

The Yarinacocha Declaration

29.01.2019

We, the undersigned communities of the Shipibo-Conibo and Kichwa Indigenous Peoples, together with our representative organisations: the Federation of Native Communities of Ucayali (FECONAU), the Ethnic Council of the Kichwa Peoples of the Peruvian Amazon (CEPKA), the Federation of Kichwa Peoples of the Lower Huallaga of San Martin (FEPIKBHSAM) and the Coordinator for the Development and Defence of the Indigenous Peoples of San Martin (CODEPISAM) from the regions of Ucayali and San Martin in Peru, gathered in Pucallpa to assess the situation facing our indigenous territories and defenders, confronted by the dispossession, violence, and deforestation permitted or endorsed by State agencies, we declare the following:

1. **We suffer** the severe impacts and damages of the biased gaze of the agencies of the Peruvian State, that looks upon our territories as a treasure trove of natural resources at its service either to exploit or declare as off-limits. As a result, we find ourselves cornered as our territories are invaded by settlers, drugs traffickers, loggers, fishermen, miners, and more recently by agro-industrial palm oil, papaya, cacao and rice companies. These activities have converted our rivers and lakes into sewers, our forests into deserts, and our leaders into targets for threats and criminalisation, putting their lives at risk for simply defending our forests. On the other hand, a large part of the forests and ecosystems that we have nurtured and taken care of across generations have been converted into natural protected areas, where we are treated as intruders for merely accessing our forests to feed our families, build our homes and sustain our identities. For us, the forest is not a natural resource to exploit; it is life.
2. **We recall** that despite the existence of land-titling initiatives in the Peruvian Amazon since the 1970s, the vast majority of our ancestral territories remain without any legal recognition or State-issued land titles, which puts them at risk of being handed out to third parties in the form of possession certificates, individual land titles, agribusiness or timber concessions and even protected areas.
3. **We reaffirm** that the State, in particular the Ministry of Agriculture (MINAGRI) and regional agrarian agencies, are the principal drivers of land-grabbing of our territories and associated conflicts. This is due to corruption associated with the trafficking of lands and the lack of appropriate and effective mechanisms for the legal recognition and titling

of our territories.

4. **We lament** that despite the existence of millions of dollars' worth of land-titling funds, these resources are invested in implementing existing land-titling procedures, which are not based on the full recognition of our rights as indigenous peoples. This includes the exclusion of all lands classified as 'forest' by the State from property titles covering our ancestral territories, which are instead ceded to us via 'leasehold use' contracts (*'cesión en uso'*). In addition, the existing procedures define our territorial boundaries arbitrarily without respect for our ancestral occupation and possession, as required by the standards regarding the rights of indigenous peoples ratified by the Peruvian State. Furthermore, many of these funds and land-titling projects have been paralysed by the mere presence of third parties who wish to acquire our territories. In the absence of an agile and effective mechanism to resolve such conflicts, third parties are permitted to suspend land-titling processes indefinitely.
5. **We condemn** an ineffective administrative and judicial system, which fails to protect our rights and resolve our complaints. There exists a myriad of obstacles which impede access to justice, such as linguistic, geographical, economic and cultural barriers which, to this day, have yet to be overturned by reforms. Judicial processes are cumbersome, slow, expensive and inaccessible to communities who have neither the lawyers nor the money to facilitate investigations into criminal and environmental matters and accelerate our demands regarding the protection of our rights. This results in impunity for the companies and associations behind the deforestation and invasions, while maintaining the high level of conflict and violence which afflicts us.
6. **We hold responsible** Government entities, above all the Ministry of Agriculture and the agrarian agencies within the regional governments, for causing land conflicts and not acting to resolve them. This failure to fulfil their obligations in turn exposes our leaders to an environment marked by harassment and violence, where they are being kidnapped, receiving death threats, shot at and even assassinated. This situation is made worse by the lack of political will, logistical capacity, and specific police mechanisms to guarantee the security of our defenders, who are persecuted and criminalized by the cynical use of the law by the State itself or other actors. Consequently, we must resort to depleting the few resources and limited time that we possess in order to defend ourselves against unfounded

accusations.

- 7. We reaffirm** our right to self-determination as indigenous peoples, which includes the right to decide how we want to live and organise ourselves. We condemn the efforts by various regional and local authorities to promote and pressure communities into accepting minimal forms of recognition, such as in hamlets, populated areas, and even individual land parcels, instead of recognising our right to organise ourselves on a collective basis. We reiterate that the identification of an indigenous people or community, together with the definition of our territory, depends on our self-determination and does not depend solely on a register or database held by the Peruvian Government.

In the face of these issues, we call upon regional and national authorities to respect our rights as indigenous peoples and to urgently implement the following measures:

- 1. MINAGRI and the Ministry of Culture (MINCU)** must devise and coordinate the immediate implementation of safeguard mechanisms for untitled indigenous lands, starting with the creation of a registry of outstanding land claims in coordination with indigenous organisations. This would prevent the classification of our lands via private land titles, possession certificates, State conservation areas, logging or agribusiness concessions.
- 2. MINAGRI**, as the governing land-titling body for communities, must develop and approve guidelines, mechanisms and a corresponding budget aimed at the solution of disputes arising from land-titling processes. MINAGRI must also prioritise those pending land-titling cases that are associated with high levels of socio-environmental conflict.
- 3. Develop** institutional, administrative, and judicial mechanisms to bring about the restitution of ancestral indigenous lands which have been handed out arbitrarily to third parties, and revoke any such rights established over those lands.
- 4. Urgently develop** a multi-sectoral plan of action to address the issue of illicit coca cultivation and production in indigenous territories.

5. **Comply with** legal obligations and international climate agreements by reforming laws and public policy that violate our collective rights. Prioritise reforms to cumbersome and discriminatory land-titling processes, as well as the use of leasehold use (*cesión en uso*) contracts, in order to fully recognise property rights over forests and in protected areas.
6. **Publicly endorse and value** our initiatives to defend and protect our territories, including monitoring and surveillance by our communities and guards. The Ministry of Justice (MINJUS) must dedicate public resources to support the physical security and legal defence of our threatened and criminalised leaders through the establishment of a decentralised legal support programme focused on indigenous peoples, human rights and land defenders.
7. **MINJUS**, in coordination with various organs of the justice system, must create concrete protection mechanisms for threatened land rights defenders, in accordance with international standards, in consultation and with the full participation of our indigenous organisations.
8. **The Peruvian Congress, the Judiciary, and Public Prosecutor** must prioritise the reform of current judicial systems, including the regional environmental prosecutors, in order to guarantee that they possess the necessary resources and personnel to carry out investigations and do so with an intercultural focus, which should regard indigenous peoples, and not just the State, as aggrieved by environmental crimes. This will allow our participation in criminal prosecutions and accelerate judgements concerning the social and cultural impacts of environmental crimes. Similarly, the Peruvian Congress, Judiciary and Public Prosecutor must respect the procedural safeguards for indigenous peoples when ordinary courts process their cases, such as the provisioning of interpreters, anthropological studies, the right to a defence and the obligation to opt for alternative sentences over custodial penalties.

While the above measures are not carried out, the regional governments of San Martín and Ucayali, the Ministry of Energy and Mines, the provincial and district municipalities, the justice of the peace and political authorities, such as lieutenant governors, should declare a moratorium for our two regions on the issuance of

possession certificates, private land parcels, concessions or easements and the reclassification of forested or protected lands for agricultural purposes.