict of interests within the Ministries which both promote the projects and at the same time approve the EIAs.
- Limited state capacity to approve the EIAs, meaning that it takes between 5 and 6 times longer than those stipulated by law.
- Deficient content, including poor analysis of social and environmental impacts and the use of prior EIAs as the basis for new ones.
- Lack of technical capacity or support to enable local inhabitants to respond adequately.
- EIAs normally only consider the impacts of the specific project rather than also considering the cumulative, long-term impacts resulting from, say, future expansion of the project or migration into the region by people looking for work.

These weaknesses were compounded in July 2014 with the promulgation of Law 30230 that modified environmental regulations with the explicit aim of promoting investment in development projects (see section 3.2.1).

Lack of cross-sector planning and coordination

“An unplanned road, built without the participation of local inhabitants or anyone in control, just adds to the problems that already exist and in the end will only make them worse.”

R. Guimaraes, FECONAU

209 IBC, 2012a.

210 Article 12 of Supreme Decree no. 032-2008 and the regulations for Legislative Decree no. 1089.

211 SPDA, 2009.

212 Legislative Decree no. 667 (Law to Register Rural Properties) states that, when applying for ownership title, the applicant must prove possession of the land for a year and the land must be cultivated. This could be an important incentive to encourage deforestation in the Peruvian Amazon (MINAM, 2009).

213 http://www.observatoriotierras.info/sites/default/files/Denuncia_Valle_Shanusi.pdf

214 <http://idl-reporteros.pe/2013/09/12/deforestacion-entre-palmas/>

215 <http://www.bancomundial.org/es/country/peru/overview>

216 Castro de la Mata et al., 2011, at <http://www.southperupanel.org/pdf/SouthPeruPanel2012.pdf>

It is this lack of planning that was identified by a recent study identifying the causes of social and environmental conflicts in the Peruvian Amazon. It concluded that EIAs only see projects in isolation, when in reality there might be many such projects in any one given area and no way to assess interaction between them. “There is no land planning, no Ecological and Economic Zonification, and no Strategic Environmental Assessment.”²¹⁷

According to this study, conflicts arise because of a lack of “planning that permits establishing adequate mechanisms to prevent, mitigate and transform impacts,”²¹⁸ and because laws and feasibility studies relating to proposed projects do not provide a clear idea of what the impacts on indigenous territories will be, “given that they are not based on strategic environmental assessments and the land planning process doesn’t take into account indigenous peoples’ territories or socio-cultural perspectives.”²¹⁹

These failings have been identified by others who confirm that in Peru:

*“There is currently no planning mechanism to design and openly discuss our common future. Neither is there a process coordinating national and regional initiatives before decisions are made ... [and] nor is there, obviously, an Amazon Development Plan.”*²²⁰

Cross-sector contradictions

Indigenous peoples often encounter contradictory discourses from different state institutions. An emblematic example is the Ichigkat Muja National Park which INRENA, supported by Conservation International, convinced Awajún communities to accept as a way to protect their ancestral territory. However, when the park was established in 2007 it was cut back from the 152,873.76 ha agreed to by the Awajún to 88,477 ha, so that mining concessions could be granted to Afrodita, a mining company.²²¹

“We see that the State does not accept that there are indigenous territories in the area, it forces or convinces indigenous peoples to accept a park and then hands it over to a mining company but always favouring the interests of the companies over those of our own, the people.” *Edwin Montenegro, President, ORPIAN*

The priority given to economic interests over indigenous peoples’ rights is even more explicit

in the case of reserves for indigenous peoples in isolation. Although Law 28736 declares such reserves intangible, it also permits certain activities if deemed in the ‘public necessity’,²²² despite the fact that the Inter-American Court on Human Rights has clearly ruled that ‘public utility’ is not sufficient justification for interfering with indigenous lands and resources.²²³

The situation is even more serious for indigenous peoples in isolation in areas where no reserves have been established. In 2004, a reserve was proposed in the Napo-Tigre region by AIDESEP, but the process to establish it has been paralyzed due to its overlap by oil concessions (Lots 39 and 67) and the continuous efforts of Repsol and Perenco, who had acquired rights over the area, to deny that it was occupied by isolated indigenous peoples. The Vice-Ministry of Inter-Culturality conducted a thorough investigation and, in June 2013, it officially recognized the existence of indigenous peoples in isolation in the area and declared its support for the reserve.²²⁴

This decision was subsequently appealed by PerúPetro, the state authority responsible for promoting oil and gas operations, in close collaboration with the companies involved. The result was that the Ministry of Culture recommended that the Vice-Ministry review its position. Following the resignation of the Vice-Minister and appointment of a successor, the decision was revoked and the reserve remains unrecognized while Perenco continues its operations.²²⁵

As a result of situations such as these, different state institutions are systematically undermining indigenous peoples’ rights and the little faith that indigenous peoples have in the State. As one leader from Madre de Dios remarks:²²⁶

222 Law 28736, Article 5 states: ‘Rights involving natural resource exploitation will not be granted [in reserves for indigenous peoples in isolation and initial contact], except for subsistence practices carried out by the people living there and exploitation using methods that do not affect the rights of the indigenous peoples in isolation or initial contact... If natural resources are found and whose exploitation is in the public necessity, exploitation will go ahead according to the law.’

223 Saramaka people vs. Surinam, Sentence of 28th November 2007 paras. 127 and 128.

224 This communication viewed favourably the recognition of indigenous peoples in isolation probably those related to the Arabela, Iquito, Taushiro, Zapara, Waorani and Abirija and the creation of the Indigenous reserve Curaray, Napo, Arabela, Nashiño, Pucacuro, Tigre and its tributaries. See VMI 190-2013.

225 For a chronology of events see: <http://www.theguardian.com/environment/andes-to-the-amazon/2014/jan/16/peru-indigenous-peoples-reserve-oil>

226 This leader requested to remain anonymous.

217 CRS, 2012: 51.

218 Ibid: 12.

219 Ibid: 51.

220 Dourojeanni et al., 2009.

221 ODECOFROC, 2009.



Image 18: Construction of the Camisea gas pipeline, Upper Urubamba, 2002. The Camisea gas project is opening up old growth forests and threatening the way of life of, and very survival of, isolated indigenous peoples inhabiting the Reserve for the Kugapakori, Nahua, Nanti and other indigenous peoples.

Source: A. Goldstein

“We see the contradiction in the way the state grants mining concessions in an area that is supposed to be protected as a reserve. It’s the same thing that happened in Lot 76 overlapping the Amarakaeri Communal Reserve. It is supposed to protect the [river] basin. A very well-known miner from the Delta 1 area was given a conservation concession, even though Puerto Luz [an indigenous community] was opposed to it and it was known she was mining there... She couldn’t be a conservationist, but they gave her the concession.”

For this reason, those initiatives either public or private to extract resources, construct a highway or convert lands are always accompanied by promises to resolve the question of isolation and poverty. Meanwhile, the absence of plans or visions about the direction of development almost always means that the approval of these projects is assumed while those voices that question these initiatives due to a lack of transparency, a lack of coherence with existing resource use or proven effectiveness are almost always silenced.

Weak oversight

In addition to the loopholes and contradictions within existing law, the legislation that exists isn’t effectively enforced and the authorities responsible for oversight and supervision are ineffective.

An emblematic example is the River Tigre, River Corrientes, River Pastaza and River Marañon basins where the extreme levels of contamination were

repeatedly denounced by indigenous organizations for years. However, their denunciations were ignored by OEFA and OSINERGMIN, the state institutions responsible for controlling, monitoring, assessing, overseeing and regulating the operations. Indeed, indigenous peoples took to denouncing OSINERGMIN officials themselves for failing to assess the contaminated areas despite continued demands.

As one Achuar community monitor remarked in 2006:

“The people in OSINERGMIN don’t come here to see the contamination. They keep to the company’s base. The company looks after them well.” *Wilson Sandy*

This apparent lack of professional integrity can be seen in the forestry sector too. One example is the community of Saweto, which was visited by OSINFOR in September 2014 just before the assassination of Edwin Chota and three other Asháninka leaders. According to Chota, OSINFOR failed to visit the areas where loggers were operating illegally and refused offers to guide them there.²²⁷

Analysis has shown that in general, a model of retrospective supervision of the logging concessions have failed completely. Worse still, the new forestry law proposes the same procedures.²²⁸

227 Chris Fagan, personal communication, September 2014.

228 Finer et al., 2014.



Image 19: Failed environmental clean-up and reforestation project in Lot 8.

Source: FECONACO

Incomplete decentralization

A process of decentralization began in 2004 and has exacerbated the problems of poor governance. This is particularly the case with environmental management, where the transfer of responsibilities has been conducted amid confusion and often without the corresponding transfer of funds to enable regional governments to meet their new responsibilities. For example, MINEM transferred its responsibilities for small-scale and artisanal mining (SSAM) in 2004, but it didn't transfer sufficient funds (GOREMAD official, personal communication). The rise in price of gold resulted in the uncontrolled growth of mining without the corresponding ability of the State to respond.

3.4 CORRUPTION AND CRIMINALITY

Logging

The forestry sector is one of the most powerful sectors in the Peruvian Amazon and possibly one of the most corrupt, despite having been restructured various times in recent years. Even for a species such as mahogany, which is protected by CITES and is much more strictly controlled than other species by both Peru and the USA, it was found that 35 %²²⁹ – almost certainly an underestimate – of export permits included wood obtained 'informally'. The Ministry of Agriculture and regional governments neither have the capacity to oversee

the concessions or to stop illegal operations, such as falsifying inventories to increase the amount of valuable wood in a concession, using transport permits to launder wood from protected areas, indigenous lands, territorial reserves and other areas outside concessions, and, finally, bribing officials. Indeed, OSINFOR reports show that at least 55 %²³⁰ of concessions investigated to date have been laundering wood from outside concession boundaries, including protected areas and indigenous territories. As explained above with regards to Purús (Box 13), this can only happen if forestry officials and independent forestry engineers collude on issuing and verifying falsified certificates about wood stocks in each concession.

Corruption in the forestry sector has been denounced by public prosecutors specializing in the environment who have discovered that loggers pay officials to provide or approve false documents. One prosecutor has said that he himself was offered approximately US\$5,000 to abandon an investigation, but when he denounced this to a prosecutor specializing in corruption, he was told, "Listen, in one year here you'll get enough to build yourself a house and buy a nice car. So take care of yourself."²³¹

In the words of a concession owner who denounced his own partners, "illegal logging is not about thieves going into the forest with chainsaws, chopping down what they can, and then escaping with the

²²⁹ Finer et al., 2014.

²³¹ http://www.nytimes.com/2013/10/19/world/americas/corruption-in-peru-aids-cutting-of-rain-forest.html?partner=rss&emc=rss&smid=tw-nytimes&_r=2&

²²⁹ Urrunaga et al., 2012.

logs. Illegal logging is a real industry: productive, well-organized, very well protected.”²³²

These are not the only ways corruption manifests itself in the forestry sector. Complicity between the state institutions responsible for titling communal land and logging companies interested in covering the costs of the titling process in exchange for access to the land was recently denounced in Loreto:

“I give you title but you give me your forest. This kind of horse-trading allows officials from DISAFILPA, the Regional Agriculture Office, and other state institutions to play their roles as agents and operators for the logging companies.”²³³

In October 2014, the results of ‘Operation Amazon’ was revealed, an initiative of Interpol, the international customs organizations and OSINFOR and the SUNAT focused on the criminal groups involved in the traffic of timber in Peru. “As a result of the operation, 10 companies were detected with not legal basis for the export of 3,424 m³ of timber while 165,900 m³ of timber was presumed to be from an illegal source.”²³⁴

“Once again, a perverse cycle undermining indigenous rights. The State fails in its obligation to title communities free of charge, washing its hands of the issue, saying it has no funds. In this space between a third party who will finance everything but at a price, many times a logger or another interested party who recovers their investment through exploiting the forestry resources of the community. Once again the State and big business negotiating rights in exchange for money.” *Lizardo Cauper, General Coordinator of ORAU*

International drugs trafficking²³⁵

The latest research²³⁶ shows that Peru’s recent rise to become the world’s biggest cocaine producer is the result of improvements in the control of, and fight against, drugs in Colombia. In Peru, the measures to control coca expansion are much weaker and less coherent, and there is a high degree of corruption related to drugs trafficking. Currently, there are 19 congress-men and -women being investigated for links to traffickers,²³⁷ including the ex-president

Alan García, who has been accused of selling presidential pardons to traffickers costing 150,000 soles each during his second term, when at least 400 convicted traffickers were pardoned.²³⁸ Inevitably, the enormous sums made from trafficking need to be laundered and are often invested in other operations that contribute to deforestation. For example, an investigation by the *El Comercio* newspaper in 2013 revealed that laundered money was financing illegal gold-mining in Madre de Dios.²³⁹ On the other hand, the export of timber lends itself to drug trafficking, and the ex-mayor of Pucallpa was accused of being complicit in the assassination, trafficking and money laundering. In one of these cases they are investigating the presence of 561 kg of cocaine in a cargo of triplay produced by the companies of the ex-mayor.²⁴⁰

Gold-mining

Illegal gold-mining in Madre de Dios creates a ready climate for corruption. Despite the still unsatisfactory efforts by the State which began with Emergency Decree No 012-2010 (led by MINAM), to curb the most well-known and visible excesses of such operations, it is clear that the structure of the State itself makes it difficult to resolve the underlying problems. In March 2014, a judge who annulled sentences incriminating members of the most powerful family in artisanal mining was suspended for missing a hearing, but despite pressure from MINAM and some members of the public, the judge was later reinstated by the president of the judiciary.²⁴¹

Despite official efforts to combat illegal gold-mining, the complicity of state officials is constantly being denounced:

“In the La Pampa area there are 30,000 miners controlling the military commanders, the police, and the judges. The police earn miserable wages, yet now they have big houses and luxurious 4-by-4s. Officials pretend they’re intervening, but in reality they do nothing.” *Indigenous leader, Madre de Dios*

Recent research shows that in Madre de Dios the majority of gold (97%) is extracted illegally and that very few miners comply fully with the law and

232 Testimony cited in Urrunaga et al., 2012.

233 <http://laprimera.peru.pe/columna/masivo-traffic-de-titulos/>

234 <http://www.inforegion.pe/portada/191502/osinfor-presentara-resultados-de-la-operacion-amazonas-2014/>

235 <http://www.insightcrime.org/news-analysis/why-peru-top-cocaine-producer>

236 Ibid.

237 <http://www.insightcrime.org/news-briefs/19-peru-politicians-investigated-for-narco-links-money-laundering>

238 <http://www.insightcrime.org/news-analysis/why-peru-top-cocaine-producer>

239 <http://amazonaid.org/peruvian-customs-seize-gold-headed-us/>

240 <http://www.larepublica.pe/22-07-2014/los-nuevos-misterios-del-interminable-caso-valdez>

241 <http://www.larepublica.pe/06-03-2014/corte-de-madre-de-dios-restituye-a-juez-por-orden-del-presidente-del-pj>



permit requirements.²⁴² Like the forestry sector, it has been found that, very often, the gold doesn't come from mining concessions and instead is laundered by large companies and informal intermediaries known as 'acopiadores' and 'facturadores' who buy the gold and provide false receipts in Madre de Dios. Given that many miners receive their wages in gold rather than money, they must sell to these intermediaries, who pay a comparatively low price. It is then sold directly to large companies, or through a long chain of intermediaries, who transport it to Lima, issue false receipts, and launder the gold so it can be exported.²⁴³ One of the largest companies buying gold in Madre de Dios is Universal Metal Trading Company SAC, Peru's largest exporter in 2011, when it exported 19.2 tons to Switzerland worth \$US901 million.²⁴⁴ In February 2011, only one of the 6 largest companies buying gold in Madre de Dios stated that it doesn't buy illegal gold, while the other five could not prove the legality of their gold. In March 2012,

Image 20: Illegal and legal mining is causing serious deforestation in Madre de Dios resulting in encroachment and damage to indigenous forest lands.
Source: Julio Elberto Pareja Yáñez, FENAMAD

the director of Hydrocarbons within the Ministry of Energy and Mines (the state institution responsible for combating illegal gold-mining) admitted he was one of Universal's owners, and that it was run by his brother, who also owned other companies buying and exporting gold and making jewellery. The director was sacked, accused of tax evasion, and faces 8 years in prison. The gold itself is melted down in refineries in Switzerland, making it impossible to track the supply chain.²⁴⁵

As an outcome of the increasing influence of informal mining the regional elections in Madre de Dios were won by a leader of the informal miners, although he did not acquire the required 30% of votes which means that the contest has gone to a second round.²⁴⁶

242 Technically, all the miners and companies who extract gold from concessions that they do not own or for which they do not have permission to exploit are operating illegally.

243 <http://www.insightcrime.org/news-analysis/breaking-down-the-chain-of-illegal-peruvian-gold>

244 Together with Universal Metal Trading, other companies – such as AS Perú & CIA, E & M Company, Minera Tambopata, Oro Fino and Los Poderosos, all of which have offices in Madre de Dios – have been denounced for the export of 25 tons of presumably illegal gold to Switzerland.

245 <http://www.insightcrime.org/news-analysis/breaking-down-the-chain-of-illegal-peruvian-gold>

246 http://www.web.onpe.gob.pe/prensa-8417_onpe-desarrollara-segunda-eleccion-regional-mediante-26-oficinas-descentralizadas.



3.5 HUMAN RIGHTS, ACCESS TO JUSTICE AND THE CRIMINALIZATION OF PROTEST

The indigenous movement justifiably feels that the majority of state institutions are against it. Denunciations of invasions (e.g. the Awajún community of Naranjos) or illegal operations (e.g. the Ashéninka community of Saweto) are often not admitted by the State, or if they are admitted they are not resolved in indigenous peoples' favour, and even if they are resolved favourably nothing happens in practice because there are insufficient resources to, say, evict invaders, or the invaders themselves appeal and draw out the process for decades, while deforestation continues uncontrolled.

At a wider level, in January 2014 Peru passed a law (30151) allowing security forces using arms against demonstrations to be immune from prosecution. This measure has even been challenged by the Peruvian State itself as can be seen from the statement opposing the measure by the Human Rights ombudsman²⁴⁷. This opens the door to potential abuses and intimidating indigenous communities who resort to demonstrations once other strategies fail. Indeed, legitimate protests by indigenous peoples have often been treated

Image 21: Police repression of the indigenous protest in Bagua, 2009. During the violence which followed over 30 people died and hundreds were wounded.

Source: Amazon Watch

as subversive or criminal behaviour. In May 2014, hearings began in a court case involving 53 people (majority indigenous) in which the public prosecutor of Bagua, in the Northern Peruvian Amazon, is requesting life imprisonment for 7 of them on the grounds that they were responsible for the death of policemen during the events of 5 June 2009. Forty five other people also stand accused, yet no one from the central government which ordered the police to clear the protest and ultimately caused the violence has been prosecuted.²⁴⁸

3.6 NATIONAL DEVELOPMENT AND LAND USE POLICIES

National policies on development, emissions reduction from deforestation, land and natural resource use, and environmental issues are incoherent and often contradictory. Peru has committed to achieve zero-net deforestation by 2020 as part of its contribution to mitigate climate

²⁴⁷ <http://www.defensoria.gob.pe/modules/Downloads/documentos/Pronunciamiento-Ley-30151--14-1-14.pdf>

²⁴⁸ <http://www.aidesep.org.pe/aidesep-se-prepara-para-afrontar-juicio-contra-alberto-pizango-y-los-53-lideres-indigenas-por-el-caso-bagua/>

Box 23: Laws and policies promoting oil palm cultivation

The national government and regional governments are actively promoting oil palm cultivation as a profitable and ecologically sustainable crop. Supreme Decree 015-2000-AG declared oil palm to be in the 'national interest', a National Oil Palm Promotion Plan has been set up, and Law 28054 promoting the biofuels market required that by 2011, 5% of biofuels must come from diesel, although that means that, paradoxically, Peru must currently import 180,000 tons of biodiesel per year due to technical problems that constrain its production in the Amazon.¹ These policies explicitly promoting oil palm are intensified by the loophole in Peruvian legislation permitting deforestation by classifying the forest as suitable for agriculture (see section 2.2.2). This law continues to be in force.

I Dammert, 2014

change, but at the same time it continues promoting infrastructure projects, mining, hydroelectric dams, oil and gas exploitation, and agro-industry, particularly oil palm, which all intensify the pressure on forests.

Emblematic cases of contradictory policies include the Amarakaeri Communal Reserve in Madre de Dios and the Kugapakori Nahua Nanti and Others Reserve in Cusco. Both have been opened up to hydrocarbon operations that will emit enormous quantities of greenhouse gases, but at the same time REDD projects aimed at reducing emissions are being considered for the very same areas.²⁴⁹

For almost 25 years the core of Peru's general strategy promoting private investment as the key way to develop and improve the well-being of the population hasn't changed. This means that policies continue to prioritise extracting and exporting natural resources from the mining, oil and gas, marine and forestry sectors.

The argument behind these policies was clearly expressed in an article titled 'El perro del hortelano'²⁵⁰ ('The dog in the manger') written in 2007 by the then president, Alan García. This article called for 'unused' resources in the Amazon to be sold or rented as large concessions attracting high levels of investment, on the grounds that indigenous peoples lacked the training and funds to make use of them themselves. In the following years, and within the framework of the trade agreement signed by Peru with the USA, a series of laws and policies confirmed that the government was adopting this position with regard to the Amazon and the people living there. The reaction of Peru's indigenous peoples ultimately

led to the protests at Bagua in 2009 and the ensuing violence.

These kinds of ideas are nothing new and resemble the Belaunde government's (1963-1968) 'no man's land' discourse that presented the Amazon as a vast, unoccupied area and justified a series of massive colonization projects, and which in turn influenced the attitude of recent migrants to the Amazon who think of it as 'empty land.' According to an indigenous leader from San Martín:

"First they arrived – well, you know – when they see a big area they say no one owns it... When they arrived they said that no one owned that land. They began to chop the trees down. That was when they began to have problems with us."²⁵¹



Image 22: Civil society and AIDSEP statement against the 'Paquetazo', June 2014.²⁵²

The power that the idea of private investment still commands means that economic interests are given

249 <http://www.redd-monitor.org/2013/02/14/gas-extraction-and-redd-in-peru-you-cant-have-your-cake-and-eat-it/>

250 <http://www.aidesep.org.pe/editor/documentos/58.pdf>

251 CEPKA leader, cited in CRS, 2012: 31.

252 <http://www.aidesep.org.pe/wp-content/uploads/2014/06/conf-prensa-25-de-junio-620x354.jpg>

priority over indigenous peoples' rights or areas high in biodiversity. Emblematic examples are the Ichigkat Muja National Park, which was cut from almost 160,000 ha to 88,000 ha in order to establish mining concessions, and the approval of the expansion of the Camisea gas project deeper into the Kugapakori Nahua Nanti and Others Reserve,²⁵³ a supposedly intangible area, despite the Vice-Ministry of Inter-Culturality rejecting the expansion and stating it threatened indigenous peoples with extinction.²⁵⁴

The recently approved package of laws weakening environmental regulations only confirms the continued predominance of the importance placed on private investment and rapid economic growth. The 'paquetazo', as it has come to be known, was promulgated by president Humala on 12 July 2014 and includes:

- Reduction of fines imposed by OEFA.
- Reduction of time for a ministry to issue its binding assessment of an EIA.
- Transfer of authority to determine acceptable levels of contamination and to establish protected areas from the Ministry of the Environment (MINAM) to the Council of Ministers (PCM), thereby subjecting what are supposed to be technical processes to a political and economic decision-making process.

The 'paquetazo' was promulgated despite concern and objections from civil society. AIDESEP leader Henderson Rengifo stated that:

"This law presented by the government undermines the fundamental rights and constitutional protections that guarantee a life free of contamination for us peoples...how is it possible that an EIA must be assessed within 30 days when fieldwork is required and all at the same time the companies continue to contaminate."²⁵⁵

Meanwhile, other indigenous organizations including the Unity pact expressed their deep rejection of the measures.

"We consider that this is an enormous setback for the environment and a blow to the democratic rule of law. It violates the Political Constitution as well as international principles and instruments

protecting life and the environment. Instead of strengthening institutional governance, management and environmental monitoring, [it] promotes extractive operations, makes environmental standards more flexible, and rewards people for breaking the law."²⁵⁷

One could even argue that this is a case that must be evaluated in the context of the FTA with the US which expressly prohibits countries to weaken their environmental frameworks as a measure to favour economic concerns.

3.7 PERVERSE INCENTIVES

Although one of the consequences of the liberalization of the Peruvian economy has been the reduction of subsidies there remain some that are relevant for this analysis.

Subsidies for fuels

Tax on rent is reduced or eliminated for any company based in the Amazon, and the general sales tax (IGV), including on fuel, is eliminated or reduced too (27037). Although this could be useful on a temporary basis to support positive and robust activities, in practice it means subsidizing any kind of company which establishes its bases in the Amazon. In addition, cheap fuel means subsidizing the gold-mining industry, the biggest fuel consumer in Madre de Dios, which effectively means the government is subsidizing alluvial gold-mining and therefore deforestation. The government has now taken some steps to address this situation, including the control of these inputs, but they remain insufficient.²⁵⁸ Evidence of this is that 4 years after the first decree there is still not a single miner operating within the law. In addition, the same efforts to control inputs triggered new conflicts because, after years of permitting the flow and the subsidy of fuel for mines, care was not taken to ensure the needs of communities and other members of the population for local transport was met.

Deforestation to claim property rights

Another perverse incentive is the way in which small-scale farmers feel required to prove their use of land in order to obtain a certificate of possession through deforestation of a significant area so that the authorities register it in their name. In 2007

²⁵³ Directorial Resolution no. 035-2014-MEM/AEE.

²⁵⁴ <http://www.forestpeoples.org/topics/extractive-industries/news/2013/09/peruvian-government-u-turn-paves-way-illegal-expansion-cam>

²⁵⁵ <http://www.aidesep.org.pe/wp-content/uploads/2014/06/conf-prensa-25-de-junio-620x354.jpg>

²⁵⁶ <http://www.aidesep.org.pe/paquetazo-vulnera-derechos-de-los-pueblos-indigenas/>

²⁵⁷ <http://www.cloc-viacampesina.net/es/component/content/article/1906-peru-organizaciones-indigenas-envian-carta-a-humala-para-que-no-apruebe-paquetazo>

²⁵⁸ <http://www.larepublica.pe/29-07-2014/califican-de-insuficiente-la-labor-contra-mineria-ilegal>

Box 24: National parks (in the Amazon) overlapping indigenous territories

National Park	Indigenous peoples holding customary rights	Established following consultation/consent
Manu	Matsigenka, Nahua, Yine, Mashco-Piro	No
Bahuaja Sonene	Ese'Eja	No
Yanachaga-Chemillen	Yánesha	Partly
Cordillera Azul	Cacataibo, Conibo, Cashibo	No
Otishi	Asháninka	Partly
Alto Purús	Mashco Piro, Asháninka, Cashinahua, Sharanahua	Partly
Ichigkat-Muja	Awajún, Wampis	Partly
Gueppi-Sekime	Kechwa, Secoya, Huitoto	Partly

and 2008, following changes to the laws made in connection with Peru's trade agreement with the USA, many people who lived in Puerto Maldonado and claimed land along the Inter-Oceanica Highway said they needed to 'slash and burn a couple of hectares to stop the State taking away their land and giving it to big companies.' As described earlier (section 3.2.2), this is a response to Legislative Decree 1089 which requires proof of economic exploitation of rural land in order to obtain ownership. This perverse incentive has been exploited by the Grupo Palmas in Barranquita (section 2.2.2) in Loreto where 600 ha were deforested – and subsequently bought by Grupo Palmas from small-scale farmers – because a deforested hectare was worth 1,000 soles while a hectare of standing forest was only worth 600 soles.²⁵⁹

3.8 WEAK STATE RESPONSE

Indigenous peoples tend to see the State as encouraging deforestation because of its policies promoting intensive agricultural cultivation, its failure to stop illegal logging and mining, and its unplanned road building, among other reasons. As L. Huanzi (FERISHAM) says:

“The central government favours the large companies that deforest, and makes things much easier for them than for indigenous communities. Regional governments have closer relationships to the communities, but sometimes there is corruption or favours granted to local or national groups. Neither the national government nor the regional governments have the capacity to enforce the law.”

In addition to indigenous peoples' observations that government policies in the Amazon have encouraged

deforestation (increase in colonization and extraction of resources), indigenous organizations have critically assessed various efforts by the government to stop deforestation. As J. Sangama (FEPIKRESAM) in San Martín highlights:

“Massive deforestation occurs because national and regional policies are poorly implemented by the central government and even more poorly implemented by the regional government. Solutions, rather than being incentivized, are political for example instead of controlling migration it is encouraged. San Martín has got involved with conservation, but only now when everything has been destroyed.”

Establishing protected areas

To date, Peru's main strategy to combat deforestation has been establishing protected natural areas. This began slowly in the 1960s, boomed in the 1970s and 1980s, and now approximately 16.2 million ha, or 23 %, of the Peruvian Amazon is under some kind of State protection.²⁶⁰ However, similar to many countries around the world,²⁶¹ Peru and the conservation organizations supporting it failed to consider indigenous peoples' customary rights before establishing these areas. In some cases people were even forcibly displaced.²⁶² In the majority of cases these protected areas are in geographically isolated regions which in general neither the State nor any company was interested in exploiting economically, yet they were and continue to be an integral part of indigenous territories (Box 24).

²⁶⁰ IBC, 2014.

²⁶¹ Chapin, 2004.

²⁶² Various Kukama settlements were forced to move outside the protected areas when fishing. Reserves in the Pacaya and Samiria river basins were established in the 1940s. Military boats were used to carry out the evictions (Bodmer and Puertas, 2007).

²⁵⁹ <https://idl-reporteros.pe/deforestacion-entre-palmas/>

Indigenous peoples have only been partially consulted in recent years and only in a few cases. Several of the cases have been strongly opposed by indigenous peoples such as the proposed Cerro Escalera Shawi Regional Conservation Area in San Martín which would overlap various titled Shawi and Awajún communities from Cahuapanas as well as the area the Shawi are attempting to secure as part of their traditional territory.²⁶³ One Shawi leader says:

“I’m from the community of Charapillo, there are 11 Shawi communities, some hold land titles and some don’t... That we have no land titles is unfair because, as native peoples, we have always taken care of this land, which nourishes us, provides us with game to hunt and medicinal plants with which to treat and heal ourselves. We don’t want this conservation area, we want land titles first, and then we will talk about projects.”²⁶⁴

Likewise, no prior consultation was done before the establishment of the Cordillera Escalera Regional Conservation Area, also in San Martín. Now there are conflicts over title, possession and ancestral uses, and criminal charges have been brought against some indigenous peoples for use of natural resources (Box 25).

Promoting community forest management

Despite the fact that selective logging has traditionally provided the main source of income for the vast majority of indigenous communities in the Peruvian Amazon, forestry policies have tended to focus on the promotion of intensive, large-scale logging which of course has a much greater impact on the forest. Only the most recent forestry law, passed in July 2011, gives communities the explicit opportunity to manage their own forests. In all prior laws, the emphasis was on companies and concessions from up to 1,000 ha in the 1974 law to up to 10,000 ha in the 2000 law, which, as can be seen in Purús (Box 13) involved requirements that were beyond the reach of the communities. As a result, the 2000 law ended up continuing to favour large-scale logging enterprises and forcing the communities to reach agreements with companies that often led to massive deforestation and broken promises instead of empowering communities to work in their own forests.

It wasn’t until 2006 that the government introduced legislation (Resolution 232-2006-INRENA) after years of pressure and proposals from AIDESEP and environmental organizations that specifically

supported community forest management. This was a small step in the right direction but the new forestry law (July 2011) does not develop this any further. Although the law includes ambiguous statements about ‘managing forests with indigenous cosmovision’, it fails to allocate the financial or human resources to translate that into action.²⁶⁵ The constant lack of support for the communities and the State’s preference for intensive, extractive models are two of the biggest contributors to deforestation and environmental degradation in the Peruvian Amazon.

Respecting indigenous peoples’ right to free, prior and informed consent

A key element in any planning process involving large extractive projects impacting indigenous peoples is the participation of the indigenous peoples themselves, including during the prior consultation phase when consent is supposed to be obtained. Peru’s government ratified the International Labour Organization’s Convention 169 in 1993 (in force since 1995) and is also subject to the jurisprudence of the Inter-American human rights system. This means that, according to international law, Peru is obliged to consult indigenous peoples potentially affected by large-scale development and investment, and to obtain their consent before such activities go ahead.

To date, in the hydrocarbon sector, in full violation of the country’s international legal obligations, the government has established concessions for exploitation and exploration by allocating them to foreign companies, either directly or via an international auction. This has been done without consulting indigenous peoples or allowing them to influence the projects on their lands. It is up to the companies themselves, at a later stage, to resolve any overlap issues.

Since the promulgation of the Prior Consultation Law (29785) in 2011, indigenous peoples within concessions identified for exploration and exploitation are formally required to be consulted. However, indigenous organizations have expressed serious concerns about various aspects of the law, because at no point does it respect their rights according to Peru’s international human rights commitments. For example, it doesn’t respect their right to give or withhold their consent to large-scale projects, and it only applies to people who are ‘directly affected’ and those who the government decides to arbitrarily determine as indigenous

²⁶³ AIDESEP, 2013.

²⁶⁴ Shawi leader from FERISHAM, cited in FOE, 2014: 17.

²⁶⁵ However, following repeated requests by AIDESEP, the law includes a temporary disposition that leaves the 2006 resolution in force for a certain period. Meanwhile, further advances in the regulation of the law are promised but it remains to be seen whether these commitments are met.

Box 25: The Cerro Escalera Regional Conservation Area in San Martín¹

"I remember when the park guards visited our community for the first time. They called a meeting and said, 'Collect your things and pack your bags. Don't start [clearing any more land to plant crops] and we'll see where you can move to.'"

That is how Miguel Ishwiza Sangama, the former head of a small Kechwa community called Nuevo Lamas, remembers the moment when, in 2007, officials from the Cerro Escalera Regional Conservation Area tried to relocate the community for the first time. In the next few years the officials continued in their efforts and, as the community kept resisting, resorted to restricting their access to the forest and prohibiting them from practicing their traditional rotational farming. In 2010, lawsuits were filed against 3 members of the community for this practice.

Although Nuevo Lamas is the only community inside Cerro Escalera – established in 2005 by San Martín's regional government and extending for 132,000 ha – other communities are dependent on it for access to vital forest resources. According to Jaime Tapulima, president of CEPKA, one of 4 indigenous federations representing the Kechwa people, "all this area is our ancestral territory but the reserve was created without consulting us." Many communities are affected. Lawsuits have been filed against 8 members of the Alto Pucapillo community for deforesting 0.25 ha to establish a small campsite to cultivate bananas, maize, and other crops to provide them with food during hunting and gathering expeditions. One of the 8 says:

"Our community doesn't have any land. Our property title is only for our houses. This is our only forest. We don't have anywhere else to hunt and gather but the area they now call a reserve. It's our land. We've always gone there to pick medicinal plants and hunt for community festivals. You can see it's full of signs of our ancestors. There are old paths, and palm trees planted for roofing material. There's even a salt mine! However, they never consulted us about the park. By the time we found out, it was already established. Now if we want to enter our own forest we have to ask San Martín's regional government for permission!"

¹ <http://www.forestpeoples.org/es/topics/redd-y-las-iniciativas-afines/news/2012/10/el-regreso-de-la-fortaleza-de-la-conservacion-redd>

peoples, a process which controversially has resulted in the exclusion of many peoples from the Andes. AIDSEP and other organizations have demanded that various articles of the law 29875 are modified in order to ensure it meets Peru's international human rights obligations (Box 26).

In addition and to date, indigenous peoples observe that despite the huge impact of large-scale projects over extensive areas, the tendency is to conduct simple informative meetings which are supposed to constitute consultations in each community instead of with the whole people or at the level of watersheds.

"With these major projects we know that we are all going to be affected even though they tell us they are using cutting edge technology, we will all be affected from these two river basins so they can't carry on consulting community by community. We are one single people and we

must defend our territory as one." *Wampis leader, community of Galilea, river Santiago*

In recent years, due to the fact that the Prior Consultation Law had not been regulated, some proposed projects have been suspended and no new concessions established. In March 2014, the new Minister of Energy and Mines said that the requirement for EIAs for exploration, and therefore prior consultation, was going to be eliminated, under the argument that they are just 'red tape' and that in reality the companies 'know what they are doing'.²⁶⁶ Despite the fact the Minister of Environment later denied he had signed off on this law, it is clear that the Ministry of Energy and Mines is applying pressure to facilitate investment in hydrocarbons to the detriment of the safeguards previously established. Finally, on 12th July 2014, Law 30230

²⁶⁶ <http://peru21.pe/economia/mem-exonerara-exploracion-petrolera-estudios-impacto-ambiental-2173021>

Box 26: AIDSEP observations and proposals about the prior consultation law¹

With respect to the mistaken decision of the government – via the Ministry of Culture and the Vice-Ministry of Interculturality to approve and publish today the regulations for Law No 29785, Law for the prior consultation of indigenous and original peoples – AIDSEP declares the following:

The intention of the national indigenous Amazonian peoples organization has always been to request the modification of articles 1, 2, 4, 5, 7, 15, 19 and the 2nd supplementary provision of Law 29785 for the following reasons:

Article 1. Must include ALL those affected, not only those ‘directly’ affected and must consider all source of international law and not only the UNDRIP or ILO convention 169.

Article 2. Must protect ALL indigenous rights, not just ‘collective’ rights, and must invalidate all actions that have not been consulted with indigenous peoples.

Article 4. The principle of consultation should be expanded from just 7 to the 18 points agreed with the State in April 2010.

Article 7. Should consider as indigenous ALL those descendants who survive since colonial times and not only limit them to those ‘direct’ descendants who conserve ‘all’ cultural elements which excludes highland communities and indigenous peoples on the coast.

Article 15. Clarify that the ‘final decision’ of the State is obliged to secure consent when it involves a large-scale project, disposal of hazardous materials and relocation of populations or it affects their survival leading to a second period of dialogue to ensure it does not affect the right to a balanced environment.

Article 19. The Vice-Ministry of Interculturality cannot be judge and jury of demands regarding both when consultations must take place and ensuring that agreements are complied. Instead what is required is an independent and autonomous indigenous institution within the structure of the State.

2nd supplementary provision. Review and consult all imposed Acts that have violated ILO convention 169 since 1995 and not legitimate them nor confuse ‘participation’ with consultation.

¹ In a declaration on 4th April 2012. <http://servindi.org/actualidad/62444>

was approved which will facilitate the ‘regularisation’ of land parcels to facilitate large-scale development projects and which could result in the breaking up of collective property rights of indigenous peoples.

Power imbalance

Even if every law was enforced and regulated, or even if there was a law recognising indigenous peoples’ right to free, prior and informed consent, there remains the issue of an enormous imbalance of power between indigenous communities and companies.

This imbalance begins with access to information

and ends with access to power. A company will have experience of similar situations, know the procedures, understand the key steps in the process, know the institutions that need to be influenced and appreciate the consequences of certain decisions. In addition, it has the support of the State, it has much greater financial resources enabling it to win over a community, legitimately or not, and it can rely on professionals from different fields who understand how to convince state officials – often people who have worked for both the company and the State before or will do in the future (the so called ‘revolving door’). Meanwhile, according to the government, the communities don’t even have the right to say ‘no’, and all that they can hope for

is that the state or company will care enough about potential bad publicity for their opposition to be respected.

Given this context, it is unlikely that negotiations between the communities, the government and a company ever take place on an equal footing. On the contrary, as many communities have denounced, companies often incite division and conflict within a community or between different communities, and employ intimidating tactics to persuade them not to oppose their operations with the objective of obtaining a so called 'social license'.

Kakinte communities in Peru's central jungle have been the victims of many of these strategies, implemented by Repsol, as one recent study denounces.²⁶⁷ In April 2013, they issued the following declaration:²⁶⁸

"We are committed to maintaining one sole position, as the Caquinte-Kakinte people, in relation to the company Repsol, taking into account that it is harassing and persecuting us (through a criminal case). We denounce the bad practices of this company. It is dividing and splitting our people, its survival, its identity, its ancestral territory and rights to self-determination."

REDD+

In recent years the State has promoted forest conservation policies linked to climate change mitigation and adaption strategies. At the national level this has involved REDD+ programs financed by the World Bank aimed at facilitating payments for conserving forests or avoiding deforestation. Since the launch of these programs in 2009, indigenous organizations have observed that, given that so many applications for legal recognition of their territories remain pending, REDD constitutes a threat to them because it will encourage a search for 'empty forests' to sell the carbon stocks in supposed international markets and could restrict access to the forest.

"REDD projects could even be more dangerous than those of oil, gas or timber because hidden details in the contracts could end up taking away their control of their forests." *Alberto Pizango Chota, AIDESEP*

The merits of these warnings have been confirmed by various attempts made by unscrupulous investors

to sign exploitative contracts with indigenous communities, and which have only been avoided following intervention by indigenous organizations. Residents from a village called Yurilamas in San Martín explain:

"We didn't really understand all his business talk. What is more, the contract he wanted us to sign was written in a foreign language. It was all too complicated. When he first came he talked about a 2-year contract, then 5 years, then finally 40 years... They explained that it would be forbidden to clear the forest and that we had to stop using wood for cooking but use gas instead. But we don't use gas here, we prefer to cut down a tree and dry out the wood for fuel... They wanted to take all our forest, that's 33,000 hectares, but the people were against it because agriculture is our livelihood."²⁶⁹

At the same time there is now greater interest on the part of investors and NGOs in establishing conservation areas in order to benefit from future REDD projects recognized by the State. Following intensive negotiations, AIDESEP managed to obtain various important commitments from the State to align Peruvian legislation with its international obligations to protect indigenous peoples' collective territories and to start the process to recognize them legally. Also achieved was a commitment to advance the legal recognition of indigenous territories as an 'enabling condition for forest and REDD related policies' and the allocation of specific funds for these actions in projects financed by the World Bank (FIP and FCPF). Despite these commitments, no changes to the legislation have been made to date and as always pressure from indigenous peoples needs to be maintained. Meanwhile, the ongoing land-titling programs financed by the Inter-American Bank (PTRT3) threaten to undermine collective rights to land and have been denounced by indigenous organizations.

"There are analyses and environmental agreements and climate agreements... promoting efficient management of forests to restrict the main cause of deforestation: colonists migrating to the Amazon. Later they contradict themselves by announcing that the PTRT3 will 'formalize 430,000 pieces of land'... which is an open call for further invasions and the destruction of any commitments to reduce our forest related emissions... and is making us look ridiculous in the eyes of the world in the run-up to the COP20."²⁷⁰

267 http://codpi.org/images/stories/materiales/libros/Caso%20Repsol%20Peru/PeruRepsol_versionweb.pdf

268 http://servindi.org/img/2013/Comunicado_ODPK_Repsol_Abril_2013.jpg

269 FOE, 2014: 36-7.

270 AIDESEP, 24/6/2014, carta al PCM: <http://www.forestpeoples.org/topics/forest-investment-programme-fip/news/2014/07/peruvian-indigenous-organisations-denounce-inter>

Box 27: National policies and initiatives to combat deforestation

Start date	Policy or Initiative	Description	Indigenous peoples' observations
2008	National Forest Conservation Program	Aims to achieve zero-net deforestation by 2020.	<ul style="list-style-type: none"> Doesn't distinguish between plantations and primary forests, and is contradicted by policies encouraging oil palm. Will probably fail given that deforestation has now increased and it is expected to continue rising due to uncontrolled illegal mining, the rapid expansion of oil palm plantations, and plans to build 70 dams. In addition, if the concept of forest is poorly defined then, within the concept of 'net deforestation', the expansion of oil palm plantations could be defined as forest gain.
2011	REDD+ Preparation Plan: preparing the country for national emissions reduction program Partner: Forest Carbon Partnership Facility, World Bank	Important commitments have been made to reform national legislation so that it respects indigenous peoples' customary lands and territories as stipulated by international human rights law.	<ul style="list-style-type: none"> Plan remains unimplemented. No steps have been taken to begin the legal reforms to respect indigenous peoples' land rights. Contradictory programs financed by the IDB threaten to undermine indigenous peoples' collective rights to land and to increase colonization in the Amazon, through recognition of 730,000 individual land ownership titles while only dedicating minimal attention to the pending land applications of indigenous peoples.
2013	Forest Investment Plan Partner: Forest Investment Program, World Bank	Agreements reached with indigenous communities to prioritise financing recognition of indigenous lands and support community forest management and monitoring.	<ul style="list-style-type: none"> AIDSEP achieved the allocation of USD 14.5 million to address 'enabling conditions' which are indigenous demands including: titling of indigenous territories (USD 7 million), forestry management (USD 3.5 million) and community forest governance (USD 4 million). Design phase is underway in 3 regions but, as always, indigenous pressure will need to be maintained to make sure it fulfills its commitments and that appropriate steps are being taken regarding indigenous peoples' rights. There is more progress with the Dedicated Mechanism for indigenous peoples which has formed a management committee composed of representatives of national indigenous organizations (CONAP and AIDSEP), and has developed criteria for the approval of projects and initiatives.
2014	ER-PIN (concept note for an emissions reduction program) Partner: The Carbon Fund, World Bank	Preliminary plan to achieve reductions of 10 Mt of CO ₂ via activities in 3 regions.	<ul style="list-style-type: none"> AIDSEP participated in debates and achieved important advances such as 'prioritisation of the titling of indigenous territories', inclusion of Indigenous REDD in the national strategy and participation in coordinating bodies.^I Despite this, the plan continues to be modified and has not yet been subjected to formal consultations with indigenous organizations. Indigenous pressure will need to be maintained to ensure that it resolves underlying issues such as pending requests for indigenous land titles and reducing the principal direct drivers of deforestation, such as extractive and infrastructure projects.
2014	Letter of intention with the Peruvian government and the governments of Norway and Germany ^{II}	USD 300 million until 2020 in exchange for improving transparency, accountability and participation, improving land tenure (including titling 5 million ha for indigenous communities) and reducing emissions of GHG from deforestation.	<ul style="list-style-type: none"> Has been applauded as a positive step if it produces concrete results. Emphasised that to achieve its objective, the programme will need to challenge entrenched interests and legal loopholes which prevent the recognition of indigenous territories.

I <http://www.aidesep.org.pe/aidesep-participo-como-parte-de-la-delegacion-peruana-en-la-11a-reunion-del-fondo-de-carbono-en-washington/>

II <http://www.minam.gob.pe/notas-de-prensa/se-lanza-en-nueva-york-la-alianza-entre-peru-alemania-noruega-y-el-bid-para-los-bosques-y-el-clima/>

Box 28: Population in the Peruvian Amazon, according to the national census.¹ (Growth has been greater in the Amazon than the country as a whole).

Year	1940	1961	1972	1981	1993	2007
Total in Peru	6,207,967	9,906,746	13,538,208	17,006,210	22,048,356	27,419
Amazon	414,452	865,210	1,341,922	1,796,283	2,832,254	3,675,292
% of total	6.7	8.7	9.9	10.6	12.8	13.4

I INEI, 2008.

The threat of this PTTR3 has since increased with the projection of titling 730,000 colonists in the Amazon which will not be compensated for by the titling of only 190 communities.

In 2010, Peru established the National Forest Conservation Program for Climate Change Mitigation in which it committed to conserve 54 million ha of the Amazon,²⁷¹ which is effectively the sum of all the protected natural areas, titled indigenous lands, reserves for indigenous peoples in isolation, and permanent production forests combined. Two years later the program began to be implemented with 17 communities in Amazonas and Junín, and by 2013 there were 48 communities involved covering a total area of 431,500 ha and plans to include another 34 communities.²⁷² The program provides 10 soles per hectare on the condition that community projects are set up and an agreed area is conserved.

The programme is still in its early phase but initial experiences in Wampis communities in the River Santiago indicate that communities appreciate State support to strengthen health and education services, in addition to dedicating resources to productive projects such as the rearing of small birds, fish or cultivation of cocoa. Despite this, a series of issues with the administration of funds has been identified and they are calling for a better system of administration that involves indigenous organizations such as the Socio Bosques programme of Ecuador. In addition, people retain a certain degree of mistrust as they highlight that they don't know the real interest behind the programme.

“We are evaluating if this is in good faith as we also do not trust the State and we want to know what is it really thinking.”²⁷³ Wampis leader, River Santiago

²⁷¹ <http://www.bosques.gob.pe/objetivo>

²⁷² <http://www.andina.com.pe/espanol/noticia-comunidades-indigenas-firman-convenios-para-conservacion-bosques-455029.aspx#.U94z4oBdUUG>

²⁷³ FECOHRSA, 2014.

3.9 POPULATION AND ENVIRONMENTAL FOOTPRINT

Undoubtedly, there is a connection between population growth and deforestation - the greater the number of people in cities and rural areas, the greater the number of basic needs to be satisfied, and therefore the greater the need for agricultural land. However, it is not a simple correlation. Deforestation rates for 1975 were estimated at approximately 150,000 ha per year when the population in the Amazon was less than half what it was in 2007, when deforestation rates were equal or less.

The impact on the forest also depends on who the settlers are and what kind of economy they adopt. Traditional rotational farming is proven to be sustainable and very different to commercial agriculture which, depending on the product, the machinery and the labour, can deforest 2-5 ha per year. Different again are the companies investing large sums of money that deforest thousands of ha per year, as in Tamshiyacu and Barranquita.

Everything indicates that in the last few years Peru has been experiencing a sustained economic growth. Although this growth hasn't reached the whole population, it has generated greater employment, revitalized local economies and increased income in the Amazon, particularly in the urban areas.²⁷⁴ The increased average purchasing power of the urban population and some people living rurally, even in regions like the Amazon, translates into greater capacity to invest in activities that involve using natural resources. In other words, in addition to an increasing population, the environmental impact *per capita* of a considerable part of the Amazon population is also beginning to increase.

Box 28 shows that the population in the Peruvian Amazon increased by almost 8 times between 1949 and 2007, and went from 6.7 % of Peru's total population to 13.4 %. This is the result of a growth

²⁷⁴ CSA, 2012.

in population of indigenous peoples, but above all in the number of colonists migrating from the Andes as well as their own subsequent population growth.

There are a variety of reasons for people migrating from the Andes, including political violence, environmental degradation, impact of large-scale mining, and historical, structural problems that laws and policies have failed to resolve.²⁷⁵ In particular, the state policies that maintain the myth of the Amazon as ‘an empty amazon’, ‘the agricultural basket of Peru’ and now as an ‘agro industrial goldmine’.²⁷⁶ Indeed, one of the main aims in building roads into the Amazon over the last 50 years has been to increase opportunities for people to migrate from the Andes. San Martín’s forests are on the frontier of these two ecological regions and as a result have been subject to particularly intense migration, particularly from Cajamarca, where paradoxically everyone should be happy because of the ‘development’ due to an increase in mining and compensation payments. In recent years, migration has been increasing to the montane forest as one non-indigenous member of a *campesino* community describes:

“People come from Bolivar and also from Cajamarca. We give them a plot to build their house and 5 hectares of land in the rural zone for free for them to cultivate [“chacras”]. This is an opportunity they won’t find elsewhere, word gets round and they invite others to come. In Cajamarca, because of all the mines, the chacras are no longer fertile, so how are people to survive? If people have the good fortune to own a little plot of land they sell up and leave to find a better life and in villages like Canaán and Añazco Pueblo, things are easier. That’s why people are migrating.”²⁷⁷

275 Migration from the Andes to the Amazon is an issue that requires further research.

276 The causes of Andean migration to the Amazon is an issue that requires further investigation.

277 FOE, 2014: 23.

PART 4

NEW THREATS: FUTURE TRENDS IN DEFORESTATION

Recent trends identified in this report suggest that in the next few years or decades deforestation will increase in Peru as a result, above all, of an increase in large agricultural or agro-industrial operations for oil palm and other crops and infrastructure for the energy and transport sectors.

4.1 ROADS

The current connection between roads and deforestation is likely to continue. Studies on the Inter-Oceanica Highway in Madre de Dios state that it will continue to attract colonists to the region and, in turn, this will probably increase deforestation even in areas that are already owned or occupied.

*“Those who migrate to the area will either have to encroach upon existing private or government lands (i.e. national parks, indigenous reserves, and logging concessions) or buy lands from sellers. Those who encroach upon land are more likely to have to clear forest to grow their own food (i.e. slash and burn agriculture), potentially increasing risks for wild fires in previously intact forested areas. Those who are able to buy land usually come from bigger cities and are likely to have the necessary resources to clear larger areas of forest more quickly than previous landowners. In the worst case, buyers could be companies with strong interests in cattle-ranching or in crops that are known to require deforestation of large areas, such as soybean or palm plantations. Either way, migration to the area will certainly result in increased deforestation.”*²⁷⁸

278 Zambrano et al., 2010: 168.

4.2 OIL PALM

Official figures state that there are currently 57,000 ha currently under oil palm cultivation in the Amazon, but there are plans to expand considerably on the part of government and commercial actors as we saw in section 2.2.2. In 2001, oil palm was declared in the ‘national interest’²⁷⁹ in a bid to, among other things, establish plantations and contribute to the recuperation of land deforested by migrant agriculture and illegal operations. State projections say there are up to 1.4 million ha suitable for oil palm.²⁸⁰ As we can see in an event organised by the BCRP, the Grupo Palmas interprets the definition of such appropriate lands as all those lands deforested by migrant agriculture in addition to all those forest lands with capacity to support permanent crops and pasture except those within protected areas and indigenous territories.²⁸¹ The government is currently updating its 2010-2012 National Oil Palm Promotion Plan with the objective of reaching 80,000 ha.²⁸²

Oil palm is also being promoted at the regional level. In Loreto, there are currently 12 applications for plantations totalling 106,213 ha being processed by the Regional Agrarian Office.²⁸³ In Ucayali, in late 2013, despite denunciations of deforestation caused by oil palm, officials “stressed their interest in continuing to promote oil palm cultivation by selling and titling forest land, as well as helping with the administrative process, co-financing projects and putting in order any irregularities that had been

279 Ministerial Resolution no. 0155-2001-AG.

280 According to the National Oil Palm Plan 2000-2010 the lands suitable for cultivation were more than 1.4 million ha, and the Ministry of Agriculture (MINAG, 2012) estimates 1.135 million ha. <http://www.larepublica.pe/27-01-2014/peru-tiene-600-mil-hectareas-para-cultivar-palma-aceitera>

281 <http://www.bcrp.gob.pe/docs/Proyeccion-Institucional/Encuentros-Regionales/2012/Ucayali/EER-Ucayali-Carlos-Ferraro.pdf>

282 <http://gestion.pe/noticia/363016/promoveran-instalar-10000-nuevas-hectareas-palma-aceitera>

283 <http://www.larepublica.pe/27-01-2014/peru-tiene-600-mil-hectareas-para-cultivar-palma-aceitera>



Map 8: Proposed dams in the Peruvian Amazon on the river Marañón.

Source: LAB

committed, all in order to achieve a minimum of 50,000 ha of oil palm in the region.”²⁸⁴ Similarly, San Martín’s regional government has a policy to “accelerate the compulsory commercialization of biodiesel and gasohol, make it easier to obtain permits, and support the operation of plants producing biofuels at the [regional] level.”²⁸⁵

There has also been an application from businessmen from Malaysia to cultivate up to 1 million ha of oil palm in Loreto, but which was rejected by the regional government.²⁸⁶ In 2013, Peru made an offer to Sime Darby, a Malaysia-based company, to develop a 70,000 ha oil palm project as part of a strategy to combat coca cultivation.²⁸⁷

In sum, there is a great deal of optimism among government entities (especially regional governments), small-scale farmers and investors

284 SPDE, 2013.

285 Regional Ordinance no. 017-2011-GRSM/CR. Proposal ‘Energy policy development in San Martín, 2011-2015.’

286 Dourojeanni et al., 2009.

287 <http://www.thestar.com.my/News/Nation/2012/09/07/Lima-proposes-70000ha-oil-palm-project-to-plantation-giant-Sime-Darby>

about the potential of oil palm. Despite this official promotion, the government still doesn’t have any detailed soil studies to implement oil palm monoculture plantations, yet continues to promote their expansion in forest areas.²⁸⁸

The Romero Group, through its subsidiaries Palmas del Espino and Palmas del Shanushi, currently has approximately 22,000 ha in production. In addition, it has 4 projects currently being evaluated that would involve the use of 35,000 ha, including 23,000 ha of primary forest,²⁸⁹ and it has stated that by 2021 it is projected that it will have 120,000 ha under cultivation.

If we consider that the Grupo Romero’s activities are the most well established in the sector, and if we add to this the evidence of incapacity and complicity on the part of the Peruvian government to prevent the destruction of primary forest, as well as the new actors from Malaysia with a history of ecological destruction in their own country, the most likely scenario

is that these practices will continue to threaten increasingly larger expanses of the Amazon.

In addition to illegally clearing forest in complicity with the authorities, Peru’s National Confederation of Oil Palm Growers and Oil Palm Companies (CONAPAL) has launched initiatives to classify oil palm as a forest species. Observers point out that this would promote “massive deforestation, forest burning, settlement, and incentives for land trafficking to establish monoculture plantations.”²⁹⁰

4.3 ENERGY SECTOR INFRASTRUCTURE

It is very probable that in the near future the energy sector will become one of the main causes of deforestation. Particularly important are the direct

288 MINAG published on its website statements by the Minister of Agriculture Milton von Hesse saying that there are more than 600,000 ha identified, assessed and registered for oil palm in the Peruvian Amazon, and that oil palm would be cultivated ‘principally in deforested areas or that are suitable for forestry, but not in primary forests.’ However, a MINAG report (no. 35-2013-AG-DVM-DGAAA-DERN-66728-13) states that MINAG ‘doesn’t have a cadastre nor has it identified deforested areas for agro-energy cultivation.’

289 <http://idl-reporteros.pe/2013/09/12/deforestacion-entre-palmas/>

290 SPDE letter: <http://www.spde.org/documentos/publicaciones/palma-aceitera/carta-081-2011-SPDE.pdf>

Box 29: The Peru-Brazil energy agreement threatens to flood Asháninka lands

In 2010, Peru signed a bilateral agreement to supply at least 6,000 MW of hydroelectric energy from dams in the Amazon to Brazil for the next 30 years. The five proposed dams cited in the agreement – Inambari, Mainique, Paquitzapango, Tambo 40 and Tambo 60 – are considered potentially high-impact due to the size of the area to be flooded, fragmentation of different habitats, and associated infrastructure such as roads and electricity cables.

The two largest – Paquitzapango and Inambari – would directly affect Andean peoples (in the Inambari region) and up to 10,000 Asháninka – at least 3,500 would be forced to relocate. In addition they would flood more than 120,000 ha (Paquitzapango, 75,000, and Inambari, 45,000).^I In total, it is estimated that the five dams would flood or degrade approximately 700,000 ha of forest, including the areas directly flooded and the degradation caused by the construction of roads and electricity cables in addition to the degradation caused by the relocation of settlements. In the case of Paquitzapango, it alone would require cutting 400 km through the forest in order to run electricity cables to Brazil.^{II} Inambari has been suspended mainly because of opposition from the local indigenous Andean population. Meanwhile, Paquitzapango is also on standby as a result of the defence of their rights by indigenous Amazonian communities as Ruth Buendía, president of the Asháninka organization CARE, explains:

“The terrorists of Sendero [Luminoso] displaced us in the name of the future, and now our own government wants to displace us in the name of ‘development.’ How are they alike? Neither of them has asked us... Why must we always pay the price of progress? They’ve always treated us as second class Peruvians but ask us to make first class sacrifices.”^{III}

I www.dams-info.org

II http://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:50012:0::NO::P50012_COMPLAINT_PROCEDURE_ID,P50012_LANG_CODE:2507473,es

III DAR, SER, CARE, 2011.

and indirect impacts of a series of dams built to generate hydroelectric energy.

Peru plans to invest US\$8.1 billion in energy projects in 2014 and has more dams built (26) and proposed (79) with capacity greater than 2 MW than any other Andean country in the Amazon basin – a situation justified by the government for the need to ensure ‘competitive costs in mining and other sectors,’ rather than supplying electricity to poor people living in rural areas. Two-thirds of the planned dams are large or overambitious projects, and although Peru’s largest existing dam, Mantaro, can generate 798 MW, there are 11 proposed dams with even greater capacity and 43 planned projects between 100-999MW. Almost half of these dams are already in advanced stages of planning. In April 2011 the president, Alan García, signed a decree declaring the construction of 20 dams, all located on the main trunk of the River Marañón, to be in the ‘national interest.’ These would all exceed 100 MW, and include 3 ‘mega-dams’ (over 1000MW) (Escuprebraga, Rentema and Manseriche). The river with the second highest number of proposed dams – at least 30 – is the Ucayali. Six large dams on its upper tributaries already supply a large

part of Peru’s hydroelectric energy, and now there are plans to build another 19, including four mega-dams, near the confluence of 2 of the Ucayali’s main tributaries, the River Tambo and River Urubamba.

The financial, social and environmental costs of large dams are well-known. They flood vast areas of land, often forcibly displace thousands of people, and are unprofitable to invest in when compared to small-scale renewable electricity generation.

Impacts of large dams

The deforestation caused by a large hydroelectric dam goes far beyond the area flooded. Although the estimates for the direct deforestation caused by the proposed Inambari dam is approximately 40,000 ha, it is argued that total deforestation could reach up to 1.5 million ha as a result of, among other things, running the electricity cables through the forest and future development projects encouraged by the dam.²⁹¹ One recent study has shown that more than 80 % of the proposed dams across the entire

²⁹¹ Serra, 2010.

Amazon would lead to deforestation from new roads, electricity cables or flooding.²⁹² Many indigenous peoples fear that their construction would result in their disappearance as a people as leaders of the Awajún and Wampis express who are threatened by dams on the river Marañon (Escuprebraga and Manseriche).

“Large dams are a direct threat to our way of life. Flooding territories along the rivers would mean death for indigenous people. We are totally opposed to dam construction.” *H. Kinin, an ORPIAN leader, from the Awajún people*

“The Manseriche dams will flood all the way to Nieva and Cenepa flooding all the communities and relocating them to Olmos and Chiclayo. In practical terms this will be like putting us in a cell and teaching us to live in a reduced area. This we will never accept.” *Teobaldo Chamik, Wampis, river Santiago*

Although some projects have been postponed, the general perception among indigenous peoples is that they will be resurrected in the future. K. Quicque (FENAMAD) says:

“Inambari will start up again in the future. But I say, if energy is needed on the [Pacific] coast, produce it on the coast using, say, wind or solar energy. Why do they have to damage the Amazon? Who will pay the extremely high social and environmental price?”

In addition to the question of socio-environmental impacts which cannot be priced, a recent study shows that in the long-term all large dams worldwide end up costing almost double what was initially projected, and on average take more than 60 % longer than expected to start production.²⁹³

292 Finer, M., Jenkins, C. N., 2012.

293 Ansar et al., 2014.

PART 5

DEFORESTATION AT THE REGIONAL LEVEL

San Martín and Madre de Dios represent two different extremes of deforestation, both of which are useful cases for illustrating the dynamic of deforestation. Both regions have a tropical climate in their lowest altitude areas and a dry season between May and October, although Madre de Dios's is longer and more pronounced. A significant part of both regions is mountainous with peaks over 4,000 metres above sea level, although the proportion of mountainous areas is greater in San Martín. The main cities in both regions are connected to the national road network by a paved highway, although the road in Madre de Dios was only been paved between 2005 and 2010.

There has been more deforestation historically in San Martín, in the north-west of the Peruvian Amazon, than any other region. Today it has the highest current rates of deforestation, it is Peru's number one agricultural producer, and it has an economy and regional government that rank among the most established anywhere in the Amazon.

By contrast, Madre de Dios, in the south-east of the Peruvian Amazon, has seen less deforestation than any other region and currently has the lowest deforestation rates. It is a typical 'frontier society',²⁹⁴ with only fledgling state institutional capacity and an economy dominated by informal or illegal operations.

There are a significant number of indigenous communities in both regions with similar experiences of deforestation by third parties who managed to overcome indigenous opposition using a variety of legal and illegal strategies.

5.1 SAN MARTÍN

San Martín's population is primarily colonist or non-indigenous and grew from less than 100,000

people in 1940 to more than 700,000 in 2007²⁹⁵ (Box 30) as a result of intense migration. However, similar to the situation nationwide, there is no direct correlation between population size and deforestation rates, which reinforces the idea that what is most important in determining deforestation rates is the economic activity people pursue, not the number of people *per se*. In turn, that economic activity depends on social and economic circumstances, infrastructure, and the market as well as what the State is promoting.

The indigenous peoples in San Martín include the Kechwa, Awajún and Kampu Piyawi. Politics and the economy are dominated at the regional, provincial and district levels by non-indigenous people, although there are some exceptions.

San Martín has been identified as one of the starting points for recent deforestation²⁹⁶ in Peru, as a result of incentives provided by the State, special colonization projects, and possibly the driest climate anywhere in the Peruvian Amazon, which makes it more suitable for slash-and-burn agriculture.

Using the figures of FUNDECOR²⁹⁷ (Foundation for the development of the central volcanic range) presented by the GORESAM (Regional government of San Martín) and MINAM²⁹⁸ it is possible to obtain a rough idea of the peaks and troughs in deforestation in San Martín over the last 70 years (see Box 31).

For many years San Martín has had the highest deforestation rates in the Peruvian Amazon. There was a significant increase following the construction of the Carretera Marginal between Tarapoto, Moyobamba and Juanjui in the 1960s and 1970s, and

294 Santos et al., 2002.

295 INEI, 2007.

296 San Román, 1994.

297 Presentation by Silvia Reátegui del San Martín's regional government: http://interclima.minam.gob.pe/IMG/pdf/Sylvia_Reategui_-_San_Martin_Region_Verde.pdf

298 2012a and 2012b.

Box 30: San Martín's population growth 1940-2007

Year	1940	1961	1972	1981	1993	2007
Population	94,843	161,763	224,427	319,751	552,387	728,808

Box 31: Historical reconstruction of deforestation in San Martín¹

Period	Hectares deforested annually	Causes
1940-1960	8,000	Colonization
1960-1975	50,000	Colonization and building of the Marginal Highway
1975-1979	42,750	Colonization and building of secondary roads
1979-1987	21,000	Colonization, advance of the agricultural frontier, and agrarian credit
1987-1989	15,708	Abandonment of area from drugs trafficking and terrorism begins
1989-2000	2,765	Abandonment of rural areas
2000-2005	9,310	Beginning of agricultural recovery
2005-2009	27,502	Economic growth, commercial agriculture, oil palm
2009-2010	39,760	Economic growth, commercial agriculture, oil palm
2010-2011	30,798	Economic growth, commercial agriculture, oil palm

¹ Based on FUNDECOR (2007) cited in a presentation by Silvia Reátegui of San Martín's regional government; and MINAM (2009, 2012a and 2012b).

rates remained high during the drug trafficking years in the late 1970s and early 1980s, before decreasing in the late 1980s when violence forced many people to abandon rural areas. There is little information available for the period between 1990 and 2000. The new millennium began with low rates, possibly because of Peru's economic crisis, and it is only recently from the 2005-2009 period that high rates returned, around the same time that Peru's economic growth began to soar. In 2010/2011, the rate was almost as high as the years following the initial construction of the highway.

It has been estimated that by 2000 approximately 1.3 million ha in San Martín had been deforested. However, as mentioned above, this overall figure is subject to much imprecision. Between 2009 and 2011, approximately 70,000 ha were deforested. Maps 2 and 4 show that deforestation in San Martín has been concentrated along the main roads built as part of the Alternative Development Project led by USAID.

As was entirely predictable, a good part of these lands have now lost their natural productivity and are covered by bracken, a fern that establishes itself in depleted soils worldwide (Image 23).²⁹⁹

²⁹⁹ MINAM, 2009.

5.1.1 CAUSES OF DEFORESTATION

Agriculture and cattle-ranching

The main cause of deforestation in San Martín over the last 5 decades has been the combination of roads and migrant agriculture.

This report considers agriculture and cattle-ranching as a single element because of their close connection and the methodological difficulties in distinguishing between them. In many cases, land is initially deforested in order to cultivate crops and then, when the soil loses its productivity, it is converted into cattle pasture. However, frequently the conversion of forest to pasture starts at the outset. For example, latest figures indicate that San Martín cultivates 93,687 ha of coffee, 46,915 ha of cocoa and 60,480 ha of Brizanta grass³⁰⁰ with 'a cattle herd population of 228,826, 103 % more relative to that registered in the census of 1994 (112,586).³⁰¹

San Martín continues to be a pre-eminently agricultural region. In 2011, it was Peru's top rice producer (78,000 ha), second for bananas (3,300 ha),

³⁰⁰ <http://www.sudamericarural.org/promocion/articulos-de-opinion/promo/339-los-procesos-sobre-el-uso-de-la-tierra-en-la-amazonia-peruana>

³⁰¹ <http://diariovoces.com.pe/9830/en-san-martin-existen-mas-de-91-mil-productores-agropecuarios#ixzz32OE5oG00>

third for coffee (16,400 ha newly planted in 2011), and fourth for maize (50,400 ha). Agriculture accounts for 28 % of all gross value added, making it the region's most important economic activity.³⁰²

Regarding coffee, San Martín (66,660 tons)³⁰³ is one of the three main producers in Peru, along with Junín (75,750 tons) and Cajamarca (51,510 tons). It has substantially increased its production by exploiting technological advances and receiving strong support from both the State and internationally through the Alternative Development Program encouraging alternatives to coca. Although many coffee plantations have been established in areas that produced coffee in the past or were already deforested, they involve such large areas that it is essential to monitor its future development with regards to deforestation and indigenous peoples' rights.

There are two developments currently taking place in San Martín which to a degree are unprecedented in the Peruvian amazon, both of which could lead to a qualitative and quantitative leap in deforestation. The first is deforestation on an 'industrial' scale and secondly, the high levels of deforestation in some indigenous lands on the upper River Mayo.

Industrial scale deforestation is the first of these phenomena accompanied by substantial investments in processing in order to integrate production and added value in San Martín itself. For example, among the most prominent investments made by the BCRP (Central reserve bank of Peru) in San Martín in 2011 was a US\$55 million project to cultivate 5,000 ha of stevia and build a refinery financed by private Canadian, Belgian and Peruvian capital, the construction by Palmas del Espino of a US\$15 million plant for extracting palm fruit, and a US\$2.2 million project backed by Italian capital to cultivate 500 ha of *Jatropha Curcas* (*piñón blanco*) to produce biodiesel.

The scale of the areas involved in this 'industrial' deforestation is more than 3 times larger than the areas deforested by indigenous communities or even migrant agriculture (Map 3). The most well-known case is Palmas de Shanusi in Barranquita which deforested 6,900 ha in just a few months to establish oil palm plantations.³⁰⁴



Image 23: Land degraded by coca cultivation and now covered by bracken (*Pteridium aquilinum*).

Source: IIAP

As section 4.2 describes, oil palm is seen as one of the main ways to bring development to the Amazon. It involves large investments and, in theory at least, the participation of small-scale farmers who would benefit from processing centres and the capacity to sell to large-scale producers. However, according to the indigenous peoples interviewed for this report, indigenous peoples are not benefitting. They have denounced how it impacts their untitled land and that **"they end up as servants working on the plantations."** *J. Sangama FEPRIKESAM, personal communication*

The need for such large areas of land is currently met by illegally clearing primary forest or land trafficking, as reflected in the numerous lawsuits involving the Romero Group.³⁰⁵ Other negative impacts include contaminated rivers, decreasing game and fish, and restrictions on freedom of movement.³⁰⁶

The second unprecedented development in contrast to the situation in other parts of the Amazon are the high rates of deforestation on indigenous lands in the upper River Mayo. In these cases the pattern of deforestation is very different from what is normally associated with migrant agriculture. According to different indigenous leaders, some of this deforestation is occurring in indigenous communities which have been invaded by colonists, or, most importantly, is related to the communities' proximity to the highway and the special colonization projects promoted in the 1980s (see Box 32). After decades of

302 Peru's Central Reserve Bank, 2011.

303 Ibid.

304 WWF, 2010.

305 <http://idl-reporteros.pe/2013/09/12/deforestacion-entre-palmas/>

306 <http://vigilanteamazonico.pe/phocadownload/conflictos%20socioambientales.pdf>

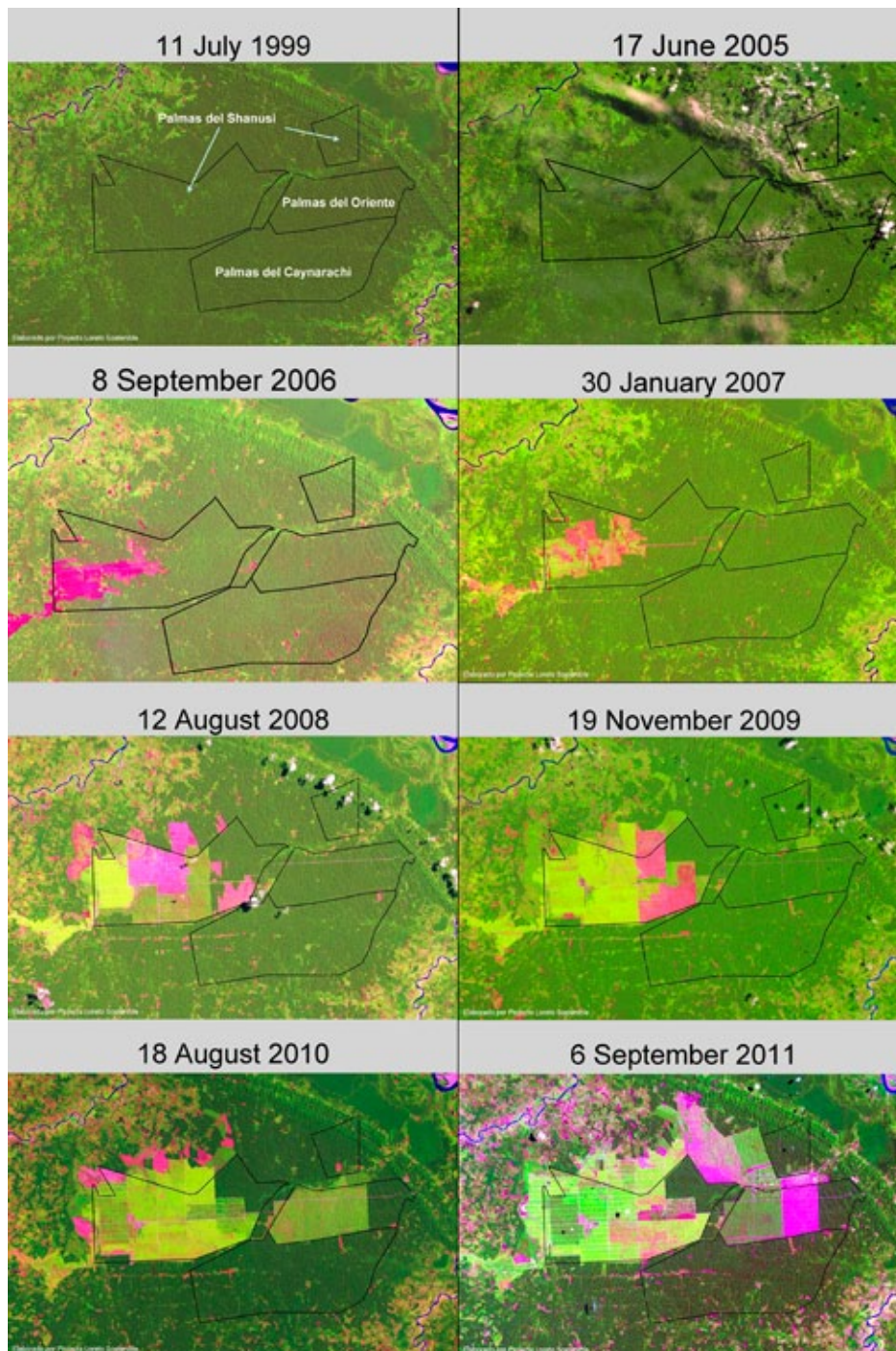


Image 24:
Deforestation of almost 7,000 ha in Grupo Romero's oil palm plantations between 2005-2011.

Source: Proyecto Loreto Sostenible/ Mongabay

resistance, some Awajún communities have given in to pressure from colonists and permitted them to use their lands to cultivate rice, maize, papaya, coffee and other crops.

One study describes how in the case of these communities on the Upper Mayo this situation began with an invasion by colonists³⁰⁷ who rented land as a temporary solution, and how some indigenous leaders played into their hands by 'selling' or renting land without consulting the rest of the community.

Once the communities realized the colonists had no intention of leaving, that what they thought was temporary would become permanent, and that the number of colonists would increase in number over time, they began to pressure them to leave. Finding that impossible, the communities took legal action, but despite often receiving favourable sentences, they have never been enforced. The final result is violent conflict or a financial arrangement in which the community cedes its lands to the colonists and with an unusually high level of deforestation within the boundaries of community lands.

307 Garcés and Echevarría, 2009.

“Despite being an exceptional case, it is typical for the case of the Upper Mayo to be used to deny or restrict indigenous demands on the State to change its policy and budget in order to title indigenous territories and promote community self-management of their resources. While it is obvious that one case can not affect what are indigenous substantial rights, we should analyse what is behind the upper Mayo case: it is again the State and its irresponsible and chaotic highway policies, the promotion of rice growing and farming in forest, the special development projects and the never ending campaign which continues to promote the idea that ‘communal title will make you poorer, an individual title will make you richer.’ The case does not undermine an indigenous approach but instead represents a complete ‘victory’ for state policy that prioritises privatisation and results in the destruction of the Amazon, which must be stopped and redirected as called for by both AIDESEP and organized indigenous movements.” (Roberto Espinoza, AIDESEP technical team)

Other causes

Historically, deforestation due to the combination of agriculture and road construction has been far and away the most significant factor. Logging has played a key role in causing deforestation in San Martín because the roads established to transport wood have provided access into previously isolated, inaccessible areas.

Coca was important in San Martín between the 1970s and 1990s, but it has now been pushed back to the south of the region to the Huánuco border (River Mishollo and River Tocache). Coca cultivation and associated activities no longer dominate the region.

Artisanal and small-scale mining is fledgling and there have been little oil and gas operations, and currently no exploration or exploitation taking place.

5.1.2 REGIONAL GOVERNMENT’S RESPONSE

Despite such high rates of deforestation both today and in the past, the San Martín regional government’s official discourse, when compared to other regional governments, is the one which refers most to issues such as sustainability when considering how to combat deforestation. San Martín was the first region after decentralization to strengthen forest and environmental governance, and it has made greater advances in REDD+ and supporting community forestry management than any other region.³⁰⁸

This greater institutional strength could be a reflection of a greater social maturity as a result of a society which has been strengthened by the experience of putting up with and subsequently overcoming the impacts of political violence and drug trafficking, but it could also be as a result of the negative impacts due to large-scale deforestation.

Conservation overlapping indigenous territories

Despite this, the vision of regional development still excludes indigenous peoples. One example is in Lamas province where the Kechwa’s right to land isn’t being respected. Regional programs dictate the priorities, on the one hand providing assistance to cultivate cocoa, coffee and sachu inchi, but on the other hand Kechwa protests against the Cerro Escalera Regional Conservation Area, which was established in 2005 and overlaps communities’ applications for land title, are ignored. The Kechwa use the area to hunt, gather, and cultivate crops (see Box 25).

One of the affected communities is Alto Pucapillo. Its experience is typical. Although some communities have obtained ownership title for a small part of their traditional lands, many, like Alto Pucapillo, only have title to the area immediately around their houses, while others don’t even have that much. According to one recent study of San Martín, there are at least 32 communities with title that only include their houses, and at least 13 that officially don’t exist at all.³⁰⁹

As Walter Sangama says, then president of CODEPISAM (Coordinator for the defence and development of indigenous peoples of San Martín): **“We’re fighting for the recognition of our rights and to be able to claim our ancestral lands, but the regional government has other ideas. It acknowledges our existence, but won’t give us title.”**³¹⁰

While indigenous peoples’ applications for title have been gathering dust in government offices, the 132,000 ha Cerro Escalera Regional Conservation Area was created along with private conservation concessions totalling hundreds and thousands of hectares and granted to private companies and NGOs protecting the environment. Peru’s biggest conservation concession, the 143,928 ha Alto Huayabamba concession, is in San Martín, as are three more recently established concessions that form part of the Martín Sagrado project, cover more than 313,687 ha, and have applied to the Climate,

308 <http://www.regionsanmartin.gob.pe>

309 AIDESEP, 2014.

310 FOE, 2014: 16.

Box 32: Deforestation in indigenous communities in the upper River Mayo: testimony of a local resident

In spite of the fact that deforestation rates are generally low in indigenous territories there are some exceptional cases where deforestation rates in indigenous communities are very high. One example is the left and right banks of the upper River Mayo in San Martín where, according to satellite analysis, the three communities with the highest deforestation rates are Huascayacu (5.05 %), Alto Mayo (3.28 %) and Shimpuyacu (2.43 %),¹ although the trend is repeated in other communities in the area.

The main direct cause of deforestation is the commercial cultivation of coffee, cocoa, rice and papaya and an unusual scheme in which community members rent individual¹¹ parcels of land under 7 year contracts to local businessmen. This began in the 1980s through the state project to promote colonisation which included a rice irrigation initiative in Bajo Naranjillo (left bank), and a system promoted by certain members of the community, together with businessmen, to divide communal land into individual lots. This happened as a result of a combination of unusual factors which tend to be uncommon in indigenous communities including those of other Awajún. These include:

- Extreme proximity of the communities to the colonists who arrived in the 1970s due to the construction of the Fernando Belaunde Terry Highway (previously known as the marginal highway) and the establishment of various settlements, such as Puente Naranjillo and San Francisco.
- Building of the side roads that depart from the banks of the River Mayo and go through the communities. The road attracts colonists to the region and makes agricultural products sold in Rioja and Nueva Cajamarca more profitable.
- The existence of the Special Alto Mayo project (PEAM) in the 1980s which continues to date with irrigation projects in Yuracyacu, San Francisco, Atumplaya and Valle de la Conquista, amongst others.
- Fertility of the land permitting permanent agriculture in the lower areas.
- Division (an internal but not a legal arrangement) of the communities into individual lots of approximately 70 ha per community member.

One community member of the region provides this analysis of the situation:

“In the 1970s, before the communities were formed, people lived spread out. There were estates of the Esteño family on both sides of the rivers with cattle and rice, maize and manioc. It all began with the rice irrigation project in Bajo Naranjillo and the machinery that was donated to the OAAM organization. Some people commandeered it to cultivate their own fields. Seeing how much was being produced, local businessmen began to encourage the people of Bajo Naranjillo to rent their land, and the same people who had commandeered the machinery – the community’s leaders – began to divide up the land between families, 50 or 70 hectares each one. They began to cultivate everywhere and now in Bajo Naranjillo there isn’t any forest left. The entire community is deforested. No trees. All you see is rice. In the 1990s, this same practice began to infect the other communities on the left bank of the river, like Shampuyacu and Alto Mayo, and when the two indigenous organizations (OAAM and ORIAM) from the two sides of the river joined together to create a new organization (FERIAAM) the right side was infected too, including the villages of Shimpuyacu, San Rafael, Morroyacu, Huacayacu, Yarau and Dorado.”

→

→

The private contracts generally last for 7 years and rent is paid per harvest (e.g. rice) or each year (coffee or papaya) once production starts. The community receives a minimum sum for each contract signed.

“There’s no control of their agriculture. So they all use chemicals. The community receives no benefit apart from a minimum sum, like 1,000 or 1,200 soles for each contract. Unfortunately, people don’t use the money well. They spend it in a month and then don’t have anything for the rest of the year, but since there’s no forest to hunt in, there isn’t any food. So to earn something they rent their land in advance. The majority of people in Bajo Naranjillo have rented their land until 2025 but at a much lower rent. It’s exploiting their needs. In the end, it’s a vicious circle from which people can’t escape.”

The Awajún themselves, particularly the adults and elderly men and women, view this situation with considerable concern:

“It’s not just an environmental issue. The older generation is concerned about the loss of culture and community. From the community of Bajo Naranjillo this evil has invaded every community of the upper Mayo. The older generation ask where our people will go because we’re not from the city, but the boundaries of our land are very clearly defined, very reduced, and the population keeps growing.”

How can this situation be resolved? There are initiatives to address this situation including reforestation projects along the banks of rivers (Shampuyacu) as well as the reaching of communal agreements to limit the extension of land that can be rented and leave the remainder to regenerate as forest.

I RAISG, 2012: 31.

II These are plots of land that have been internally divided up by the community but legally remain communally owned.

Community and Biodiversity Alliance (CCBA) for approval for a voluntary market REDD project.

According to research by the NGO Paz y Esperanza, in 2013, concessions for conservation totalled 1,984,720 hectares, representing almost 40 % of the region, with a conservation goal covering at least 50 % of the province by 2014. However, despite the outstanding territorial claims of indigenous peoples throughout the region, the regional government recognizes that indigenous communities have 230,000 hectares.³¹¹

As with the logging, mining and oil and gas industries, private conservation concessions often overlap indigenous communities. Weaknesses in Peruvian law mean it is not obligatory to obtain the consent of untitled communities whose land will be overlapped, as has happened with Canaán, a non-indigenous community, inside the Martín Sagrado concession. Canaán’s inhabitants say that

no attempt was made to obtain their free, prior and informed consent:

“We never decided on anything. No decision has been recorded. All that they told us was that the concession had been established. They never met with all of us. Sometimes there were meetings, but few people knew. They can’t say we all agree with it. Because not all of us are in agreement.”³¹²

One recent study investigating the establishment of conservation concessions in San Martín states that, although the regional government approved the Martín Sagrado concession application in April 2012, the first visits to the communities in the region were made 8 months later in December 2012. Neither was there a satisfactory consultation process during an audit made by the CCBA,³¹³ which neither visited the communities nor verified they had given their consent.³¹⁴

311 <http://www.sudamericarural.org/promocion/articulos-de-opinion/promo/339-los-procesos-sobre-el-uso-de-la-tierra-en-la-amazonia-peruana>

312 FOE, 2014: 28.

313 Certification standards for private REDD projects that aims to facilitate the sale of carbon credits in the voluntary carbon market.

314 FOE, 2014.

Box 33: Population growth in Madre de Dios 1940-2007

Year	1940	1961	1972	1981	1993	2007
Population	4,950	14,890	21,304	33,007	67,008	109,555

As described in Box 25, the establishment of the *Cerro Escalera Regional Conservation Area* in 2005 which covers almost 150,000 ha is an issue of serious concern for indigenous peoples who point out that they were not consulted and that their rights have now been restricted. In addition, they point out that the reserve's management plan doesn't guarantee their participation and that a hydrocarbon concession (Block 103) overlaps the area, although exploration has been suspended until the management plan for the reserve is completed.

This conflict reflects the differences in vision of the forest, rights and the respective asymmetries of power between government agencies and indigenous peoples.

5.2 MADRE DE DIOS

There are 8.2 million ha of forests in Madre de Dios and the total area deforested by 2000 was 146,000 ha.³¹⁵ Given its geographic isolation, it has experienced much less migration than other parts of the country and it has always been, and continues to be, the region with the lowest population in the country (Box 33), although a growth of 3.5 % between 1981 and 2005 was the highest in Peru.³¹⁶ The first censuses omitted significant numbers of indigenous people. According to estimates, there were approximately 20,000 in Madre de Dios in 1940, but only 9,800 in 1961.³¹⁷ AIDESEP questions the census data on indigenous peoples due to the multiple cases in which the census does not visit those isolated areas away from the main roads and rivers.

Madre de Dios's original population included the Ese'Eja, Amarakaeri, Ksambaeri, Pikirieri, Sapiteri, Toyoeri, Wachipaeri, Iñapari, Machiguenga and Piro, among others. The Ese'Eja once numbered approximately 10,000 people³¹⁸ and the Hara kmbut 30,000,³¹⁹ but it is estimated that by the late 19th century there were less than 1,500 Hara kmbut and approximately 800 Ese'Eja.³²⁰

The Incas were in contact with some people in the Amazon, in western Madre de Dios specifically, where it is mostly mountainous, but failed to conquer the lowland areas. The Rubber Boom in the late 19th century caused the 'demographic decline of the original societies in Madre de Dios', given the abuses that were committed and diseases that were introduced. Indeed, rubber workers brought indigenous peoples from other regions to Madre de Dios: e.g. the Shipibo-Conibo and Piro from the River Ucayali basin and Kechwa from the River Napo, among others.³²¹

History of colonization

Puerto Maldonado was founded in 1902 and Madre de Dios as a region was established 10 years later, with a population of approximately 3,000 people. The main access route was a track cleared by the Inka Mining Company running from Tirapata (connected by railway to Puno and the coast) to Astillero, a port on the River Tambopata,³²² which was used to export rubber. After the collapse of the rubber market, commercial activity contracted and many indigenous peoples began to return to their original lands. In the Iberia region, near Brazil, one rubber operation was converted into a semi-feudal estate where the main product was sugar cane liquor.³²³ This area continues to have high deforestation rates.

In the 1960s, roads were built and the State provided its first incentives to cattle-ranchers through the newly-founded Agrarian Research Office, whose mission was to expand ranching and improve cattle genetically.³²⁴ This was later complemented by credit programs and new management practices and grass species imported from Brazil.³²⁵ The road now connecting Puerto Maldonado to Cusco began to be built in 1963, and in 1968 another road was built to Shintuya, in Manu province. Madre de Dios's main products were precious hardwoods, Brazil nuts and, increasingly, gold. The gold boom in the 1970s increased the number of migrant miners from 1,000 in 1972 to approximately 20,000 in 1980.³²⁶

315 MINAM, 2009.

316 IAP, 2008.

317 García, 2003.

318 Chavarría and Mendoza, 1991 cited in García, 2003.

319 Moore, 1985.

320 García, 2003.

321 Ibid.

322 Ibid.

323 Rummenhoeller, 2003.

324 Varese, 1999.

325 Zambrano et al., 2010.

326 Moore, 2003.

In the 1980s, the government began to colonize Madre de Dios with settlement programs and building more roads. For example, between 1983 and 1988 the Madre de Dios Special Project moved colonists from Camaná and Puno to rubber-growing areas along the unpaved road between Iberia and Iñapari.³²⁷ This road, which connected Iberia and Iñapari to Puerto Maldonado, was improved considerably in numerous phases by the National Development Institute (INADE). By 2000 it was passable all year round, and by 2009 it was entirely paved.

After the Law of Native Communities was passed various communities were titled. The first were the Ese'Eja in Palma Real, Queros and Shintuya in 1974. Today, 23 communities have title, 6 are pending title, 3 are pending recognition of their legal existence and 17 have extensions that are pending. This covers more than 380,000 ha in total, not including the territorial claim of the Ese'Eja (within the Bahuaja Sonene National Park and the Tambopata National Reserve) which covers nearly 5 % of the region.³²⁸ In 1982, the Native Federation of the River Madre de Dios and Tributaries (FENAMAD) was founded. Initially it was mostly Hara kmbut communities, but it quickly integrated all the indigenous peoples in Madre de Dios.

The low population density partly explains why approximately 45 % of Madre de Dios is under some form of state protection, while only 5 % is titled to indigenous communities. The establishment of the Manu National Park and the Bahuaja Sonene National Park has generated a series of conflicts over ancestral rights (Box 24). The Matsigenka who live in Manu are protected from invasions by colonists, loggers and treasure hunters, but can only remain there if they continue with their traditional subsistence way of life. Firearms are banned, and food can't be produced for sale,³²⁹ constituting a source of permanent social and cultural conflict.

5.2.1 CAUSES OF DEFORESTATION

Madre de Dios has one of the largest areas of primary forests anywhere in the Western Amazon, including the Manu and Alto Purús National Parks as well as the reserves for isolated indigenous peoples that surround them.

At the same time the extensive mining not only causes deforestation by removing the vegetation cover, but removes topsoil and several metres

underneath as well as altering drainage patterns. In other words, mining permanently destroys the forest and severely reduces the possibility that it will ever recover.

In 2008, it was reported that 170,368 ha, or approximately 2 % of Madre de Dios, had been deforested by a combination of agriculture, cattle-ranching and mining, among other factors.³³⁰ Given that the same source estimated that mining was impacting 9,729 ha in the same year (which was estimated to be 6,145 ha in 2013³³¹), it can be expected that the total deforested area now exceeds 200,000 ha.

Agriculture and cattle-ranching

The main cause of deforestation in Madre de Dios has been agriculture and cattle-ranching as a result of the road running to Puerto Maldonado by 1963 and which in turn, from 1978, connected Puerto Maldonado to Iñapari on the border with Brazil (Maps 2 and 6). For a long time it was essentially a seasonal road, only easily passable in the dry season, but in 1998 Madre de Dios's Regional Government Provincial Council justified paving it on the grounds that it might expand the agricultural frontier by 400,000 ha, produce 4 million tons of products to sell, and contribute US\$760 million to GDP.³³² Paving the road was finished in 2009. The result has been a significant increase in deforestation not as a result of agriculture, as was feared, but as a result of mining. The cumulative impacts of constructing a road that enables the transport of heavy goods vehicles in less than 14 hours between the 2 important urban centres of Cusco and Río Branco (capital of Acre in Brazil) remain an issue which has not been evaluated.

The Regional Agriculture Office³³³ registered approximately 55,000 heads of cattle and 10,000 ha under cultivation, mainly for yellow maize, rice, manioc and bananas, in Madre de Dios in 2013. However, it has also been estimated that the area under cultivation across the whole region is actually approximately 44,000 ha.³³⁴

According to some studies, agricultural production in Madre de Dios enables a rapid regeneration of secondary forests, while cattle-ranching is associated with permanent deforestation. This is due to poor soil fertility and the fact that many farmers don't have fertilizers or herbicides, which means they often

327 García, 2003.

328 AIDESEP, 2014.

329 Shepard, 2003.

330 IAP, 2008.

331 Asner et al., 2013.

332 Naughton, 2004.

333 <http://www.agriculturamadrededios.gob.pe/>

334 IAP, 2008.



Image 25: Aerial view of the region deforested by gold-mining in Madre de Dios.

Source: Terra Perú/
MINAM

abandon the land after 2 or 3 years and the forest regenerates. By contrast, grassland is used for many years, and even if it is ever abandoned it takes much longer to regenerate. In every case, the greater the distance from the roads, the greater the amount of mature forest.³³⁵

Satellite remote-sensing and analyses of past deforestation in Madre de Dios show the highest rates of deforestation between 1986 and 1996. This was probably the result of an increase in commercial agriculture following the agrarian credit provided by the Agrarian Bank and the foundation of the Rice Commercialization Company S.A. (ECASA) which bought rice and maize. The subsequent regeneration of forests in the 1990s was almost certainly to do with the closure of ECASA and the Agrarian Bank in 1991.³³⁶ This appears to suggest a central paradox, a proportional relationship between deforestation and state promotion of agriculture which rise and fall at the same time and is one of the principal factors that remains invisible in the national debate on deforestation.

An indicator that perhaps at least the discourse is changing can be found in the strategies for agriculture in Madre de Dios outlined in the 2008-2015 agricultural plan of the Regional Government.³³⁷ This prioritizes the improvement of productivity, titling individual parcels of land and establishing supply chains. It does not refer to

the expansion of the agricultural frontier and also includes a proposal to reforest 11,000 ha.

Mining

Until 2000, the majority of the 146,000 ha deforested in Madre de Dios by 2000 was caused by a combination of agriculture and roads, with the exception of Huepetuhe where gold-miners were operating. However, in 2004 gold prices started to increase significantly and new mining methods began to be adopted – one of which involves digging up and destroying the banks of the main rivers. In addition, the recent completion of the Inter-Oceanica Highway has dramatically reduced the amount of time, from days to a matter of hours, required to travel to Madre de Dios from places like Cusco and Puno. This, together with the spectacular increase in gold prices, has encouraged a growth in migrant workers, and in 2011, the government estimated there were more than 50,000 small-scale miners in Madre de Dios.³³⁸

These radical changes have had devastating consequences for indigenous people.

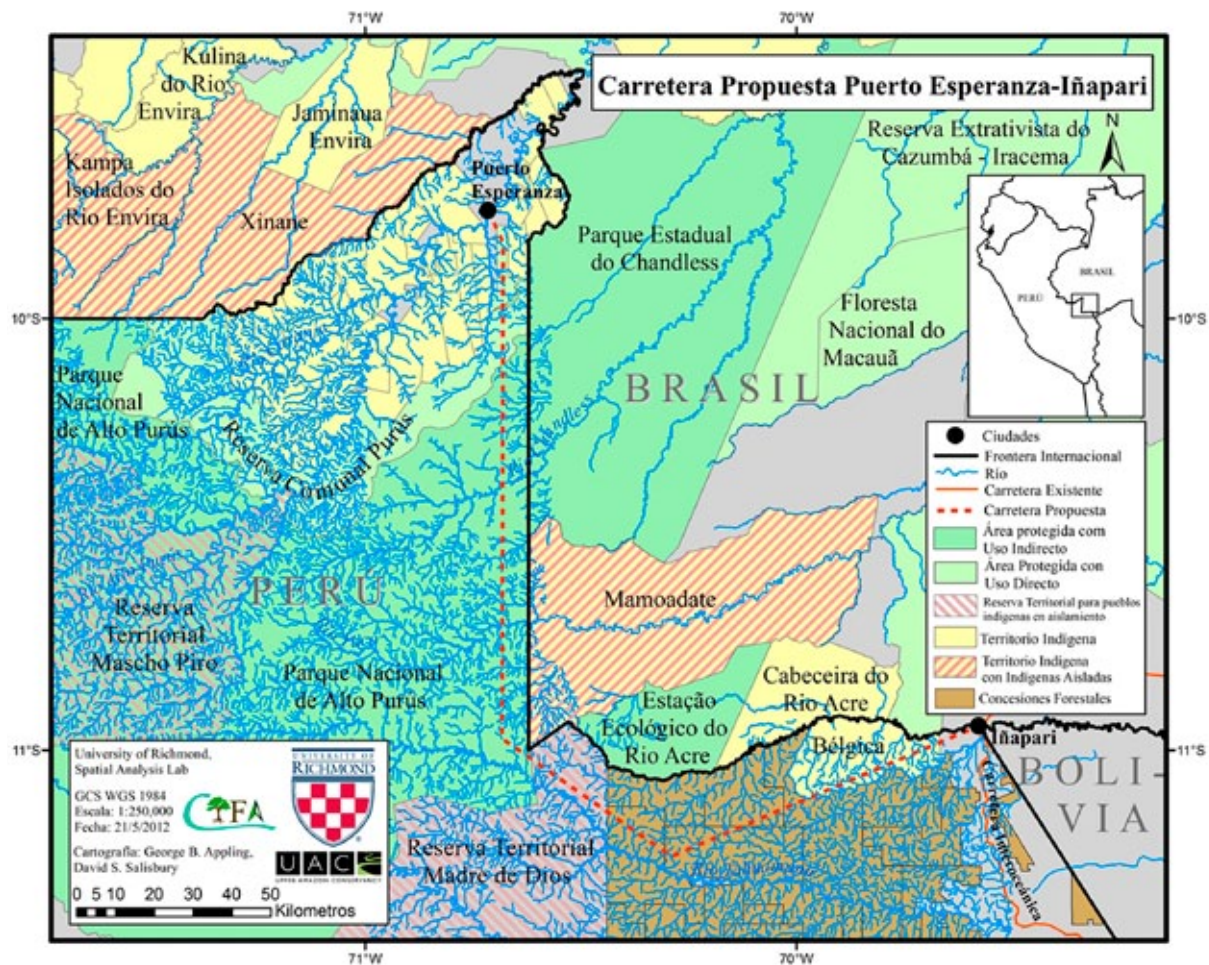
“In Setapo all you can see is rock. Nothing can grow there except lianas and small bushes. Even in the communities where there isn’t any mining there are so many cases of people contaminated by mercury. This shows the extent to which it has entered the food chain.” Indigenous leader, Madre de Dios

³³⁵ Zambrano et al., 2010.

³³⁶ Ibid.

³³⁷ Plan estratégico regional del sector agrario Madre de Dios 2008-2015.

³³⁸ Verite, 2013.



Map 9: Proposed highway between Puerto Esperanza and Iñapari.

Today in Madre de Dios, small-scale mining currently causes more deforestation than all the other causes put together.³³⁹ In 2013, it was estimated that mining has deforested more than 50,000 ha in Madre de Dios, with a current annual rate of 6,145 ha per year.³⁴⁰

Much of this deforestation occurs on alluvial terraces considered the most biologically productive, where there are the most fertile soils for agriculture and which have always been one of the most sought-after areas for people to live.

A COHARIYMA leader says that **“nothing can grow where the mining operates. It’s all stone. All that’s left is grass and small bushes.”**

If all current mining rights are exercised, 400,000 ha³⁴¹ of Madre de Dios stand to be deforested. These are precisely the rarest of all forest ecosystems: seasonally flooded forests which sustain a substantial part of the population through their ecosystem

services (fish, wild animals, wood, other materials and products, and climate regulation).

One study has been conducted evaluating the impact of mining and other human activities on the palm swamps (aguajales) and lakes along the lower River Madre de Dios and its main tributaries between the River Colorado and the frontier with Bolivia. It analysed 2,521 aguajales covering 174,065 ha and 246 lakes covering 10,642 ha, using Landsat images from 1986 to 2013, and concluded that 116,577 ha (67%) of the aguajales had been impacted in some way by mining.³⁴²

Perhaps the most concerning issue is that mining is concentrated in the areas inhabited by fish stocks – fish being the main source of protein for both indigenous peoples and other rural, non-indigenous people. Mining not only reduces the amount of fish available but also contaminates the environment

339 Asner et al., 2010 and Asner et al., 2013.

340 Asner et al., 2013.

341 Brack et al., 2011.

342 Janovec et al., 2013.

Box 34: Mining and indigenous communities in Madre de Dios

Indigenous communities and FENAMAD have trodden a complex path in which the role of the state has been counterproductive and resulted in frequent changes of direction. In the 1970s and 1980s, indigenous peoples were totally opposed to mining but this was countered by the State which encouraged it by granting concessions to third parties, usually migrants from the Andes, who were given the supposed 'right' to invade indigenous territories on the grounds that communal title excludes the subsoil and riverbanks. As a result of confrontation over this issue, FENAMAD suffered state repression and persecution. Indigenous resistance was overcome, although ultimately this strengthened FENAMAD's identity and organization.

However, by the late 1990s the wave of gold-mining had become unstoppable and the communities found themselves surrounded and outnumbered by an alliance between the State, ministries, police, migrant colonists, miners and large companies buying the gold.

One FENAMAD leader remembers:

"Between 1989 and 1999, there were many violent encounters between native communities and miners in the buffer zone of the future Amarakaeri Communal Reserve [proposed in 1995 and established in 2006]. There were fights with machetes and shotguns, and people on both sides were injured. A truce was agreed when the miners offered various benefits to the communities, and now the miners say they were invited by them and call the area a mining zone for invitees."

With no support from the state to deal with the violence, for some communities there was no other alternative than to start mining themselves and running their own 'indigenous mining concessions' before others invaded.^I This averted one danger but brought others: deforestation and degradation from within the indigenous world. One response was to propose a form of self-regulation, an **'Alternative indigenous program': A special regulation for mining activity in indigenous lands'**^{II} which involved fixing a limit on how much of the community could be mined and demarcating the chosen areas. Obtaining a legal concession meant preparing an environmental impact assessment and management plan, and then getting the state's approval. Technology had to be improved to avoid or reduce the serious mercury contamination in Madre de Dios's population, the rivers and lakes, and the flora and fauna.

Once again, as in the 70s and 80s, the reaction of the State after the year 2000 was a profound misunderstanding of the complexity of the Amazon and indigenous peoples. After tolerating and covering up the massive Andean mining invasion of MDD, the State then switched to legalise it and strongly suppress all lawlessness. In this new approach the indigenous position of community regulation was rejected. Paradoxically, if the miners who had invaded communal land legalized their mining then they would have more rights than communities, while communities would be even further away from regaining control. The state position of not allowing any extraction in indigenous community lands (neither the informal Andean mining or the formal Amazonian indigenous model) continues to create uncertainty, since the alleged "legalization" may end up contributing to extraction by large companies.

Source: FENAMAD, ECA-RCA^{III} and AIDESEP^{IV}

I According to leaders from FENAMAD and the ECA-RCA.

II <http://fenamad.org.pe/documentos/pronuncia-las-comunidades-tienen-derecho-a-trabajar-mineria.pdf>

III Executor of the administration contract, Amarakaeri Communal Reserve.

IV Based on interviews conducted with indigenous leaders as part of the elaboration of "Informe sobre REDD Indígena en Madre de Dios" 2014, Consultancy IDB-COICA project.

because of the various kinds of mercury used in the mining process.

It has been highlighted that the mercury content in a person's body depends on the amount of fish consumed, the place where he or she lives, and his or her sex. Content is higher in mining areas than in Puerto Maldonado. The percentage of people with more than 16 micrograms/g of mercury in their bodies is 11 % in mining areas, compared to 5 % in the towns. Men have higher rates of exposure than women.³⁴³ In 2012, it was discovered that three-quarters of adults in Madre de Dios had 300 % more mercury in their bodies than the level considered dangerous.³⁴⁴

Another study shows that a person weighing 60kg who on average eats two 300g portions of a fish called mota punteada every week would be consuming 11.3 micrograms of methylmercury, which is 7.06 times more than the limit recommended by the World Health Organization.³⁴⁵ This level of fish consumption is very common amongst the indigenous population living along Madre de Dios's main rivers.

As pointed out above (section 2.3), most mining is illegal. "In 2009 Madre de Dios had more permits to mine rejected than any other region in the country. In 2011, after Peru passed a law to combat illegal mining, the Vice-Minister of Mines estimated that 97 % of mining in Madre de Dios was illegal."³⁴⁶

LOGGING

After the collapse of the rubber economy, migration and commercial activity in Madre de Dios contracted until the roads were built to Shintuya and Puerto Maldonado. There was a first logging boom in 1979 when 6.2 million board feet of mahogany³⁴⁷ and cedar, timber that grows in low densities, were extracted, mainly from the Tahuamanu province.

After a period of relatively low production in the 1980s, the State encouraged logging with a series of laws, including one permitting agrarian agencies to establish concessions up to 1,000 ha. In addition, construction of the road from Puerto Maldonado to Iñapari enabled loggers to enter new, previously inaccessible areas, including forests inhabited by indigenous peoples in isolation.³⁴⁸ By 1999, extraction had reached 26.8 million board feet, accounting

for 7 % of Peru's wood nationwide, but due to the informality and illegality of operations it didn't bring any economic benefit to the region.³⁴⁹

The recent history of logging in Madre de Dios is similar to Peru as a whole: corruption, illegal operations, and invasions of indigenous lands – sometimes with the consent of certain indigenous leaders. In the late 1990s a foreign company, Newman, established a clandestine road running for more than 180 km between the River Tahuamanu and River Acre.³⁵⁰

The impact of logging on indigenous peoples in isolation has been serious.

"The massive number of loggers currently in territories inhabited by isolated indigenous peoples has turned what were once occasional sightings into violent encounters, leaving people wounded, disappeared and probably dead... Another problem caused by loggers in areas inhabited by isolated indigenous peoples is the so-called territorial relocations or the changes [that the isolated peoples are forced to make to] their migration routes."³⁵¹

These relocations have involved crossing national borders and caused serious impacts on the Asháninka, Manchineri, Yaminahua and Cashinahua in the neighbouring state of Acre in Brazil.³⁵²

After the new forestry law was passed, concessions started to be established from 2002 onwards that will last for 40 years and extend up to 50,000 ha. In Madre de Dios, the concession process was disorganized and a number of companies began to operate. According to OSINFOR, there are currently 82 concessions covering a total of 1,248,037 ha. Nine concessions were recently declared obsolete, and 2 are facing fines.

In Madre de Dios, there are also 983 concessions for Brazil nut³⁵³ extraction covering 864,000 ha,³⁵⁴ as well as 24 concessions for rubber totalling 161,000 ha. A change in the law permits logging in Brazil nut concessions and, according to reports, more wood in Madre de Dios is coming from those concessions, where volumes of 5 m³/ha have been reported, than the logging concessions, where the amounts reported are much less.³⁵⁵ This puts paid to the

343 Ashe, 2012.

344 Verite, 2013: 44.

345 Fernández and González, 2009.

346 Verite, 2013: 37.

347 Huertas, 2003.

348 Ibid.

349 Ibid.

350 Ibid.

351 Ibid: 358.

352 Ibid.

353 Bertholletia excelsa.

354 http://dgffs.minag.gob.pe/pdf/concesiones/conces_fores_otros_productos.pdf

355 Cossio et al., 2011.

supposed complementarity of logging and Brazil nut extraction.³⁵⁶

Some indigenous communities extract Brazil nuts formally. The Indigenous Forestry Association of Madre de Dios (AFIMAD³⁵⁷), which recently obtained fair trade certification,³⁵⁸ brings together 7 communities and promotes extraction and commercialization. One hundred and twenty families are involved and produce approximately 430 tons of Brazil nuts per year.

5.2.2 RESPONSE OF THE REGIONAL GOVERNMENT

Institutional capacity in Madre de Dios is fledgling and inadequate. The decentralization process is still incomplete, and due to the fact that in the past many state bodies were based in Cusco there is a critical lack of human resources. Given that Madre de Dios is an attractive place for conservation and REDD+ projects, the regional government (GOREMAD) has, or participates in, a variety of initiatives, but capacity remains limited and it depends considerably on NGOs.

That said, it doesn't help that so much commercial activity in Madre de Dios involves natural resource extraction that is very difficult to control and regulate. Employment in the timber industry accounts for 30 % of the economically active population and gold accounts for 40 % of regional GDP, and the majority of both are illegal or informal.

Perhaps reflecting this situation, successive presidents of GOREMAD have been accused of corruption and mismanagement, and different levels of the judiciary have also been severely questioned.³⁵⁹ The increasing number of miners will ultimately lead to someone representing their point of view elected as regional president.³⁶⁰ This would clearly undermine the conservation efforts made by NGOs over the last few decades, and would almost certainly increase mining pressure on indigenous lands.

³⁵⁶ Ibid.

³⁵⁷ This is a technical body supporting various member communities of FENAMAD and which is affiliated to the regional indigenous organization.

³⁵⁸ <http://peru.panda.org/?217663/certificacionorganicaaldecomerciojustofoafimad>

³⁵⁹ <https://redaccion.lamula.pe/2014/03/05/genealogia-de-la-corrupcion-en-la-corte-superior-de-justicia-de-madre-de-dios/gabrielarriaran>

³⁶⁰ The second round of the regional elections for Madre de Dios were set for the 7th December 2014. The candidate who received most votes was the miners candidate.

PART 6

INDIGENOUS ALTERNATIVES AND SOLUTIONS

6.1 DEFORESTATION RATES IN INDIGENOUS TERRITORIES

According to a recent study, between 2001 and 2010, 75 % of deforestation took place beyond the boundaries of indigenous territories (this definition includes officially recognized indigenous lands and some of the territories whose legal recognition remain pending) and natural protected areas of which a significant part are indigenous territories.³⁶¹ Another study shows that, between 1999 and 2001, only 9 % of all deforestation in Peru occurred in indigenous territories and just 1 % in natural protected areas, and concludes that “these two forms of land-use allocation can provide effective protection against forest damage.”³⁶²

In addition, at a national level and despite the distortions in the statistics and some exception cases (upper River Mayo and agricultural expansion promoted by the State), other figures³⁶³ show that, between 2000 and 2010, deforestation rates in titled indigenous communities were 0.11 % per year, compared to 2.27 % on private land and a national average of 0.14 %.

These relatively low deforestation rates can be attributed to a series of factors, including traditional

rotational farming, communal resource management, and the crucial importance of a healthy forest to the identity and subsistence economies of indigenous peoples.

Rotational agriculture: A sustainable production system

“If there aren’t any infestations of pests like ants or if there are no conflicts one can remain in the same place over many years. In Washintsa my family has cultivated the same patch of 4 hectares over more than 32 years for example.” Achuar leader from the river Huasaga

The effectiveness of traditional farming systems is perfectly demonstrated by a long-term study of the Gran Pajonal region in the *selva central* comparing, since the 1950s, the impact on the forest of the Asháninka people with colonists from the Andes. The study concludes that the Asháninka have maintained almost exactly the same amount of forest in proportion to agricultural land, and more than 91 % of forest cover, despite the fact that population has tripled. By contrast, the colonists’ population has stayed almost the same as the 1980s, but deforestation has increased by almost 50 % (Box 3).³⁶⁴

This sophisticated management of integrated farming systems is articulated by a Wampis leader from the community of Huabal on the River Santiago.

“Our forest is still intact, we have always maintained intimate relations with the natural world because the resources that surround us are for our subsistence, for our food, for our indigenous plants. We have always maintained integrated farms growing different plants. There is a plant, chici (dalé dalé), that for example provides water to the others and our ancestors told us that it should never be left out of any farm.”

³⁶¹ The IBC study (June 2014) describes 254,707 ha of deforestation between 2001 and 2010 in indigenous territories (20,701,961 ha) which corresponds to 0.123 % of the surface total of these areas per year. This figure includes legally recognised areas as well as more than 5 million ha of lands which do not yet have recognition. This represents 18.5 % of the deforestation in the entire Peruvian Amazon for this period while the area covers over 26 % of the Amazon. These rates of deforestation are significantly higher than those reported by MINAM (Box 6) and should be treated with caution as methodological limitations mean that the satellite monitoring systems used are not able to differentiate between temporary forest clearance such as rotational farming and permanent forest removal. Even then, this figure is reduced significantly if we consider those indigenous territories classified as protected areas (at the very least 2.9 million ha according to the study) within the category of indigenous territories reducing it to a rate of deforestation of 0.107 %/year in indigenous territories.

³⁶² Oliveira et al., 2007.

³⁶³ INDUFOR, 2012.

³⁶⁴ Hvalkof, 2013.



Image 26: Indigenous peoples like the Nahua are closely attuned to their forest environment and often spend weeks trekking deep in the forest on hunting and gathering trips. *Source: Johan Wildhagen*

Box 35: Indigenous territories as a barrier to deforestation in the Amazon and at a global level

The stalling effect on deforestation due to indigenous occupation is not a phenomenon exclusive to Peru but is repeated throughout the Amazon. A recent analysis of the World Resources Institute (WRI) shows that in the Brazilian Amazon between 2000 and 2012, the loss of forest was only 0.6% within indigenous territories in comparison with 7% outside these lands.^I Meanwhile, in Colombia during the same period, the loss of forest cover in indigenous reserves was only 0.3% in comparison with 3.2% of the remaining extent of the Colombian Amazon.^{II}

At a global level, Nelson and Chomitz (2011) concluded that the areas where sustainable logging is permitted are on average more effective than strictly protected areas, and that those managed by indigenous peoples (officially designated as such in Latin America only) were the most effective of all. On the other hand, a worldwide study comparing forests managed by communities with protected areas concluded that, on the whole, the former had lower, less variable annual deforestation rates than the latter (Porter-Bolland et al., 2011).

I WRI and RRI, 2014.

II Ibid.



The forest as a key element in indigenous culture

All the indigenous peoples interviewed for this report emphasize that the forest is an integral part of their territory, and that territory is considered as central to their identity as people. A. López, from ACODECOSPAT, says:

“Without territory, without forest, we have no culture and we cease to exist as people... Our principal right and priority is territory. All the other rights derive from that.”

“We feel threatened when we hear that we are overlapped by concessions because what we want is our territory as this is where we have lived, this is where the bones of our grandparents lie and this is where we will continue to live. This is not the concept of the capitalists who can sell the land and abandon it. This is not our way; we are going to continue living here.” Teobaldo Chamik, Wampis leader, River Santiago.

The indigenous peoples interviewed also agree that the existence of the forest is crucial for their economies and futures, and that it lies at the heart of living well or living a *‘plena vida’* (‘full life’).

“The future is still in the forest. It’s where the palm trees and products come from, the wood

Image 27: The indigenous environmental monitors of FECONAT documenting pollution in the Tigre river basin.

Source: FECONAT

for our houses, clean water, peace and security, and the spirit of the Shawi people.” L. Huanzi, FERISHAM

In addition, those indigenous peoples who have been seriously impacted by the destruction of their forests insist that before approving any expansion of such operations, it is essential that steps are taken to rectify the damages and guarantee that past errors will not be repeated. This is the case with the Kechwa from the River Pastaza:

“We now have official recognition that our territories are contaminated, there is an analysis that remains to be effectively disseminated amongst all the agencies of the Peruvian state, and with respect to the recognition of our territories this remains a central demand which is a key condition before any process of consultation begins (for the new concession). In terms of the environment, our fundamental demand is that our territories are cleaned-up and restored. That’s what we’re working on now.” Aurelio Chino, (FEDIQUEP)

Box 36: Resistance of the Achuar on the River Pastaza

The Achuar live on the River Pastaza basin on both sides of the border between Peru and Ecuador. In the past they lived in family groups from hunting, fishing, gathering and the cultivation of crops. However, for the last two generations or so they have lived in larger settlements, although they continue to practice their traditional economic activities. In Peru, the Achuar number approximately 8,000 people and occupy an area of approximately 10,000 km² which includes the Rivers Huitoyacu, Huasaga, Manchari and Pastaza. The State has granted ownership title to their communities – which doesn't include ownership of the forests – but despite its legal obligation to do so, it has failed to title other areas of resource use and ancestral occupation.

For more than 15 years the Achuar along the River Pastaza have been forced to defend their territory from various foreign oil companies attempting to use a concession called Lot 64. Fierce resistance by the Achuar, supported by various ally organizations, has resulted in the withdrawal of a series of companies, such as Arco, Burlington, Occidental and most recently Talisman. However, Lot 64 is now in the hands of Petroperu, the state oil and gas company, which intends to carry on exploring against the wishes of the Achuar who haven't been consulted or given their consent and fear that exploitation will destroy the forest and their way of life. Oil companies have caused serious damage to other parts of Peru's northern Amazon for over 40 years. On hearing that Petroperu is planning to enter their territory, Achuar men, women and children from more than 20 communities launched a protest against this exploitation. They demand that beyond the consultation of 'negative oil development' which they have not requested and they reject, more importantly that their own 'development priorities' which are contained within their own 'Life plans' are respected and promoted by the State in compliance with ILO Convention 169 (Art 7).

One Achuar leader from the river Huasaga describes the effectiveness of Achuar control of their territory.

"Today, the traders and loggers respect us and do not enter our lands to extract our resources, only to trade in products. We ourselves from Checherta control our own resources. Our own community members know the rules and agreements of ATI governing our natural resources and we respect them. Contrary to this, the State however does not respect us, wants the companies to come in and does not recognize our own rules."

Sources: FENAP and the Rainforest Foundation Norway. The Achuar from the River Pastaza are represented by the National Achuar Federation of Peru (FENAP) and its affiliates ATI, ORACH and AIM.

Given this very close relationship, indigenous peoples in many parts of the Peruvian Amazon have taken critical action to protect their forests (Box 37) from extractive industries and promoting the sustainable use of, or the restoration of, their resources.

Indigenous peoples' defence of the forest

Low deforestation rates in indigenous peoples' territories are proof of the many measures (Boxes 36 and 37) taken by indigenous peoples themselves to protect their lands and forests, titled or untitled. This reflects the situation elsewhere in the Amazon and around the world, as has been shown by various

regional and global studies together with recent satellite imagery (Box 35).

6.2 CONFRONTING DEFORESTATION: A CHALLENGE FOR INDIGENOUS PEOPLES

Despite these efforts and successes, this report has documented the many factors that impede and undermine efforts by indigenous peoples in the Peruvian Amazon to protect their forests. These factors include amongst others:

Box 37: Examples of indigenous efforts to protect their forests and territories in the Peruvian Amazon^I

Type of process	Location (People)	Description
Territorial demand of an estimated 20 million hectares	National level (AIDESEP)	Studies (inventory, map and budget) and national level advocacy about 9 components: integrated territories, possession, recognition, expansion, territorial reserves, communal reserves, overlap with protected areas and rectification of incorrect maps.
Management committees	Ucayali (Shipibo)	23 committees working to avoid the incursions of third parties to their lakes and the use of toxic substances to fish.
Life plans and territorial mapping	Datem Province in Loreto (Achuar, Wampis, Kechwa, Chapra, Awajún and Kandosi) Upper Amazonas (Shiwilo, Kukama and Kampu Piyawi)	Participatory processes to map territorial occupation and use, determine boundaries with neighbours, and prepare life plans for sustainable resource use.
Communal monitoring	San Martín (Kampu Piyawi) Lamas (Kechwa) Cenepa and Cajamarca (Awajún)	Community boundary monitoring and eviction of invaders.
Resistance	Pastaza (Achuar) Mishagua (Nahua)	Achuar determination and resolve to oppose the incursion of oil companies (Box 36). Expulsion of 150 illegal loggers and the establishment of a communal control post (Box 21).
Resistance, remediation and resilience	Corrientes (Achuar)	Taking over pumping facilities in Lot 1AB and Lot 8 after exhausting other procedures with the government. This culminated in the Act of Dorissa which, among other things, forced the company to reinject 100% of its production waters.
Political advocacy	National indigenous movement (AIDESEP and its regional and local affiliates)	Mobilisation and campaign in 2008 and 2009 legislative decrees threatening to weaken indigenous peoples' territorial rights and increase deforestation. Advocacy on the design and implementation of a series of laws, policies and projects promoted by the state, including the Forestry Law, the Prior Consultation Law, and the REDD+ programme including the FIP, FCPF and the Carbon fund amongst others.
Control of mining	Madre de Dios (Shipibo)	Favourable ruling by the Constitutional Tribunal which upheld the right of the community to prohibit illegal miners from operating in their communal territory.
Secure forests	FENAMAD-IACHR	Precautionary measures from the Inter-American Commission on Human Rights to protect a reserve for indigenous peoples in isolation in Madre de Dios from invasions by illegal loggers.
Political advocacy to protect territory	Amarakaeri Communal Reserve (Hara kmbut) Otishi National Park (Asháninka)	Establishment of protected natural areas over customary indigenous territory as a strategy to obtain some form of legal protection.
Sustainable management of commercial resources	River Ene (Asháninka) Madre de Dios (AFIMAD – FENAMAD) Ucayali (Shipibo-Conibo) Pichis (Asháninka) ^{II} Atalaya (Asháninka) ^{III} San Martín (Kampu Piyawi) Amazonas (Awajún)	Organic coffee Brazil nut production Community forest management Agroforestry Management of water bodies and fish farming
Environmental monitoring	Loreto (Kechwa and Kukama)	Community monitoring of environmental damage caused by oil operations in Lot 1AB and Lot 8, including spills and contamination of water and soil.
Environmental remediation	Madre de Dios (Hara kmbut)	Pilot project to restore 20 ha of forest devastated by gold-mining.

^I Elaborated by the authors on the basis of information provided by indigenous organizations.

^{II} For example, the community of Santa Rosa de Chivis.

^{III} For example, the community of Puerto Esperanza.

Box 38: The programme for a 'Full Amazonian Life'

Territorial security: resolution of pending demands by indigenous peoples for territories extending to approximately 20 million ha.

Agroforestry, aquaculture and bio-industrial production

Forests and ecosystem services management: support for community forest management, indigenous life plans, and comprehensive management of the forests.

Intercultural education and health: strengthen bilingual education and health care.

Socio-environmental monitoring and mitigation: strategic socio-environmental assessment of extractive industry policies and projects and support for indigenous monitoring systems.

Empowerment of indigenous women

Indigenous individual and collective rights: an end to the political persecution of indigenous peoples and the defence of those leaders on trial. *Modification of unjust laws and alignment of national legislation with international commitments.*

Indigenous communication and advocacy

I Adapted from AIDESEP's Amazon 'Full Life' National Plan, 2012.

- a) Unjust, illegal and contradictory policies in addition to a normative framework that violates ILO convention 169 and other international laws (including the jurisprudence of the IACHR), that fail to recognize and undermines indigenous peoples' rights over customary lands or their collective rights.
- b) Persecution and criminalization of indigenous communities' efforts to protect their forests and territories based on their rights to self determination.
- c) Use of violence, threats and coercion to intimidate or divide indigenous communities and organizations in order to obtain their consent.
- d) Priority given by the state to the promotion of large-scale extractive industries over and above the support of small-scale, community-based enterprises.

The situation in the Upper River Mayo demonstrates the impact that a variety of converging factors can have in causing deforestation in indigenous lands. Such factors include state policies promoting colonization and agricultural expansion, together with pressure imposed on communities to move from a collective system of land management

to systems of individual land ownership. This relationship has also been documented in other countries, such as Mexico, where deforestation rates are higher on privatized '*ejidos*' (communally-owned land) than those which remain communally-owned.³⁶⁵

Economic anxiety

In addition, many such pressures are exacerbated by the increasing dependency of indigenous peoples on, and their integration into, the market economy. This is further compounded by the degradation of their resources by extractive industries and road building (and the resulting immigration), as well as an inadequate legal recognition of indigenous peoples' rights to lands and resources. In part, the problems derive from the opposition of the state to recognize customary systems of land ownership, in addition to the promotion of settled communities permanently established in an area that is determined by exclusively agricultural criteria instead of promoting

³⁶⁵ Some *ejidos* have been completely divided into individual parcels of land, without any communal forestry resources at all, whilst others conserve their collective forest resources (DiGanio, cited in WRI, 2014).

integrated and traditional modes of land use. The situation is made even worse by the state's incapacity to provide satisfactory education and medical attention to indigenous communities, or to support appropriate income-generating opportunities such as community forest management. The government's continued bias in favour of large-scale projects over local communities is reflected in these remarks:

"They shouldn't impose a road onto the problems that already exist. Without planning, or control, or the participation of people, it will make things worse. One million soles have already been spent on a barely credible study for a road from Pucallpa to Brazil, but the State has never spent that sort of money to solve problems in the communities regarding education and health."

R. Guimaraes (FECONAU)

"With all the income from the royalties (from oil) that Loreto has received for over 40 years, the State has only once ever invested any money in my community. That was in 1991 for a primary school that is now in very bad shape." *A. Lopez (ACODECOSPAT)*

The result has been a gradual transformation in indigenous peoples' ways of life as the resources in the immediate vicinity of their villages get more scarce, which increases their dependency on purchased food, supplies and new tools such as shotguns, fishing nets and motorboats that enable hunting and fishing in more distant areas or where the normal fish and game has been depleted. This is compounded by the perceived need to generate income from the forest in order to buy these kinds of goods and pay for education or medical attention that the state fails to provide.

The economic anxiety that results ends up creating internal tension about how this must be resolved. One result leads to the prioritisation of these short-term economic needs over long-term collective well-being which is subsequently exploited by third parties with vested economic interests in the communities. These vested interests often encourage the creation of individual land ownership, the division of communities and the co-option and corruption of some leaders with the aim of engineering their consent for certain development projects.

Another route to challenge this is through collective efforts to secure the necessary reforms in public policies and market regulations, while at the same time respecting the complexity of all the various spaces and the distribution of benefits across all

levels including those of individuals (by generation and occupation), villages, peoples as well as between different peoples.

In this way, many indigenous peoples are conscious and critical of the dangers of the dominant economic model and the benefits of a world view that is less ambitious in economic terms, and so they are trying to reach a balance through smaller scale enterprises that do not result in environmental damage.

"We have enough resources from fishing or from cacao and enough animals for hunting, there is no reason here to get tied up with oil companies or loggers. We must not worry only about money but about the good life." *Sabina Ahmanchi, Wampis leader, River Santiago*

The question of which of these models will win out depends to a great deal on the local context, the state of the State and the market, the history of local organizations as well as the trends in national and regional policies.

6.3 INDIGENOUS SOLUTIONS AND PROPOSALS

The prevailing opinion among the indigenous peoples interviewed for this report is that the solution to deforestation, in terms of indigenous peoples in particular, depends on 4 factors:

1. That operations inciting deforestation and agricultural colonization of the Peruvian Amazon (road building, establishment of individual lots on collectively held land, the weakening of laws amongst other factors) cease to continue.
2. That existing environmental and human rights laws are enforced and there is improved access to justice regarding environmental management, the recognition of indigenous territories, and respect for indigenous peoples' rights to participation, consultation and consent.
3. That the capacity of indigenous peoples' organizations at local and national levels is improved.
4. That the State provides satisfactory education and medical attention to indigenous communities, and promotes productive, sustainable economic activities instead of extractive activities for indigenous communities as well as migrants.

In reality, these four routes are all contemplated by the '*plena vida*' ('full life') program proposed by Peru's indigenous organizations (Box 38), but the leaders interviewed for this report proposed other additional initiatives too, some of which are listed

below. These are grounded in the biological diversity of the Amazon and are different to those put forward by the state, which are dominated by intensive or semi-intensive agriculture. As many of those interviewed stated, the “solutions are as varied as our biodiversity”, but require sustained state or private support.

Such proposals include:



PART 7

CONCLUSIONS AND RECOMMENDATIONS

This report has found that the existing official focus on agricultural migrants as the prime cause of deforestation in Peru is superficial and flawed and is resulting in misguided interventions to tackle deforestation. Instead, it is clear that, since the existence of an independent Peru, deforestation has been driven by a state policy of road construction and colonisation of the Amazon, a reflection of the prevailing idea of nation building. Since the middle of the last century this has been powered by the construction of roads that permitted the migration of small-scale farmers from the highlands to the Amazon. This policy continues to be the main factor driving continued deforestation, it is implicit in the logic of rules regulating landownership and in the incentives for development perhaps now more than ever before with decentralisation still in its early phase. In addition to road building, this policy is manifest in major infrastructure and investment projects including mega dams, oil, gas and mining projects as well as the expansion of the agribusiness sector, particularly for oil palm.

Despite the existence of some laws and institutional mechanisms designed to prevent deforestation and regulate 'development' in the Amazon, this report has found that these mechanisms are consistently undermined by the continued preference for the interests of large-scale investment projects over and above environmental considerations, long-term planning or the rights of local communities including indigenous peoples. This in itself is bolstered by a prevailing attitude amongst decision-makers that 'development' is associated with extractive industries and major infrastructure projects and ignores the fact that for the vast majority of Peru's population, who live in and directly depend on forests, such projects have failed to deliver the so called 'benefits of development' and instead have frequently undermined their livelihoods and their own priorities for the future. In turn, this is aided and abetted by legal loopholes, endemic corruption and criminality that permit uncontrolled and often illegal

deforestation. This prevents the implementation of any local or regional initiative that does not conform to this logic of illegality or informality.

At the same time, approximately half of Peru's tropical forests lie within the customary lands of indigenous peoples which have consistently been characterised by low rates of deforestation. Despite this, the State has consistently failed to recognise the vital contribution made by indigenous territories and their inhabitants to preventing and slowing deforestation. To date, the State has failed to legally recognise many of these territories, let alone guarantee their security and integrity from invasions or contamination nor to support indigenous peoples' own development priorities. The intimate relationship between indigenous peoples and their forests means that very often a forest that is both standing and healthy is viewed as vital for their own current and future well being. Despite this, the state has continued to undermine the efforts of indigenous peoples to protect their forests by overlapping them with concessions for mining, timber, oil or gas and protected areas while attempting to dismantle indigenous peoples' collective rights to land and persecuting those peoples and individuals who choose to challenge these policies.

7.1 CONCLUSIONS

1 The current and past causes of deforestation and degradation

Past deforestation rates in Peru are relatively low in comparison to other tropical countries. Rates peaked in the 1980s, with more than 250,000 ha deforested per year, but then decreased to between 100,000 ha and 150,000 ha over the last decade.

Most deforestation in Peru occurs within 20km of a road. The high rates of deforestation in the 1970s and 1980s were the result of state policies promoting

colonization through specialised development projects, road building and the provision of agrarian credit, which later resulted in coca cultivation and drug trafficking. The IIRSA south and IIRSA north roads which were completed towards the end of the last decade also increased deforestation rates in Madre de Dios and San Martín.

Migrant agriculture encouraged by road building and colonization programs continues to be the main cause of deforestation in Peru. In terms of the number of people and the area deforested, the main direct cause of deforestation continues to be what is known as migrant agriculture practiced by first or second generation migrants primarily from the Andes, who it is estimated are responsible for approximately three-quarters of the total area deforested. However, migrant agriculture has not grown in recent years and its percentage contribution to the total deforestation appears to be decreasing. At the same time this migration, mainly from the Andes, continues to be driven by State policies and programs promoting development and 'agricultural' expansion in the Amazon.

Commercial agriculture, illegal gold-mining and oil palm plantations have rapidly become the main direct causes of deforestation. In recent years oil palm (more than 14,000 ha per year), illegal gold-mining (more than 6,000 ha per year) and possibly papaya (more than 2,000 ha per year) account for an average of 20 % of annual rates of deforestation.

Widespread and uncontrolled illegal logging is one of the main causes of forest degradation. Approximately 80 % of timber exported from Peru is illegal. Although deforestation rates in logging concessions is low, 'leaks' abound, and more than 50 % of concessions are involved in illegal operations beyond their limits frequently, in both protected areas and indigenous lands.

Oil and gas concessions cover more than 50 % of the Peruvian Amazon. The direct and indirect impacts of oil and gas operations on the forest and its rivers is particularly severe in areas inhabited by indigenous people, if we look beyond simply direct deforestation. These include high levels of contamination in the soil, rivers and lakes, the transformation of the local society and their economy, increases in pressure on natural resources, and the indirect but massive impact of royalties which to date have mainly been spent on building yet more roads (e.g. Camisea and Urubamba).

2 Weak governance and environmental management

Endemic corruption and fledgling governance in the mining and forestry industry (both public and private sector) permits high levels of illegal operations. It is estimated that 80 % of timber exported is illegal, despite the fact the forestry sector was reformed to address illegal logging in both 2000 and again in 2011. In Madre de Dios, 97 % of gold produced is illegal and deforestation continues to increase 4 years after the Decree of Urgency No. 012-2010, the first government measure to try and address the problem.

Criminal organizations of drug traffickers, gold traders, loggers and land traffickers promote corruption and money laundering – the latter invested in other illegal operations, thereby undermining fledgling environmental governance (e.g. Gold in Madre de Dios).

Lack of environmental assessment and strategic planning which are long-term, transparent, free-of-conflict-of-interests and which consider not only the impacts of specific projects through an EIA, but the cumulative impacts of projects at regional levels. Currently, no independent mechanism exists for approval of EIAs for large-scale projects. Meanwhile, spatial planning mechanisms and environmental management are fledgling and of little relevance in practice.

There is no universal cartographic system to avoid and resolve overlapping rights.

Priority is given to large-scale extractive projects over protection of the forest and human rights. The establishment of strictly protected areas such as national parks or reserves for indigenous peoples in isolation is often trumped by extractive operations (e.g. Ichigkat Muja).

State systems for environmental control, monitoring and regulation are inappropriate, inefficient and getting weaker. This is even the case in the oil and gas sector which has had a better starting point to establish good governance of large companies who can be subjected to government and civil society scrutiny, in comparison with the informal chaos of the agricultural, mining or logging sectors. Nevertheless, the authorities responsible for oversight have been unable to control, combat and punish negligent practices by oil companies, despite decades of denunciations by the affected communities (e.g. River Corrientes). Recent legislation weakens still further the effectiveness of this environmental governance.

3 Weak, incomplete and incoherent legal and regulatory frameworks

Loopholes permitting deforestation through classification of primary forests as suitable for agriculture (e.g. Grupo Palmas).

Contradictions permitting exploitation in supposedly intangible areas on the grounds of 'public necessity'.

Regulatory framework permitting the accumulation of land by large companies through purchase of recently deforested lands or of renting lands.

Regulatory framework encourages deforestation to claim ownership rights of land.

4 Failure to value, support and respect indigenous peoples' contribution to protecting forests in Peru

Indigenous peoples have played, and continue to play, a leading role in protecting the Peruvian Amazon. As defenders of the forest they have blocked laws, roads, dams, oil and gas companies and invasions by colonists and their associated deforestation. Meanwhile, traditional agricultural systems are proven to be a sustainable way of using the forest (e.g. the Asháninka in Gran Pajonal).

Indigenous territories are an effective barrier against deforestation. Current mechanisms to track deforestation in Peru inevitably overestimate rates of deforestation produced by the swidden agricultural systems of indigenous and other Amazonian peoples as they cannot distinguish between temporary and permanent deforestation. However, even if these figures are used we find that in legally recognized indigenous communities alone, covering approximately 11 million ha, only 12,000 ha, or 0.1 % per year or about 0.04 ha/person are deforested in comparison with a national rate of between 0.17 and 0.23 %. However, even using these distorted figures, if these lands are combined with the territories of indigenous peoples in isolation, the customary indigenous territories that are classified as protected natural areas or have not been legally recognized, rates are significantly lower. Nevertheless, there are some exceptional examples involving some communities, particularly in the upper River Mayo in San Martín, or in Peru's selva central along the highway linking Pucallpa to Lima, or Madre de Dios (impacted by IIRSA south) where severe pressures from both public and private sector have resulted in high rates of deforestation.

The national legal framework fails to meet Peru's binding international obligations to respect indigenous peoples' rights, such as the right to free, prior and informed consent (e.g. Prior Consultation Law), the right to customary lands (e.g. Forestry Law), and the right to collective territories as peoples as the State only recognizes communities rather than peoples and retains ownership of forests that are only 'awarded' to communities in the form of a leasehold.

Criminalisation and persecution of indigenous peoples and leaders legitimately seeking their self-determination or protesting in defence of their rights and territories (e.g. impacts of the violence in 2008-2009).

State disregard for denunciations of illegal operations made by indigenous people. Miners, loggers and colonists invade indigenous lands with little response or active support from the state or even facilitated by a specific sector (e.g. Naranjos, Saweto).

Massive overlap of indigenous territories by mining, logging and oil gas concessions, as well as protected areas, including both titled and untitled indigenous lands and territories. This is conducted without any consultation or frequently against the express wishes of the people.

Approximately 20 million ha of indigenous territories remain without any official legal recognition. These 20 million ha include communities which have not been legally recognized as existing, those awaiting land titles, or those requiring land title extensions. This is complemented by applications from at least 12 different indigenous peoples for title to their collective territories, 5 reserves for indigenous peoples in isolation, 8 communal reserves, and resolution of areas overlapped by protected areas.

Efforts are being made to weaken collective rights, to forests and prioritise individual rights, thereby encouraging deforestation. Despite the fact that individual, private parcels of land have the highest rates of deforestation (2.27 %) in Peru, the State continues trying to undermine collective rights by eliminating constitutional guarantees (Law 30230), the suspension of titling of indigenous communities, and the promotion of individual property rights through projects such as PTRT3, financed by the IDB. This strategy departs from a neoliberal premise that private land ownership will help indigenous peoples to access credit, commodify their resources and as a result emerge from 'poverty'. On the upper Mayo river, where the individualization of communal

property has occurred, these outcomes have not resulted. Instead it has undermined the probability that in future these communities might improve their quality of life.

Intimidation and persecution of indigenous leaders by those with vested economic interests in their territories which in some cases has resulted in assassinations (e.g. Saweto).

Large-scale logging operations are prioritized over community forestry initiatives. The latter continue to suffer from a lack of legal and technical support, while large-scale operations remain the priority. This forces many communities to sign exploitative agreements with logging companies (e.g. Purús). The commercial extinction of mahogany is a reflection of the incapacity of the state to control the extraction of resources, while for those commercial interests it reflects their desire for the greatest profit margin in the shortest possible time frame.

Division of indigenous organizations and communities with threats and strategies intended to intimidate and manipulate them by extractive industries (loggers and oil and gas companies, e.g. Kakinte).

5 Future threats

Informal gold-mining, the expansion of oil palm and the construction of mega-dams are the biggest threats to the Peruvian Amazon. More dams have been proposed in its Amazon region – 79 – (with a capacity of more than 2MW) than any other Andean country in the Amazon basin. Amongst these, over 50 have more than 100MW capacity while 11 have more than 1000MW. New laws have turned biodiesel production into a national priority, and up to 1.4 million ha of primary forest have been classified as suitable for oil palm plantations. There are also legal proposals to classify oil palm as a forest species. On the other hand, efforts by the government to control the exploitation of illegal gold-mining have come to nothing. In Madre de Dios, more than 50,000 ha have been destroyed by illegal gold-mining in recent years following an increase in international gold prices and the construction of the Inter-Oceanic Highway.

It is expected that deforestation and degradation will increase significantly in the immediate future. In the years ahead, the interaction of the following indirect factors and conditions will create a favourable environment for a significant increase in forest degradation and deforestation:

- a. The increase in demand (and prices), at both the national and international levels for natural resources such as timber, gold, oil, gas, hydro

energy, oil palm and papaya, among others.

- b. The increase in investment in mega-projects in the Amazon in programs such as IIRSA, for example for hydroelectric dams, major roads and communications, as part of a strategy to integrate global markets alongside the aspiration to develop the Amazon through the export of natural resources.
- c. The increase in local and regional capacity to build networks of roads and invest in commercial agriculture due to royalties from mining and oil and gas projects.
- d. The failure to prioritise sustainable, profitable and feasible alternatives in the short, medium and long-term at all levels (but particularly for communities and small-scale businesses) that keep the forest standing.

7.2 RECOMMENDATIONS

This report has found that Peru now stands at a cross roads. Important political and legal commitments have been made to protect forests and reduce deforestation and for the first time in the history of Peru, substantial resources have been pledged to support this process. However, at the same time, deforestation continues to rise unchecked and is projected to increase exponentially in the near future, particularly due to the expected growth in oil palm, the construction of large dams and more roads as well as the continued growth of illegal mining. Key measures for implementing a low deforestation path have been identified by this report and others. They include the recognition of indigenous peoples' lands and rights to determine their own development paths and the legal, financial and technical support to assist them in this process. It also includes the closure of legal loopholes that continue to permit forest destruction, the effective control of illegal (and those legal but unsustainable) practices including mining, logging and palm oil plantations in primary forests, in addition to the implementation of robust planning mechanisms to ensure economic interests do not trump all other considerations. In conclusion, the solutions exist and the funds are available, but it remains to be seen whether the political pledges to combat deforestation are reflected in the shift in attitudes and values that are required to turn these commitments on paper into a reality in the Peruvian Amazon.

A) Respect and protect indigenous peoples' rights and territories, including:

1. **Attend to indigenous peoples' demands for territory rights in the Amazon**, including title for peoples and communities in addition to

proposals for communal reserves and reserves for indigenous peoples in isolation, in compliance with Peru's international obligations requiring the recognition of customary territories: in total an estimated 20 million ha.

2. **Implement a land regularization process to resolve the multiple conflicts and claims** involving indigenous territories, titled or untitled. Amongst other measures this requires annulling concessions and other rights that overlap indigenous territories.
3. **Align national laws and policies with international obligations** in order to recognise indigenous peoples' rights to:
 - a) Free, prior and informed consent (FPIC) if extractive projects are proposed in their territories
 - b) Ownership rights, not just leasehold rights over their territories
 - c) Ownership rights over their customary territories
 - d) Territories titled in the name of 'peoples' and not only in the name of individual communities
4. **Establish effective, transparent and independent measures to enable indigenous peoples to exercise their right to free, prior and informed consent (FPIC)**, thereby respecting their diverse opinions and allowing them to take their own decisions about extractive operations in their territories, including mining, logging and oil and gas operations.
5. **Respect and value (rather than persecute or treat as criminal)**, indigenous peoples' legitimate denunciations and proposals in response to legal reforms, state policies, conservation initiatives and large-scale extractive projects that threaten their rights and forests.
6. **Improve access to justice** for indigenous peoples and individuals denouncing the destruction or contamination of the forest.

B) Implement effective and transparent systems of forest governance

1. **Control, and punish** those responsible for deforestation and contamination caused by illegal mining, illegal logging, coca cultivation, irregular changes of land use for agri-business,

and invasions of indigenous lands. Break up the public and private sector mafia that work together behind the scenes of this forest degradation and deforestation.

2. **Resolve overlaps** between logging concessions and 'permanent production forests' with applications for title by indigenous and ribereño communities.
3. **Implement mechanisms to oversee and regulate logging concessions** in order to prevent laundering of timber extracted outside concession boundaries.
4. **Restructure the system of forest concessions permitting** only those companies who have not been penalized to continue operating, withdrawing concessions from those companies where serious failings have been identified and suspending activities in all those remaining concessions while there is a process of supervised reconstruction.
5. **Recognize and promote independent community environmental monitoring** (that includes community forest monitoring) which has emerged in the absence of independent and effective mechanisms to monitor, control and supervise extractive industries.
6. **Establish a national inventory of primary forests** that must not be subject to changes in land use.
7. **Establish a universal cartographic system** to avoid overlaps of lands and rights.
8. **Establish a forest management system** capable of distinguishing between temporary deforestation resulting from traditional rotational agriculture and permanent deforestation.
9. **Provide technical support to community forest management** and other initiatives by indigenous peoples, such as rosewood oil production in Ucayali, mahogany seed management in Purús, and other projects aimed at protecting and using the forest sustainably.
10. **Modify the laws and policies** promoting biofuel production and the expansion of oil palm.
11. **Develop the concept and strategy of Indigenous REDD** proposed by AIDSEP, together with COICA (and accepted by MINAM), that captures indigenous peoples' demands and concerns to ensure that emissions reduction projects respect

indigenous peoples' rights and contribute to a 'vida plena'.

individual parcels of land, where deforestation rates are highest in Peru.

C) Promote coherent state and cross-sector policies to protect the forest

1. **Review national laws and policies** promoting investment in sectors such as agriculture, energy and transport to ensure the state meets its commitment to reach zero net deforestation by 2020. This must be conducted within the framework of the agreement with the government of Norway to contribute US\$300 million towards the conservation of forests.
2. **Align the social and environmental standards** of multilateral banks with the United Nations' Declaration on the Rights of Indigenous Peoples, and improve their enforcement in order to mitigate and avoid impacts from mega infrastructure, energy and agri-business projects on forests and indigenous peoples' rights.
3. **Establish effective, transparent and independent procedures** to assess and approve EIAs for large-scale projects, ensuring they have the capacity to assess cumulative impacts and the impacts of other projects in the same region.
4. **Implement effective decentralized environmental governance**, allocating sufficient resources to regional governments to enable them to properly assume their roles to supervise activities that affect forests and prevent those associated with deforestation at the same time that these regions are receiving increasing income as a result of the royalties derived from oil, gas or mining operations.
5. **Implement participatory processes to enable strategic and spatial planning processes** throughout the Peruvian Amazon, including methodological tools to ensure this is aligned with the holistic visions of forests held by indigenous peoples.

D) Land tenure

1. **Modify the mechanisms and requirements for titling of private lands** in order to avoid creating perverse incentives to deforest.
2. **Desist from promoting, either through laws or in practice, the division** of collectively held lands into individual land holdings.
3. **Prioritise the recognition of indigenous peoples' collective lands** over titling private and

4. **Prioritise the use of public funds to address indigenous peoples' territorial demands** (9 components and around 20 million ha). These include the RPP-FCPF (US\$ 3.6 to 8 million), FIP (US\$ 50 million), PTTR3 (US\$ 50 million) and the Norway agreement (US\$ 300 million). There is more than enough finance, what is required is political will to balance this historic debt.

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'All of this space is *Achuarti Nungkári*, the territory of the Achuar. From these lands, forests and waters we obtain the food we need to live and the materials we need to construct, weave and make our houses, products and crafts. In the remote areas the animals that we hunt live and grow. We depend on them and respect their spaces. We get every kind of forest resource that allows us to feed our children and grandchildren. From the waters we get fish to eat and with the crystal clear water from the springs and waterfalls we wash and clean ourselves. Here is where our ancestors lived and relied on the same resources and the same land. They looked after it and they left it for us as a reserve which we use today. Because of this we can live, and because of this we have life.'

Achuar leader, Huitoyacu River, Loreto region



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