

ENDING IMPUNITY:

Confronting the drivers of violence and forest destruction on the agribusiness and extractives frontier in the Peruvian Amazon: a rights-based analysis



Compilation: This report was authored by Tom Younger of Forest Peoples Programme (FPP), drawing on information and case studies provided by FPP's partners in Peru, including the Federation of Native Communities of Ucayali (FECONAU), the Institute of Legal Defence (IDL) and the Ethnic Council of Kichwa Peoples of the Amazon (CEPKA). The report was commissioned ahead of the launch of the Zero Tolerance Initiative in Geneva in November 2019. The Zero Tolerance Initiative is a global coalition led by Indigenous peoples, local community representatives and supportive NGOs working collectively to address the root causes of killings and violence against human rights defenders linked to global supply chains. <https://www.zerotoleranceinitiative.org/about>

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EXECUTIVE SUMMARY

This report identifies the principal direct and underlying drivers of land and resource conflicts and associated intimidation, threats and violence against human rights and environmental defenders in the Peruvian Amazon. It is found that Indigenous Peoples in particular frequently face intimidation for defending their collective rights and territories amidst pressures stemming from the expansion of logging, industrial agriculture, extractive projects and investments, and narcotics production.

The expansion of industrial agribusiness and extractive industries that drives this violence and environmental conflict is often found to be funded by overseas investors based in the US, UK, mainland Europe and offshore tax havens. These global investors are largely unaccountable and hidden behind complex and opaque structures of private international finance.

On the ground, the violence directed towards Indigenous rights defenders and communities is often led by armed groups engaged in illegal resource extraction, land trafficking or illicit narcotics production linked to the regional and global drugs trade.

This report finds that Peru's administrative and judicial systems are failing to prevent these violations, by failing to provide effective protection for rights defenders and denying effective redress in response to community denunciations.

The Peruvian State also plays contradictory roles in these conflicts as:

- it is the national legal and environmental authority charged with upholding the rule of law;
- it allocates land and concession rights to settlers and companies, often exposing Indigenous territories to dispossession by failing to title these collective lands;
- it then largely abandons affected communities as they resist violence and repression for asserting their collective rights and seeking justice for violations and environmental destruction.

This report concludes with a series of recommendations to the Peruvian Government as well as national and international companies and investors on actions required to address the root causes of violence and measures needed put an end to impunity for those responsible for driving violence against communities and the destruction of the Peruvian Amazon. These are outlined below.



"BEFORE, WE USED TO SET OUT FROM HERE TO GO HUNTING AND SLEEP IN THE FOREST. WE WOULD STAY OUT FOR ANYWHERE BETWEEN EIGHT AND FIFTEEN DAYS...NOWADAYS, IF THEY SEE US, THE PEOPLE THERE ACT LIKE THUGS, TREATING US AS THOUGH WE WERE THIEVES. WE USED TO WALK FREELY. THEY ARE PUTTING AN END TO OUR CUSTOMS. WHO'S RESPONSIBLE? THE STATE."

Wilson Barbaran Soria, Leader from Santa Clara de Uchunya

FINDINGS AT A GLANCE

A. Human rights and environmental defenders (HRDs) in the Peruvian Amazon frequently experience intimidation for asserting their collective rights over traditional lands and territories.

- Territorial, environmental and social conflicts driving violence often stem from the State issuing rights to settlers and companies, without due respect for Indigenous Peoples' customary territorial rights.
- The lack of protections for untitled customary lands and the opportunity to profit from their privatisation is driving fierce competition for land among organised land traffickers and companies.
- Road-building – both legal and illegal – to enable transport of commodities heightens conflicts over territory and natural resources, land speculation and threats to environmental defenders.
- Socially and ecologically destructive sectors such as illegal logging both feed off and in turn create illicit financial flows which further facilitate the expansion of land grabbing and narcotics production, dispossessing Indigenous Peoples' territories.

B. Violence, repression and forced evictions against Indigenous HRDs and communities are often led by criminal armed groups linked to illegal logging mafias, land traffickers or illegal mining.

- Conflicts and violence often arise where companies use workers, security personnel or hired henchmen to block access for customary landowners. Fear of possible reprisals means that many communities suffer displacement and threats with limited or no options for redress.
- Criminalisation is used as a weapon – including by the Peruvian State – to silence human rights and environmental defenders, sabotage communities' defence of their rights and territories, and debilitate Indigenous organisations.

C. Ineffective administrative and judicial systems are failing to protect HRDs' rights and territories and resolve their complaints.

- Voluntary commitments and commodity certification schemes (e.g. RSPO) are failing to ensure respect for Indigenous Peoples' and local communities' rights and protect traditional forest territories due to flaws in current grievance and redress mechanisms, with corporate actors operating with impunity and committing abuses at points in the supply chain where government regulation is absent.
- Land conflicts and associated violence are often protracted over many years as Peru lacks any effective mechanism for the fair and timely resolution of land applications, particularly those filed by Indigenous Peoples and communities

KEY RECOMMENDATIONS

1. The Peruvian Government must desist from issuing any further rights to third parties, which might affect untitled Indigenous territories and resources in the Amazon until effective mechanisms are put in place to provisionally safeguard these traditional lands, in line with Peru's human rights obligations;

- The Ministry of Agriculture (MINAGRI) and the Ministry of Culture (MINCU) must devise and coordinate the implementation of these mechanisms, starting with a registry of outstanding land claims;
- MINAGRI must develop a system for the resolution of land tenure and land-titling disputes.

2. The Government must endorse, value and where necessary support Indigenous Peoples' initiatives to defend and protect their territories, including monitoring and surveillance by communities and their designated guards.

- The Ministry of Justice (MINJUS) should enter in dialogue with Indigenous Peoples' communities and organisations in order to formally recognise communities' georeferenced data in formal legal denunciations about territorial conflicts and deforestation with a view to improving access to justice;
- MINJUS must establish and fund a decentralised legal support programme for Indigenous Peoples, human rights and land defenders.

3. The Government must recognise and provide resources to support community-based systems for prevention of and protection against threats and violence;

- Current policies must be strengthened and urgent measures must be taken by MINJUS and the Public Ministry to strengthen access to justice for Indigenous communities by ensuring communities are included as affected parties in legal processes where their traditional lands and resources are impacted and strengthening the capacity of Prosecutors to investigate alleged crimes and environmental harms and enforce compliance.

4. Companies and investors must instigate more rigorous practical due diligence to ensure their operations and investments in Peru respect the human rights of affected peoples, including the rights of Indigenous Peoples;

- ensure that access to remedy is available to affected communities and rights holders where past or present harms are detected in their business operations.

AUTHOR'S NOTE, AUGUST 2020: INDIGENOUS DEFENDERS IN THE EYE OF THE STORM

In the early hours of 9 August 2020, the International Day of Indigenous Peoples, Peruvian police opened fire on a group of Indigenous protesters who had gathered at the premises of Canadian oil company Petrolal in the Kukama community of Bretaña, in the Loreto region of the Amazon.

Local Kukama people had been mobilising to demand that the Peruvian State fulfil its promises to provide basic services such as water and electricity, as well as healthcare and medicines as the COVID-19 pandemic continued to have devastating impacts on Indigenous communities across the Peruvian Amazon.

This police repression claimed the lives of three Kukama men - William López, Chemilton Flores and Elix Ruíz - and wounded at least ten more. Six police officers were also wounded.

This devastating destruction of life was the latest in a series of killings of Indigenous human rights defenders in 2020. These include Arbildo Meléndez, leader of the Cacataibo community of Unipacuyacu in Puerto Inca, Huanuco; and Gonzalo Pío Flores, leader of the Ashaninka community of Nueva Amanecer Hawaii in Puerto Bermudez, Junin, whose father, leader Mauro Pío Pena, was murdered in 2013.

At the beginning of this year, in January 2020, the United Nations Special Rapporteur on the situation of human rights defenders (UNSR), Michel Forst, undertook a formal visit to Peru, where he met with Indigenous communities, peasants, land rights activists, and different environmental and other human rights defenders, including the leader Arbildo Meléndez, who would die two months later.

In his end of mission statement, Forst stated that he was "appalled" by the criminalisation of environmental defenders, emphasising that it is land and environmental rights defenders, particularly Indigenous and peasant communities, who find themselves most at risk from intimidation and violence. The UNSR's recommendations to the Peruvian State centred on actions urgently needed to reduce risks to human rights defenders:

- Guarantee Indigenous Peoples' human rights;
- Ensure the legal recognition and titling of their collective ancestral lands;
- Step up efforts to remediate the pollution caused by industrial projects;
- End the criminalization criminalisation of human rights defenders;
- Tackle the impunity of those responsible for violations against defenders.

Just weeks after the UNSR's visit, the outbreak of a novel coronavirus which had emerged in the Hubei province of China in late-2019 was declared a pandemic by the WHO. In the months since, the COVID-19 pandemic has expanded across the Peruvian Amazon, infecting more than 10,000 Indigenous people and claiming the lives of many, including cherished Indigenous elders, knowledge-bearers and leaders.

The urgent demands and proposals of Indigenous organisations and communities to protect the lives of their peoples have been met with inaction, indifference and lethargy by the Peruvian State.² Simultaneously, Indigenous organisations have denounced how extractive and agroindustrial companies are continuing to operate during the pandemic, thereby exposing communities to further risk of contagion.³ The intensification of illegal and harmful resource use during the lockdown has been accompanied by an apparent spike in intimidation and attacks against Indigenous leaders and environmental defenders.

That Amazonian Indigenous Peoples find themselves on the frontlines of the pandemic and health crisis, as well as the ongoing dangerous struggle to protect their territories and forests of life in the midst of an unprecedented planetary climate and biodiversity emergency, makes visible the deep fractures of inequality and power which underlie the interconnected ecosocial crises of our moment.

Confronting both the COVID-19 pandemic and the pandemic of violence and dispossession means putting Indigenous Peoples' rights and self-determination at the centre of our responses to the immense challenges faced by forest peoples and the whole of humanity. As one collective of Amazonian Indigenous organisations put it in a statement issued from Yarinacocha in Ucayali in July 2020:

"WE LIVE IN A SYSTEM THAT HAS ALWAYS RELEGATED US AND MADE US INVISIBLE, BUT TODAY WE SAY: ENOUGH IS ENOUGH, NO MORE, IT IS TIME FOR CHANGE, JUSTICE AND EQUALITY."⁴



Credit: FECONAU

1. INTRODUCTION: LAND AND RESOURCE CONFLICTS AND HUMAN RIGHTS VIOLATIONS IN PERU

Evidence in Peru indicates a strong correlation between land and natural resource conflicts and intimidation, criminalisation, violence and killings of human rights and environmental defenders.⁵

As of July 2019, the Peruvian Human Rights Ombudsman (*Defensoría del Pueblo*) registered a total of 184 social and natural resource conflicts across the country — two-thirds of which were defined as socio-environmental disputes.⁶ Mineral extraction and ('legal' and illegal) mining businesses were identified as the driver of nearly two-thirds of these conflicts, followed by disputes linked to the oil and gas industry. Other direct drivers included, to a lesser extent, energy and waste projects, agro-industry operations and commercial forestry.⁷

As of 2019, there was no official data available regarding the number of people experiencing intimidation, threats and attacks for defending their rights and lands. Following delays, the Ministry of Justice via its Human Rights Office was in the early stages of setting up a register of complaints and incidents affecting human rights defenders. However, based on the Human Rights Ombudsman's data cited above and the situations highlighted throughout this report, it is likely that a very significant number of Indigenous Peoples and local communities are subject to intimidation and threats.

Between 2002 and 2017, at least 79 environmental and land defenders were killed in Peru. The majority of those killed were Indigenous People.⁸ The UN Working Group on Business and Human Rights, following its visit to Peru in July 2017, noted that between 2012-2016, community conflicts with large-scale business operations resulted in 70 deaths (including 65 civilians and five police officers).⁹

Whilst most registered conflicts affect territories in the highland and coastal regions of Peru, violent and abusive territorial struggles between commercial actors and communities are also reported across all regions of the Peruvian Amazon. This report focuses on land and resource conflicts and related threats to human rights defenders in the Amazon region.

1A. INTIMIDATION AND VIOLENCE AGAINST INDIGENOUS PEOPLES IN THE PERUVIAN AMAZON

Many cases of abuse against human rights defenders in the Peruvian lowlands relate specifically to Indigenous communities and their leaders who face threats and violence for denouncing and confronting the encroachment of logging, agribusiness, mining and hydrocarbons companies on their customary lands and territories.

Abuse and intimidation often occur in a context in which the Peruvian State continues to prioritise the expansion of private property rights or commercial exploitation rights over the collective property rights claimed by Indigenous Peoples. The State and its authorities continue to issue rights to settlers and other non-Indigenous people, while disregarding or suspending the recognition of Indigenous Peoples' traditional land rights and denying any form of provisional protection for the integrity of the communal untitled lands under claim.

Communities leaders and Indigenous peoples contesting unlawful land allocations for logging, mining, hydrocarbons extraction, commercial and industrial agriculture, tree plantations or infrastructure projects are frequently subjected to threats and abuse. When they push for the recognition of their collective rights, they are often met with discriminatory and defamatory discourse or smear campaigns in the media with elements of racial hatred led by State, corporate and other actors with commercial interests and facilitated by local media.¹⁰

It is also common for Indigenous human rights and environmental defenders to experience criminalisation in order to silence their voices and sabotage their struggles. During the more than five years that the Shipibo community of Santa Clara de Uchunya have been fighting to resist land-grabbing for oil palm plantation expansion in their territory in Ucayali, leaders and community members have repeatedly been the target of legal complaints alleging criminal behavior filed by individuals associated with land-trafficking and aggressive agribusiness operations encroaching on their territory. These attempts at criminalisation can have negative impacts in so far as they put rights defenders in a position where they must respond to spurious charges by diverting scarce time, energy and resources away from community actions in defence of their rights and lands to ongoing legal defence.

Ten years on from the tragic events in Bagua, which resulted in deaths of both Indigenous Peoples and State security forces, the Peruvian State continues to criminalise social protest, including through the formal declaration of "states of emergency", which restrict people's rights and freedoms in areas where there are unpopular extractive projects operating without community consent. Conflicts and violence against communities are also linked to the presence of armed security guards and hired police used by companies to secure their business operations, often with support of the State. Between 1995 and 2018, for example, the Peruvian Police Force signed 138 contracts with extractive companies — mainly in the mining and hydrocarbons sectors — to provide private security for their operations.¹¹

During the Kuczynski presidency (2016 – 2018), the Peruvian Government passed a series of new legislative decrees which have been criticised for handing the State and police greater powers to criminalise its citizens — and particularly organised groups of citizens, such as Indigenous organisations — who protest in defence of their rights.¹² The past decade has also witnessed an increase in the criminalisation of Indigenous Peoples in relation to the practice of traditional activities on ancestral lands which have been converted to protected areas. This is the case with Kichwa communities who have faced retaliatory litigation for using that part of their territory categorised by the Regional Government of San Martín as the "Cordillera Escalera" Regional Conservation Area in San Martín.¹³

In the most violent situations, Indigenous leaders are being killed for defending their territories and communities against unlawful, unjust and harmful operations of different economic sectors and government-led megaprojects. Emblematic cases of killings of community leaders and land defenders include those of Ashaninka leader Edwin Chota, who was shot and killed along with three other community leaders by illegal loggers in Ucayali on 1 September 2014; the murder of social leader and vice-president of the Yagén Defence Front, Hitler Rojas Gonzales, on 28 December 2015, for fighting the proposed construction of the Chadin 2 hydroelectric plant on the River Marañón in Cajamarca; and Ashaninka leader Mauro Pío Peña, who was killed outside of his home on 27 May 2013, for standing against illegal logging and drug trafficking in Junín.¹⁴

The situation is also marked by the fact that legally-recognised mechanisms for the resolution of land and natural resource-related conflicts are largely absent in Peru.¹⁵ **Given the lack of adequate protections for untitled customary lands, the opportunity to profit from the privatisation and enclosure of collectively held traditional territories** is driving a fierce competition over lands in regions such as Ucayali, facilitated by corrupt regional government officials,¹⁶ resulting in killings associated with land-trafficking¹⁷ and violence against community leaders.¹⁸

Similar dynamics can be witnessed in the Bajo Huallaga province of San Martín, where Kichwa communities such as Santa Rosillo de Yanayacu and Anak Kurutuyaku have come under intense pressure from groups of settlers opposed to the collective titling of Indigenous territories. In the case of the former, Indigenous community leaders have been threatened, attacked and kidnapped by illegal loggers in the process of pushing for their lands to be recognised.¹⁹ The land invaders have so far been successful in blocking communal titling and have taken advantage of the delays to continue to log the community's forests.

Expansion of the Extractives Frontier, Commodification and Abuses Against Forest Defenders

Repression of community and social leaders and associated violent land conflicts in the Amazon region often go hand in hand with encroachment by different economic sectors into Indigenous Peoples' forest territories. The early stages of conflict are typically linked to illegal and legal logging and the opening of logging roads on lands traditionally owned by Indigenous communities. Aggressive and criminal tactics as well as legal strategies are deployed to silence community opposition to commercial activities by local actors and powerful interests involved in or investing in mining, illicit crop cultivation and drug trafficking. Cattle ranching and other agro-industrial commodity production, including oil palm, rice and cacao amongst others are also associated with violent land conflicts.

At the root of much of the intimidation and violence lies an ongoing process of the commodification of collectively held lands and the forced incorporation of these lands into a commercial land market and national and global commodity supply chains. On the agricultural frontier, this process gives rise to the widely reported phenomenon of "land-trafficking" across Peru,²⁰ with particularly marked effects in the Amazon region where this clandestine business is typically violent and associated with coercion, fraudulent activity, bribery and death threats against land defenders.

Dammert characterises "land-trafficking" in this context as "the perverse and systematic use of State titling mechanisms to incorporate lands into market circuits and profit from them".²¹ Both individuals and organised groups occupy and take possession of lands which lack any formal legal recognition and seek to obtain possession certificates from the regional agrarian agencies, even taking advantage of funds specifically earmarked for community land-titling to do so. In short, trafficking seeks to acquire land as private saleable property (and capital) through fraudulent means to 'legalise' landholdings and obtain and register formal property titles in contravention of the law. It is thus often closely linked to land speculation on the forest frontier and intertwined with the illegal economy (often where such lands are first dedicated to illegal uses prior to entering formal land markets). Any forest on the lands in question tends to be cleared. At this point, such possession certificates, which may subsequently be converted into individual land titles, may be sold on to commercial buyers. Given that most land-trafficking occurs in areas where road-building, infrastructure development and the presence of agribusiness and other companies are anticipated to boost the value of land prices, the traffickers may decide to wait until their asset accrues greater value. Where this process concerns (untitled) Indigenous territories, it results in both the dispossession and commodification of customary lands.



The Shipibo community Santa Clara de Uchunya have been fighting to reclaim their ancestral territory after 7,000 ha. of their forests were destroyed and converted to oil palm plantations. Credit: FECONAU



The oil palm plantation operated by Ocho Sur P has expanded dispossessing the community of Santa Clara de Uchunya (located at bottom right) of their forests, important hunting and fishing grounds and ancestral sites. Image from Google Earth.

2. EXPANSION OF THE PALM OIL SECTOR AND THREATS TO HUMAN RIGHTS DEFENDERS

While Peru is still far from being a leading producer of palm oil,²² it nonetheless ranks second only to Ecuador in terms of the high growth rate of the sector (7.22%).²³ Oil palm expansion is confined exclusively to the Amazonian region of the country. Since 2000, when the installation of oil palm plantations was declared to be in the national interest by Supreme Decree 01 5-2000-AG,²⁴ oil palm plantations expanded from 14,667 hectares to 86,623 has. by 2018 in the Ucayali, San Martín, Loreto and Huanuco regions of the Peruvian Amazon.²⁵ Peruvian palm oil producers association, the National Palm Oil Board of Peru (JUNPALMA), aims to expand the lands used for palm oil production to 250,000 hectares by 2028.²⁶ The Ucayali Oil Palm Competitiveness Plan 2016 – 2026 published by the Regional Government of Ucayali aims to increase the areas under cultivation in that region from 35,000 to 60,000 hectares.

According to figures from JUNPALMA, 41% of the currently planted area is used by large-scale, corporate-controlled plantations: 29% by the domestic corporation Grupo Palmas and 12% by the transnational Ocho Sur group. The remaining 59% is controlled by medium and small-scale producers.²⁷

It is estimated that the expansion of oil palm plantations has generated at least 31,500 hectares of direct deforestation since 2000,²⁸ the majority of this deforestation has been caused by corporate, large-scale palm oil producers, including Ocho Sur (previously Plantaciones de Pucallpa and Plantaciones de Ucayali)²⁹ and Grupo Palmas (including Palmas de Espino and Palmas de Shanusi).

2.A1 - MELKA/OCHO SUR GROUP IN UCAYALI

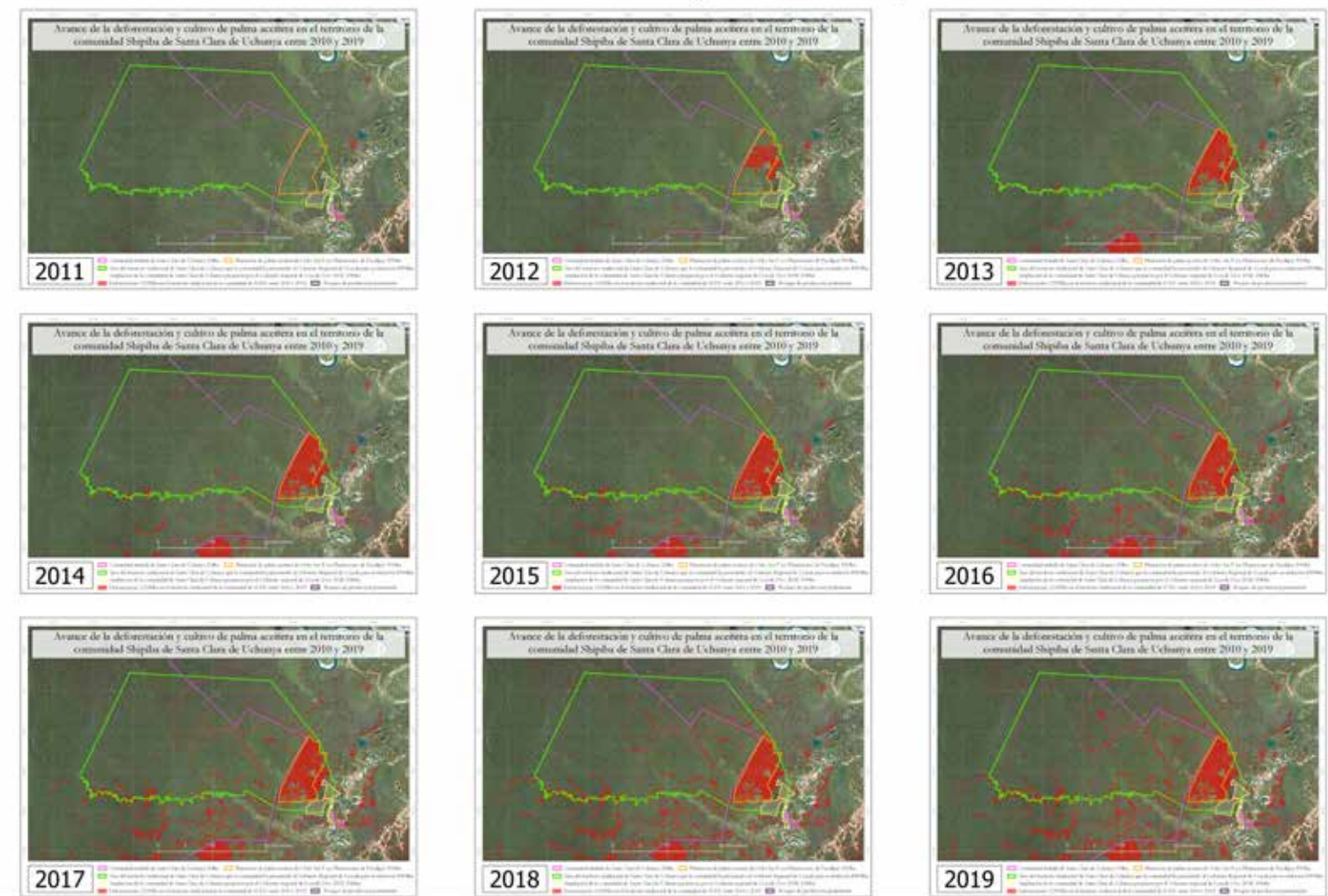
In the Nueva Requena district of Ucayali, the Ocho Sur P plantation has expanded illegally since 2011 at the expense of at least 7,000 hectares of mostly old-growth forest, dispossessing the Indigenous community Santa Clara de Uchunya of their ancestral lands, negatively impacting food security and destroying their way of life.³⁰

The company's presence has driven fierce competition for control over lands between groups of non-indigenous/mestizo settlers – many of whom come from other regions such as San Martín and Cajamarca – dedicated to land-trafficking,³¹ and exposed the Shipibo-Konibo Indigenous community to intimidation, threats and attacks.³²

Community members and leaders and allies who have made a stand to protect their territory against the spread of land grabbing and forest destruction have been subjected to verbal abuse, threatened and warned to abandon their homes, death threats, shot at on multiple occasions. These abuses and threats have prevented community members from moving through their territory. People who have asserted their right to freely access their traditional lands have been met by groups of men wielding machetes, sticks and firearms. Indigenous Shipibo land defenders have also been targeted and defamed by regional authorities and in regional press and media.

"I FEEL WORRIED, BECAUSE FIVE YEARS HAVE PASSED. IT'S BECAUSE OF CORRUPTION, I THINK, THAT THEY WON'T TITLE US ONCE AND FOR ALL; THEY JUST CONTINUE TO MESS US AROUND. BUT WE AS A COMMUNITY CONTINUE FIGHTING TO RECOVER OUR LANDS, FOR OUR CHILDREN."

Efer Silvano, community leader from Santa Clara de Uchunya



Deforestation in Santa Clara de Uchunya's territory

Examples of incidents which have occurred since 2014 include:

- January 1, 2014: Alleged land traffickers burned down the home of Huber Flores, his wife Nazalith Mozombite and son Carlos Antonio Flores Mozombite, taking advantage of the fact that they were out working. The family returned to find rubble. The attack was in retaliation for the refusal of the Flores Mozombite family to withdraw from the Community's ancestral territory.
- April 9, 2016: Six alleged workers of the Plantaciones de Pucallpa company, armed with sticks and machetes, threatened a group of community members, including community leader Carlos Hoyos Soria, as they were in the process of demarcating their ancestral territory. When the group returned home, they discovered that the road had been blocked by outsiders, who cut down trees to cover the path. Then they saw the workers and one of them, who could not be identified, said: "If you try to pass through here, along the same route you used to enter, you will be dead and die. If you try to come back here, we won't allow it. Anything can happen to any one of your leaders." The Indigenous group had to look for an alternative route to their Community, travelling for more than three days to reach home.
- May 27, 2017: During the demarcation process of approximately 750 ha of their lands, a delegation involving representatives of the Regional Directorate of Agriculture of the Regional Government of Ucayali (DRAU) and members of the Community were abruptly intercepted by about 400 people. One of the outsiders said: "If the authorities and the members of the Community try to enter here, then the blood will flow." When they returned to the village, the DRAU delegation and the members of the Community were intercepted again by another group of people, related to Plantaciones de Pucallpa/Ocho Sur P, such as Bernardo Evaristo Agurto Rojas and his two children. Agurto told them: "Do not pass a metre further, or the blood will flow."
- December 11, 2017: A delegation of 11 people (members of the Community, FECONAU and IDL), were investigating one of the deforested sectors in the Community's territory in order to gather evidence on the destruction of community forests. The delegation was shot at by armed actors and one member (Edinson Mahua from FECONAU) was injured. The perpetrators were subsequently questioned by community leaders and said they had claimed a possession certificate in the area, with support from the DRAU, and were waiting for it to be approved. They said they had orders to shoot and kill from unidentified bosses. Community leader, Carlos Hoyos Soria, called for action by local and national authorities, but they still have not guaranteed the security of the Community.
- July 7, 2018: Carlos Hoyos Soria and his brother Benjamín were attacked by three hooded subjects, who shot at them at close range. The brothers had been demarcating the territory of the Community when they found a new road, recently built by land traffickers, in an area known as "Tres Mil". The community members were shot at twice. Carlos ran about 30 metres before throwing himself on the ground. He was shot at again when he tried to run away with his brother. Fortunately, the land defenders were largely unharmed, although they suffered traumatic shock and, in Carlos's case, the dislocation of his right shoulder. Carlos, his wife and Benjamín took refuge for a few days in the nearby city of Pucallpa.

"Before, we had everything we needed. For us, our market was our territory. Now we can no longer walk for even an hour, because we are under threat. That's why I'm concerned, because tomorrow, in the future, what will our children eat? How are they going to feed their children? I recall how my mother and father fed us, and we can no longer do that. And it's going to be much worse for them, because now there's nothing. They're not even going to know what it is to turn a tree into a canoe, as is our custom. They're not going to know our medicines, because there are none left. Everything is being destroyed. Before, we ate well, we grew to be strong and fat, but now, what happens to our children? They suffer from diarrhoea, vomiting, dehydration."

Luisa Mori Gonzalez, President of the Mothers' Club and leader from Santa Clara de Uchunya

In addition, the criminal and environmental prosecutors in Ucayali investigating the Regional Government officials and companies implicated in land grabbing in the region also report being subject to threats and attempts at criminalisation.³³

Corporate Ownership: structures of impunity

The Ocho Sur P plantation expanded at the same time as another plantation immediately to the south, covering more than 5,700 hectares, operated by sister company Plantaciones de Ucayali (now Ocho Sur U).

Both plantations appear to form part of a complex web of companies which have used secrecy rules in overseas jurisdictions to avoid accountability for their activities. This corporate web has come to be known in Peru as the "Melka Group" of agribusiness companies, named after their director, Czech-US businessman, Dennis Melka. Melka gained notoriety in Peru and globally during recent years for the industrial-scale deforestation and rights violations associated with his oil palm and cacao plantations in Ucayali and Loreto.³⁴ On 8 August 2019, following a six-year investigation, a court in Loreto issued prison sentences and a 4.6 million USD fine to the former managers of one of these plantations, Cacao del Peru Norte SAC (now Tamshi SAC) for illegal deforestation in the Loreto region.³⁵ An additional case being investigated by the same prosecutor is set to target Melka himself.³⁶

Ocho Sur P is currently being investigated by the Specialised Prosecutor for Organised Crime in Lima. The corporation appears to be linked to Peruvian Palm Holdings Ltd, a company registered in Bermuda since May 2016, of which Melka was listed as one of the serving directors until mid-2020.³⁷ Other directors of Peruvian Palm Holdings include principals and partners from several US-based private equity firms specialising in agribusiness investments, including Anholt Services (USA) Inc. and AMERRA Capital Management LLC.³⁸ The company was incorporated in Bermuda several weeks after Plantaciones de Pucallpa was issued with a stop work order by the Roundtable for Sustainable Palm Oil (RSPO), following the complaint lodged by Santa Clara de Uchunya, and just nine days before the community presented a constitutional lawsuit against Plantaciones de Pucallpa and the Regional Government of Ucayali demanding the restitution of their ancestral lands.³⁹

Connecticut-based Anholt Services (USA), Inc. is wholly owned by the Bermuda-based Kattegat Trust,⁴⁰ a family office-based philanthropic foundation. Anholt previously provided indirect equity and direct debt investments to the Melka plantations in Ucayali. According to a 2014 press release,⁴¹ Southern Harvest LP, an Anholt subsidiary, "structured and led a bond facility for United Oils, Limited (UOL). UOL is a leading oil palm plantation owner, headquartered in Pucallpa, Peru. Anholt has been an indirect minority equity investor in United Oils since 2012 and was approached by UOL to design a creative and mutually beneficial structure to enable the company to continue its sustainable development and expansion."



As Grupo Palmas has significantly expanded its oil palm estate in the Peruvian Amazon during the past fifteen years, communities have denounced the social and environmental impacts of the operations of Palmas de Shanusi S.A. and Palmas del Oriente S.A. in the Huallaga, Shanusi and Caynarachi valleys on the San Martin/Loreto border. Imagery from Google Earth.

United Oils Ltd. SEZC was the original parent company of both of Melka's plantations in Ucayali and was domiciled, like Melka's other company, United Cacao Ltd, in the Cayman Islands. UOL went into a court liquidation in July 2016⁴² – a few weeks after Peruvian Palm Holdings Ltd. was set up – and around the time of the auction of Plantaciones de Pucallpa and Plantaciones de Ucayali's plantations to Ocho Sur P and U respectively.

New York-based AMERRA is a private equity firm established in 2008, which manages \$2.3 billion in private debt and private equity agribusiness investments. AMERRA reports having initially made private debt investments in palm oil in Peru in September 2015. As of June 2020, AMERRA included Ocho Sur in its online selection from its portfolio of private equity investments, which it described as "Peru's second largest palm oil producer comprised of 10,000 hectare plantation and crushing mill".⁴³

Whilst the use of complex corporate structures and secrecy jurisdictions such as the Cayman Islands and Bermuda have made it very difficult to trace the owners and financiers of Ocho Sur, there nevertheless seems to be an ongoing connection between the plantations in Ucayali, Peruvian Palm Holdings Ltd., Anholt Services (USA), Inc. and AMERRA. This evidence suggests that these companies and international investors – based in Bermuda and the US respectively – continue to be implicated in palm oil supply chains in the Peruvian Amazon.

From the plantation to the market: Peruvian buyers of Ocho Sur's palm oil

Santa Clara de Uchunya and their allies filed an initial formal complaint to the RSPO against Plantaciones de Pucallpa in late 2015. In April 2016, the RSPO Complaints Panel issued a preliminary decision, ordering the company to suspend its operations. The company then attempted to evade responsibility by engaging in a series of spurious arguments in which it denied the land rights of the community and claimed the lands had been deforested prior to their acquisition. It was also around this time that the aforementioned auction of company assets took place, in July 2016, when the plantations were transferred to their current operator, Ocho Sur P. Eventually the company withdrew from the RSPO membership in October 2016, after its arguments were shown to be untenable, in order to avoid sanction.⁴⁴ The RSPO Complaints Panel subsequently issued its own condemnation of the company's operations, highlighting its violation of strict RSPO rules prohibiting the clearance of primary forest.

In 2018, it emerged that palm oil produced by Ocho Sur P was being acquired for processing by several different mills, including Industrias Palm Óleo S.A.C., Oleaginosas Amazónicas (OLAMSA) and Oleaginosas del Perú S.A. (OLPESA), a member of the global "sustainable" palm oil body, the Roundtable for Sustainable Palm Oil (RSPO), since April 2012.⁴⁵ Around this time, Peru's largest consumer goods company, Alicorp, confirmed that they purchased around 4,500 tonnes of crude palm oil monthly from the three millers in question⁴⁶ Alicorp, which forms part of the Peruvian business conglomerate Grupo Romero, has been a RSPO member since January 2017.

Santa Clara de Uchunya, together with allies, brought complaints against OLPESA and Alicorp to the RSPO in March 2019. Whilst the RSPO Complaints Panel agreed to undertake an investigation into OLPESA, it rejected the complaint against Alicorp following an initial diagnosis, despite clear evidence that Alicorp had violated its Code of Conduct. The RSPO's stated reasons for the rejection included that Alicorp is neither a grower nor a miller; the RSPO's Supply Chain Certification Standards "allows for mixing of RSPO and non-RSPO certified oil palm products at any stage in the supply chain provided the overall site quantities are controlled"; and that the events involving Plantaciones de Pucallpa "are too remote to draw a causal link between those events and [Alicorp]".⁴⁷

This decision highlights significant flaws in the RSPO complaints system, because it allows members of this commodity certification scheme to purchase palm oil from sources which the RSPO has already condemned – such as Ocho Sur P, which still supplies RSPO member Alicorp. At the same time, the existing RSPO framework permits the de facto exclusion of processing companies from bearing any responsibility for sourcing palm oil linked to deforestation and human rights violations. This in turn raises the question of the RSPO's capacity to hold accountable actors in the supply chain when aggressive oil palm expansion comes at the cost of Indigenous Peoples' forests and ways of life.

Subsequently, in June 2019, Santa Clara called upon Norges Bank Investment Management (NBIM) and Handelsbanken Fonder AB to use their influence as shareholders to insist that Alicorp remove Ocho Sur P from its palm oil supply chain. The community also requested that both banks adopt stringent procedures to prevent any further sourcing of commodities linked to human rights violations and deforestation in the Peruvian Amazon. NBIM issued a formal response highlighting that it had divested from 32 palm oil companies between 2012 and 2017, although it does not comment upon individual companies, whilst Handelsbanken Fonder indicated that it had started to raise these issues directly with Alicorp.⁴⁸

2.A.2 GRUPO PALMAS IN SAN MARTIN AND LORETO

Grupo Palmas, like Alicorp, also forms part of the Peruvian conglomerate Grupo Romero. The Grupo Romero was founded in 1874 and today includes 50 companies in seven countries active in the agricultural, food and industrial processing, energy, logistics and shipping and business services sectors.⁴⁹ In terms of revenues, Grupo Romero is the most powerful business conglomerate in Peru: in 2013, it recorded sales of upwards of \$5.3 billion USD, equivalent to 3% of Peruvian GDP.⁵⁰ It also controls a series of companies operating in the real estate, textiles, banking, financial services, insurance and pensions sectors, including Peru's largest financial company, Credicorp, which in turn holds the country's main bank, the Banco de Crédito del Perú.⁵¹

Grupo Palmas currently has 25,000 hectares of land under palm oil production.⁵² As well as the parent company of the group, Palmas del Espino S.A., an RSPO member since 2016, Grupo Palmas also includes the palm oil producers Palmas del Shanusi S.A. and Palmas del Oriente S.A. as well as the processing companies Industrias del Espino S.A. and Industrias del Shanusi S.A.⁵³

Grupo Palmas was the first private company to install a plantation in the Peruvian Amazon: in Palmawasi, in the Tocache area, covering around 13,000 hectares. Since the beginning of its development in 1979, Grupo Palmas has gradually achieved full vertical integration of production and commercialisation, with the production of crude palm oil, industrial products, biodiesel as well as consumer goods.⁵⁴

Oil palm expansion on the forest frontier was inhibited during the 1980s and 90s due to the armed internal conflict, narco-trafficking and a combination of political and economic crises; all of this was compounded by the remoteness of the region as well as the withdrawal and absence of State institutions during Peru's neoliberal turn.⁵⁵

Despite this temporary lull in the expansion of oil palm plantations, Grupo Palmas has significantly expanded its oil palm estate during the past 15 years. In 2006 and 2007, Palmas de Shanusi S.A. and Palmas del Oriente S.A. acquired around 10,000 hectares of forest lands from the Peruvian Government in order to establish new oil palm plantations close to the newly constructed Tarapoto-Yurimaguas highway, on the border between the San Martin and Loreto regions. The legality of this land

“THIS IS NOT DEVELOPMENT, SO MUCH AS THE DESTRUCTION OF WHAT GENUINE POSSIBILITIES WE PEOPLES HAVE TO GENERATE OUR OWN DEVELOPMENT... WE HAVE BEEN AFFECTED AND WE CONTINUE TO BE AFFECTED, THOUGH NEITHER THE STATE NOR THE COMPANIES ASSUME RESPONSIBILITY.”

Open letter by 14 Indigenous and rural communities impacted by Grupo Palmas' operations in San Martin and Loreto, 2018

adjudication has been heavily disputed, by government officials, local people and environmental organisations; most recently in 2018, a coalition of 14 affected communities from the Huallaga, Shanusi and Caynarachi valleys issued an open letter in which they questioned the role of MINAGRI and its decentralised regional offices, as well as the validity of the original environmental impact assessments obtained by Grupo Palmas.⁵⁶

According to independent analysis, Grupo Palmas proceeded to clear 6,974 hectares of primary forest between 2006 and 2011 within both project areas. Added to this was the clearing of an additional 9,840 hectares of primary forest immediately surrounding the projects, up until 2015; even more forest was destroyed around the plantations than within them, and most of these lands were also subsequently converted to large-scale plantations. In total, Grupo Palmas' development has resulted in the clearing of over 16,800 hectares of primary forest for large-scale oil palm plantations within and around Palmas del Shanusi and Oriente.⁵⁷

Investigations by environmental prosecutors gathered evidence from farmers highlighting the connection between this additional deforestation and Grupo Palmas, who continued to accumulate lands through irregular means, including acquiring individual land holdings from neighbouring peasants who claim they were pressured to do so.⁵⁸ At the same time Grupo Palmas claimed that there was no primary forest in order to avoid the need for deforestation permits and no environmental impact assessments were completed for the oil palm expansion which occurred from 2012 onwards. It is reported that the individuals who bought the lands included a legal representative of Grupo Palmas and two “front men”.

Sales contracts were signed in the offices of Palmas de Shanusi and company equipment was used to clear the lands. Local sources told the authors of this report that as of 2019, Palmas de Shanusi was attempting to formalise ownership over lands which it acquired from these “frontmen” via “supplementary land titles” (“títulos supletorios”) during the preceding years; the original owners of these lands did not oppose this from fear.⁵⁹

The expansion of these plantations has resulted in serious harmful impacts on community rights and had severe social and ecological impacts on neighbouring communities: the aforementioned open letter issued by the coalition of 14 communities denounced how the Peruvian Government's promotion of oil palm plantations, rather than recuperating degraded soils as the policy is supposed to, has in reality resulted in the clearance of mature forests, wetlands, marshes and important local water sources.⁶⁰ The coalition has called for these and a series of further environmental damages to be investigated, including the destruction of wetlands in Jorge Chavéz and San Pedro de Mayrujay and extensive deforestation, and the restitution of communities' access to their lands, which is blocked by company security.

As of early 2019, there were at least two legal actions ongoing against Palmas de Shanusi and Oriente filed by environmental prosecutors for crimes against forests; both cases had been admitted in the court of first instance in Yurimaguas.

It is important to note that due to legitimate community resistance, Grupo Palmas' attempts to expand its oil palm plantations beyond these areas have so far failed to materialise: the proposed Palmas de Caynarachi

plantation to be installed in Barranquita in the Caynarachi valley met with a series of barriers, including protests from local people. As a result, Grupo Palmas terminated the plantation development.⁶¹ Grupo Palmas went so far as to complete environmental impact studies for four new plantations, covering a total of 34,295 hectares in the northern Peruvian Amazon: Maniti, Santa Cecilia, Tierra Blanca and Santa Catalina, which the NGO Environmental Investigation Agency (EIA) calculated would result in the deforestation of nearly 23,000 hectares of old growth forest.⁶² Alongside community protests, these controversial projects were also the subject of a strong pushback by civil society, as well as reported pressure from supply chain buyer, Swiss food giant Nestlé.⁶³ All these factors worked together to finally end in the abandonment of the company's land clearance and plantation plans.

In response to this public pressure, Grupo Palmas published its “No Deforestation, No Peat, No Exploitation” (NDPE) policy in April 2017.⁶⁴ This policy covers its palm oil and cocoa operations, making it the first Peruvian company to signal its shift towards a zero-deforestation approach.⁶⁵ The policy includes commitments to upholding human rights, including protecting and respecting the customary rights of Indigenous Peoples and local communities, including their right to Free, Prior and Informed Consent (FPIC) and their property rights recognised in international conventions ratified by Peru. Moreover, Grupo Palmas commits to using internal procedures for the peaceful resolution of any conflicts with those affected by their operations.

As of 2019, in line with these commitments, Grupo Palmas signalled its intentions to achieve growth through the expansion of a new smallholder scheme, “Cadenas Productivas”, in the area surrounding its Palmawasi project in the Tocache valley.⁶⁶ Such smallholder schemes generally involve the extension of credit to enable smallholders to purchase the necessary inputs to be able to produce oil palm which they then sell to the company running the scheme.

According to data from 2018, international buyers of Grupo Palmas' palm oil included Cargill USA, Camilo Ferron Chile S.A., Bunge USA and Fuji Oil.⁶⁷

2.A.3 PALMAS DEL HUALLAGA IN SAN MARTIN

There has also been large-scale oil palm expansion in San Martin due to the operations of Palmas del Huallaga S.A.C., which currently holds around 1,900 hectares of lands.⁶⁸ Local reports suggest irregularities in the way these lands were acquired by the company, pointing to possible corruption in the Regional Government of San Martin as an enabling factor.⁶⁹

The area covered by the expanding plantation was subsequently identified as a deforestation hotspot in 2017,⁷⁰ and the following year people from the nearby Kichwa community of Puerto Mercedes denounced the clearance of forests by fires which raged for weeks on end.⁷¹ Puerto Mercedes was one of a dozen communities from the Bajo Huallaga to declare an “environmental and territorial emergency” in September 2018 due to the severity of these impacts.⁷²

2.A.4 OTHER AGRO-INDUSTRIAL COMMODITIES

During recent years, the Peruvian Amazon has witnessed extensive deforestation for the expansion of agro-industrial production of commodities such as beef, papaya, cacao and rice. The Indigenous territories of the Ashaninka, Yanasha and Shipibo-Konibo peoples within the El Sira Communal Reserve have been impacted by the clearance of forests for agriculture and pasture for cattle, as well as illegal mining.⁷³

Indigenous territories in Madre de Dios have also experienced intense agricultural expansion (as well as mining, see below) along the route of the Interoceanic Highway, for cash crops such as papaya.⁷⁴

Local small-holders and farmers in Tamshiyacu, Loreto, report being pressured into selling their lands to another company belonging to the Melka Group, Cacao del Peru Norte S.A.C. (now Tamshi S.A.C.).⁷⁵

At the same time, there has been a significant expansion of agro-industrial rice production in Ucayali, both in the Imiria and Nueva Requena districts. In the case of the latter, competition for land to increase rice production turned deadly in September 2017 with the torture and murder of six settlers.⁷⁶

3. LOGGING AND THE TIMBER TRADE

Illegal timber extraction is rampant in the Peruvian Amazon and concentrates significant economic and political power across the region, with potential sales of laundered timber estimated to be worth at least \$112 million USD.⁷⁷ In 2018, Peru's independent forest watchdog OSINFOR stated that 67% of the timber reportedly from the harvest areas it had inspected during 2016 – 2017 was "unauthorised".

Moreover, a recent investigation by Global Witness found that between 2008 – 2018, the majority of timber inspected by OSINFOR from the three top-producing regions – 63% of timber from Loreto, 60% from Ucayali and 36% from Madre de Dios – came from harvest areas which had either been annulled or whose owners/legal representatives had been fined or added to OSINFOR's "red list" for violating forest laws.⁷⁸

A series of investigations have detailed how loggers use a variety of channels to launder and pass off huge quantities of illegally logged timber as legal, including: using harvest areas with the weakest jurisdictions and where OSINFOR has limited regulatory powers – typically those intended to be managed by local communities; declaring fake tree locations while illegally cutting down trees elsewhere (according to Global Witness, 21%, or at least 134,000, of all the trees ever claimed to have been inspected by OSINFOR turned out to be non-existent); exploiting the loopholes provided by agricultural permits and forestry plantations to launder timber; colluding with corrupt government officials willing to approve falsified documents, including forestry regents and representatives of the Forestry and Wildlife Authority (SERFOR) and its regional offices, including those officials responsible for verifying forest management plans on-site and those who grant forest transport permits.⁷⁹ It is common for illegal logging to be closely linked to other illicit activities, including land-trafficking, illegal mining and narcotics production. A study by Peru's Financial Intelligence Unit, a government entity tasked with fighting money laundering, found that in 2015 and 2016 the timber sector mobilised annually around 700 million Peruvian soles (equivalent to more than 200 million USD) in illicit assets.⁸⁰

The demand for timber and lands for agro-industrial expansion continues to exert fierce pressure on Indigenous territories, both titled and untitled. Access to forests for logging is directly facilitated by the expansion of the road

network and rough logging roads – whether these roads are constructed legally or illegally – driven by regional governments and with the support of powerful logging and agribusiness interests. As roads open up areas to forest degradation, they also open up communities to risk of conflict with aggressive, and often armed, illegal loggers and their henchmen.

In May 2013, Ashaninka leader, Mauro Pío Peña, was killed outside of his home for standing against illegal logging and drug trafficking in Junín. Seven years earlier, the timber company Productos Forestales Balarín had entered the territory of his community, Nuevo Amanecer Hawaii, along with a group of settlers and henchmen who burnt down people's homes and forced them to leave. The situation was exacerbated by the fact that some of the settlers were then able to acquire individual property titles over the community's untitled lands from the government department for the formalisation of informal property (COFOPRI).⁸¹

In September 2014, community leaders Edwin Chota, Jorge Ríos, Leoncio Quintisima and Francisco Pinedo from Alto Tamaya-Saweto were brutally murdered by illegal loggers.⁸² Months before he was assassinated, Chota had denounced the Brazilian logger Eurico Mapes, the legal representative of timber company Eco Forestal Ucayali S.A.C., Juan Carlos Estrada Huayta, and others for illegal logging within Saweto's ancestral lands, where the company held a logging concession.⁸³ In the years since, women community leaders – including Ergilia Rengifo Lopez, Julia Pérez Gonzales, Lita Rojas Pinedo and Diana Rios Rengifo – warn that death threats have continued against them. In October 2019, prosecutors charged five men over the killings of the four Indigenous defenders: loggers Eurico Mapes, Josimar Atachi and Segundo Atachi are the alleged killers, and the assassinations are



A sign in a Kichwa community in San Martín whose traditional lands remain untitled reads, "No to indiscriminate logging in the forest." Credit: FPP/Tom Younger

believed to have been ordered by the timber executives Estrada and Hugo Soria (representatives of Eco Forestal Ucayali S.A.C. and Forza Nuova E.I.R.L respectively).⁸⁴

In February 2017 and again in April of that year, more than 20 Ashaninka families from the community of Meantari in the Ene valley were forced off their traditional lands by an armed group of illegal loggers, called the Asociación Señor de Productores Agroforestales y Ganadero los Reubicados Nuevo Luren - Somaveni (Río Ene).⁸⁵ On both occasions, the community was only able to return after the land invaders were dislodged by the Ashaninka people's self-defence committees.⁸⁶ Legal actions taken by local Indigenous federation, Central Asháninka del Río Ene (CARE) and Meantari against members of the Nuevo Luren group and logger Abraham Taguada Palma have proceeded slowly, not least because the environmental prosecutor in charge of the investigation, Julio Dávila Puño, stated that it was too dangerous to carry out field investigations in the territory due to the presence of narco-traffickers.⁸⁷

In September 2019, Ashaninka leader and president of CARE, Ángel Pedro Valerio, reported receiving death threats from armed groups driving illegal logging and

narco-trafficking in the territories of Meantari, as well as Catungo Quempiri, San Ene, Yaviro and Patisiri. Valerio stated that this destruction - which included 1,500 hectares of coca cultivation in the lands of Catungo Quempiri alone - was taking place within the communities' titled territories.⁸⁹ The Ashaninka leader also reported that these mafias work with the remaining leaders of the Sendero Luminoso armed group.⁹⁰ Valerio is currently seeking personal security guarantees ('garantias personales') from the Ministry of the Interior.

Since 2017, community leaders from the Kichwa community of Santa Rosillo de Yanayacu in the Bajo Huallaga have faced threats, beatings and kidnappings for opposing the activities of illegal loggers on communal lands.⁹¹

Although most Peruvian timber is reportedly for the domestic market, several foreign buyers play a significant role: China (45% of the export market), Mexico (16%), the United States (13%) and the European Union (7%) are the top four export destinations.⁹²

"SO MANY YEARS SUFFERING, I SEE NO RESULTS. WHAT HAVE WE RECEIVED? PHYSICAL AND PSYCHOLOGICAL ABUSE. AS A RESULT, MY BROTHER IS SICK AND MY WHOLE FAMILY ARE SUFFERING FROM MENTAL HEALTH PROBLEMS. FOR THE PERUVIAN STATE, WITH THE CORRUPTION THAT EXISTS TODAY, INFORMALITY BEATS LEGALITY. IF WE ASSERT OUR LEGAL RIGHTS, THEY DON'T BELIEVE US. ILLEGALITY WINS OUT. THAT'S THE COUNTRY WE LIVE IN."

Quinto Inuma Alvarado, leader from Santa Rosillo de Yanayacu



Community members from the Kichwa community of Anak Kurutuyaku survey the destruction wrought by loggers in their communal territory, which the Regional Government of San Martín has still yet to title. Credit: Anak Kurutuyaku

4. VIOLENCE LINKED TO NARCOTICS PRODUCTION AND DRUG TRAFFICKING

Peru has witnessed a sharp increase in illicit commercial coca growing and cocaine production in recent years.⁹³ Whilst the bulk of cocaine production in Peru continues to be focused in the Apurímac, Ene and Mantaro valleys (known in Peru as VRAEM), reports both from local people and government officials suggest that in recent years there has been a dramatic expansion of production towards frontier regions, closer to Peru's national borders with Colombia, Brazil and Bolivia.⁹⁴

Coca cultivation for cocaine is also re-establishing itself in areas where it had previously been largely eradicated, such as the Huallaga valley. There is evidence to suggest that in regions such as Ucayali, narcotics production and agribusiness expansion, such as for palm oil, continue to be linked as commercial coca plantations are found adjacent to or even within oil palm plantations; or are located on cleared lands prior to oil palm plantings.⁹⁵

The Tikuna community of Buen Jardín de Callarú located in the Ramón Castilla district of Loreto, near the trilateral-border with Brazil and Colombia, have been experiencing threats and invasions of their lands for illicit coca production since 2018.⁹⁶ Kichwa communities in the Bajo Huallaga of San Martín face the challenge of protecting their territories amidst invasions by armed groups and Shipibo communities in Ucayali face similar threats, as detailed below.

The Federation of Native Communities of Ucayali (FECONAU) report that problems relating to the presence of illegal coca crops in the Abujao, Callería and Utuquinía river basins have been increasing considerably, along with threats to human rights defenders. Interventions led by the police and the armed forces have failed to involve other key actors, including the Ministry of Environment, Ministry of Culture and the Human Rights Ombudsman. Furthermore, actions such as the destruction of maceration pits, coca plants and camps only exacerbate the dangers facing communities, as the criminal groups

target reprisals against the inhabitants of Awajún and Shipibo communities such as Saasa, Flor de Ucayali, Chachibai and Korin Bari, who experience death threats and warning shots fired in the air.

For instance, in June 2018, the police and navy destroyed maceration pits in the Callería river basin, adjacent to Chachibai and Korin Bari. After this action, which generated panic and anxiety in the Indigenous populations, the authorities recommended that local people leave the area in the face of possible reprisals by criminals, giving no further response or solution to the problem generated. Chachibai and Korin Bari became ghost communities during July and August, because the entire population fled to the city for fear of reprisals from drug traffickers who often refer to the community members as "snitches." Communal authorities have nevertheless decided to face these risks by continuing to enter their communities, since they consider that long-term abandonment creates other problems, such as the invasion of territories, illegal logging and the further expansion of coca cultivation. FECONAU report that the State authorities respond with prolonged silence and the communities must face these problems alone, putting their wellbeing and integrity at serious risk.

In August 2019, communities such as Saasa and Flor de Ucayali reported the presence of uncontacted Indigenous Peoples, who are increasingly approaching the villages in search of food and experiencing displacement apparently by the increase in drug trafficking within their lands. State responses in this area follow the same pattern: uninformed actions and subsequent retaliation by drug traffickers. In this instance, authorities from Flor de Ucayali complained to government authorities about these uncoordinated actions, to which they responded by suggesting that the community was complicit in these illegal activities. Police authorities accuse communities of being complicit in drug trafficking, whilst drug traffickers accuse them of passing

on information about their activities to the police. A common trend is repeated for the Indigenous inhabitants: caught in the middle, putting their safety at serious risk, with no one to ensure their protection.

The use of violence by armed groups sows anxiety and fear in Indigenous territories and is frequently used as a means to dispossess communities of their lands and natural resources and silence dissenting voices.⁹⁷ Fear of possible reprisals and justified concerns about the limited effect of poorly-planned government interventions means that many communities suffer such situations with limited or no options for redress.

"I'VE BEEN TOLD THAT THE COCA-PRODUCERS HAVE GOT ORGANISED AND THAT THEY'RE AFTER THE HEADS OF THE PRESIDENT OF CARE AND THE PRESIDENT OF OUR SELF-DEFENCE COMMITTEE, BECAUSE WE ARE THE ONES SPEARHEADING THE ERADICATION OF THE COCA CROPS"

Ángel Pedro Valerio, Ashaninka leader and President of Central Ashaninka del Río Ene.⁹⁸



Shipibo community members monitor deforestation in Flor de Ucayali, where illicit coca cultivation has spiked in recent years.

Credit: FECONAU

5. RESOURCE CONFLICTS AND THREATS TO LAND DEFENDERS STEMMING FROM THE MINING SECTOR

Mining for metals and minerals is most widespread in the Andean region, where large-scale projects such as Conga in Cajamarca, Tintaya-Xstrata in Espinar, MMG Las Bambas - Cotabambas and Tía María in the Tambo valley have been associated with human rights violations against local communities and adverse ecological impacts. At the same time, small and medium-scale mining operations pose a threat to the integrity of Indigenous territories in all regions of the Peruvian Amazon, though most notably in the case of illegal gold-mining in Madre de Dios, which has claimed at least 80,000 has. of forest lands.

In June 2018, miners attacked Harakbut people from the Indigenous community of Masenawa, threatened to kill them, and burnt out four of their canoes for opposing their operations in the lands around the Amarakaeri communal reserve.⁹⁸ This incident took place following an intervention earlier that month by the Environmental Prosecutor and the National Police Force to halt the miners as they were clearing forest.

The aggressive spread of mining has also claimed lives. On 19 November 2015, two armed, hooded men entered the home of Alfredo Vrako, a local activist, and shot him dead. Vrako had for many years been denouncing the activities of illegal miners in La Pampa, the epicentre of illegal mining in Madre de Dios.⁹⁹

This violence has also been directed towards State representatives: in September 2017, police officer Jhony Alfredo Cáceres Gonzales was killed and three of his colleagues injured during an ambush led by eight men who opened fire on the group as they were returning from an inspection in the Tambopata National Reserve.¹⁰⁰ A member of the management committee

of the Tambopata National Reserve, Demetrio Pacheco Estaca, has also received threats from loggers who have invaded his reforestation project; in March 2017, invaders threatened his son at gunpoint and days later Demetrio found a bullet on the kitchen table.⁰¹

In 2019, the Peruvian Government began a large-scale intervention, Operation Mercury, to dislodge illegal miners from the Pampa.¹⁰² However, reports indicate that this intervention has in fact resulted in increased pressure on Indigenous territories as the miners seek new frontiers for extraction, with at least 12 Indigenous communities under direct threat from miners, including the Amahuaca community of Boca Pariamanu.¹⁰³ Indigenous leaders also express concerns that whilst public funds are being used to address the situation in the Pampa, Indigenous communities' own initiatives to protect their territories remain unsupported.¹⁰⁴



6. HYDROCARBONS EXTRACTION AND HARMS TO COMMUNITIES AND ENVIRONMENTAL DEFENDERS

Half a century of oil extraction has exerted severe impacts on Indigenous territories in the northern Peruvian Amazon, particularly in the Corrientes, Marañon, Pastaza and Tigre river basins,¹⁰⁵ as well as some 800 communities who live along the route of the North Peruvian pipeline.

In addition, the Camisea gas project – one of the largest energy projects in the country – operates on Indigenous lands, including the Kugapakori Nahua Nanti Reserve, home to Indigenous Peoples living in isolation and initial contact.

Severe environmental contamination has had serious impacts on local people's health and wellbeing: a 2018 government study found that people from nearly 400 affected communities in the northern Amazon exhibited dangerous levels of lead, cadmium, mercury and other heavy metals in their bodies,¹⁰⁶ while a leaked government study found mercury poisoning amongst Nahua people living near to Camisea.¹⁰⁷

Historically, hydrocarbons extraction in the Peruvian Amazon has proceeded without taking into account the human rights of the affected Indigenous Peoples and communities. Rather than seeking to obtain their free, prior and informed consent, companies have frequently attempted to manipulate Indigenous Peoples, with the State's support, fomenting divisions within and between communities. This has been the case with Repsol's exploitation of Lot 57 in the territory of the Caquinte people in the southern Amazon, who until very recently had only sporadic contact with outsiders. Despite the community's initial rejection of gas extraction on their lands, Repsol and the State were able to eventually impose the project through a mixture of pressure, misinformation and their superior position of power.¹⁰⁸ In the case of Lot 64 in the northern Amazon, hydrocarbons company Talisman was accused of fuelling conflict between affected Achuar communities before later abandoning its operations in the area following sustained social protest.¹⁰⁹

Indigenous HRDs and communities in the northern Amazon who have protested over the systematic violation

of their human rights and destructive environmental practices by Pluspetrol have experienced criminalisation, most notably in the emblematic case of Andoas in 2008. A peaceful occupation of company facilities and an airport by Kichwa and Quechua Indigenous HRDs was subsequently met with force by the National Directorate of Special Operations of the National Police; one police officer died under unclear circumstances and around 50 Indigenous HRDs were detained and held in the company compound. 21 Indigenous HRDs were subsequently imprisoned and accused by Pluspetrol of qualified homicide, rioting, violence and resistance to authority, aggravated robbery, serious injuries and illegal possession of weapons. During the ensuing legal battle, the company refused to recognise the legitimacy of the communities' protests and used the full force of the law to try to prevent community dissent. The Indigenous defenders were eventually found innocent by the Supreme Court after having spent months and even a year in prison.¹¹⁰

On 17 April 2019, Cristian Javá, an Indigenous Urarina youth and environmental monitor for his community, was killed and five other community members wounded in an ambush set in the territory of his community, La Petrolera, by land invaders. This incident came after months of threats, which the community had reported to the prosecutor in the city of Nauta, to no response. Local Indigenous federation, the San Pedro of Tipishca Cocama Association for Development and Conservation (ACODECOSPAT), reported that land invasions in the Chambira and Patoyacu river basins were being driven by the economic interests of companies who were positioning themselves to implement "development" projects, such as sanitation systems, agreed upon by the State and Pluspetrol. ACODECOSPAT also attributed responsibility for attacks on the oil pipeline and the resultant oil spills to the very same companies tasked with remediation.¹¹¹

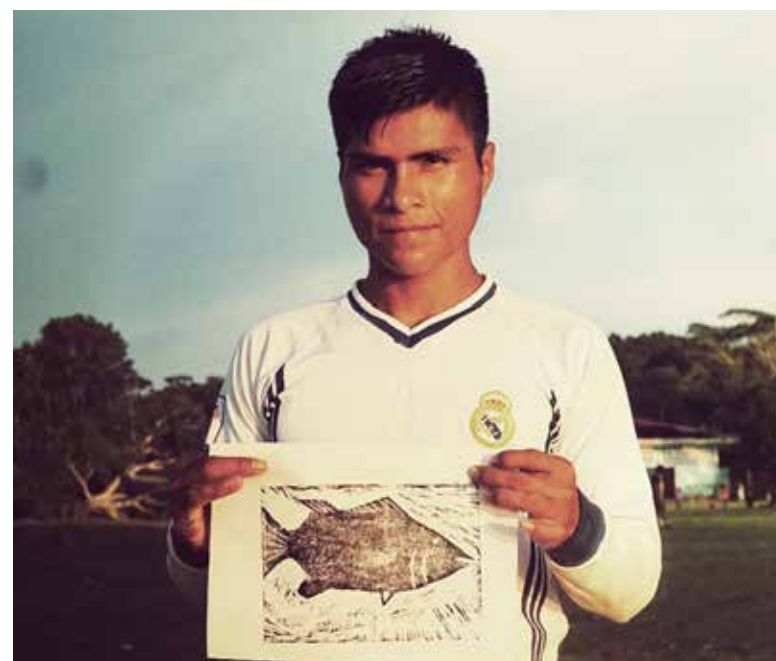
7. VIOLENCE AND CONFLICT LINKED TO LARGE-SCALE INFRASTRUCTURE PROJECTS

According to Peru's National Forestry and Wildlife Authority (SERFOR), roads constitute one of the most important catalysts for deforestation (in turn a key driver of land conflicts and human rights abuses), as they open up previously isolated community forests to extraction and exploitation by outsiders and third parties.¹¹²

In the same sense, the expansion of the road network exposes Indigenous territories to significant pressures, by increasing the financial value of land, making the production of certain commodities more commercially viable and generating competition for control over lands and resources, catalysing the situations outlined above.

Road-building takes place both legally and illegally: a case of the former would be the Southern Interoceanic Highway which connects Madre de Dios and Brazil; cases of the latter include unauthorised roads built within the Manu National Park in Madre de Dios, the Satipo-Atalaya highway, as well as roads in the far north-east of Loreto, close to the triple frontier with Brazil and Colombia, crossing the territory of the Yaguas people. Nevertheless, where roads are constructed without local people's consent, the effects are similar.

In addition, another infrastructure project in development which threatens to heighten pressure and threats to Indigenous territories is the Hidrovía Amazónica project, which aims to re-engineer over 2,600 km of four of the main rivers of the Amazon basin – the Huallaga, Marañon, Ucayali and Amazonas – to facilitate industrial shipping routes connecting Brazil with the Pacific via Peru. If it goes ahead, this project will directly impact at least 424 Indigenous communities.¹¹³



Urarina youth and community environmental monitor, Cristian Javá, was killed in April 2019 during an ambush by land invaders.

Credit: ACODECOSPAT

8. UNDERLYING DRIVERS OF REPRESSION, INSECURITY AND VIOLENCE AGAINST HRDS

Despite the existence of land-titling initiatives in the Peruvian Amazon since the 1970s, the vast majority of ancestral Indigenous territories – at least 20 million hectares according to the calculations of AIDESEP, Peru’s national Indigenous peoples’ organisation¹¹⁴ – remain without any legal recognition or State-issued land titles. This 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.

Contrast the obstacles faced by Indigenous Peoples in obtaining title over communal property with the relative ease with which third parties can acquire and register private property – according to the World Bank, this procedure requires just 5 steps and an average of 7.5 days to complete.¹¹⁵

Amazonian Indigenous Peoples identify the State, and particularly the Ministry of Agriculture (MINAGRI) and its regional agrarian agencies, as the principal drivers of land-grabbing of their territories and related land 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 their territories.¹¹⁶

This includes the lack of safeguards for Indigenous Peoples’ lands which remain untitled: as highlighted by the UN Special Rapporteur for the Rights of Indigenous Peoples, Vicky Tauli-Corpuz, in an *amicus curiae* to Peru’s Constitutional Tribunal in the case of Santa Clara de Uchunya vs. the Regional Government of Ucayali in October 2019, the Peruvian State, having ratified the American Convention, has “the obligation to delimit, demarcate and title traditional Indigenous territories in accordance with their customary law, values, uses and customs. While these lands have not been delimited, demarcated and titled, it must refrain from performing acts that may lead agents of a State, or third parties acting with its acquiescence or tolerance, to affect the existence, value, use or enjoyment of these Indigenous community lands.” At present, no such safeguards exist for untitled Indigenous territories in Peru.

Furthermore, the State continues to deploy a flawed and discriminatory legislative scheme, dating back to the 1970s, for the titling of Indigenous Peoples’ territories which prevents the effective titling of any territories with forest cover – permitting only a “use agreement” (*‘cesión en uso’*) which does not provide property rights – therefore depriving communities of the possibility to receive a genuine property title for the vast majority of their customary territories. This is the case for the Kichwa community of Nuevo Lamas de Shapaja in San Martín, whose long struggle for the recognition of their territory resulted in them receiving a property title over a mere 31 hectares – or 2% – of the 1,620 hectares they anticipated would be titled. Nuevo Lamas, along with their federation the Ethnic Council of Kichwa Peoples of the Amazon (CEPKA), filed a lawsuit in August 2017 challenging the restrictive “use agreement” on constitutional grounds. This marks the first time that an Indigenous community has challenged this systematic violation of Indigenous Peoples’ right to property through the Peruvian court system. The community are awaiting a decision on their case from the Constitutional Tribunal.¹¹⁷

Despite the existence of millions of dollars’ worth of land-titling funds, many such funds and projects have been delayed or paralysed by the mere presence of third-party land encroachers who wish to expropriate Indigenous territories and accumulate private property in land. In the absence of an agile and effective mechanism to resolve such land disputes, these third parties are often permitted to suspend land-titling processes indefinitely.

An ineffective administrative and judicial system fails to protect HRDs’ and communities’ rights and resolve their complaints. Myriad obstacles impede access to justice, including linguistic, geographical, economic and cultural barriers which 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 their demands regarding the protection of their rights.

Communities are also barred from participating directly in environmental investigations as the judicial system does not recognise them as aggrieved parties in cases of deforestation – forests are considered to belong to the State – which means that those who are most affected and with most at stake are unable to drive investigations forward. Not only has this prevented Indigenous peoples from securing recognition of their rights over the full extent of their traditional lands (as in the case of the community of Nuevo Lamas de Shapaja) but it has seriously impacted the ability of communities such as Santa Clara de Uchunya in Ucayali and Santa Rosillo de Yanayacu in Bajo Huallaga to access justice; in the case of the latter, an environmental investigation into illegal deforestation was dropped after more than two years owing to the inaction of the Deputy Prosecutor of the Specialised Environmental Prosecutor’s Office of Alto Amazonas in Yurimaguas. This could have been prevented had the community been able to directly appeal the decision over their case.

“I can’t forget how they kidnapped me. I will never forget what that Mr. Limber did; he is the leader of this whole problem in the community. He’s the leader who commands these people, who does and undoes. That is why I ask, he must be sanctioned and put in his respective place. We can’t stand it anymore; it is too much to bear. Because of him, what has happened to our forests? Do you know what it is like to live with illegal logging, which destroys the air we breathe, to wake up and find that immense trees have been destroyed over night? Giant trees lying dead – we can’t stand that. That’s along with the other tremendous threat we face, the Huita Huita road, with unknown people entering day and night.”

Manuel Inuma Alvarado, leader from Santa Rosillo de Yanayacu



Since 2017, community leaders from the Kichwa community of Santa Rosillo de Yanayacu in the Bajo Huallaga have faced threats, beatings and kidnappings for opposing the activities of illegal loggers on communal lands.

Credit: Santa Rosillo de Yanayacu

Add to this the political chaos which has gripped Peru in recent years, which has impacted heavily upon the functioning of the judicial system; while this has meant important strides in the fight against corruption, it has also resulted in other social demands – such as respect for Indigenous Peoples’ collective human rights and the environment – being sidelined. 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 HRDs and communities.

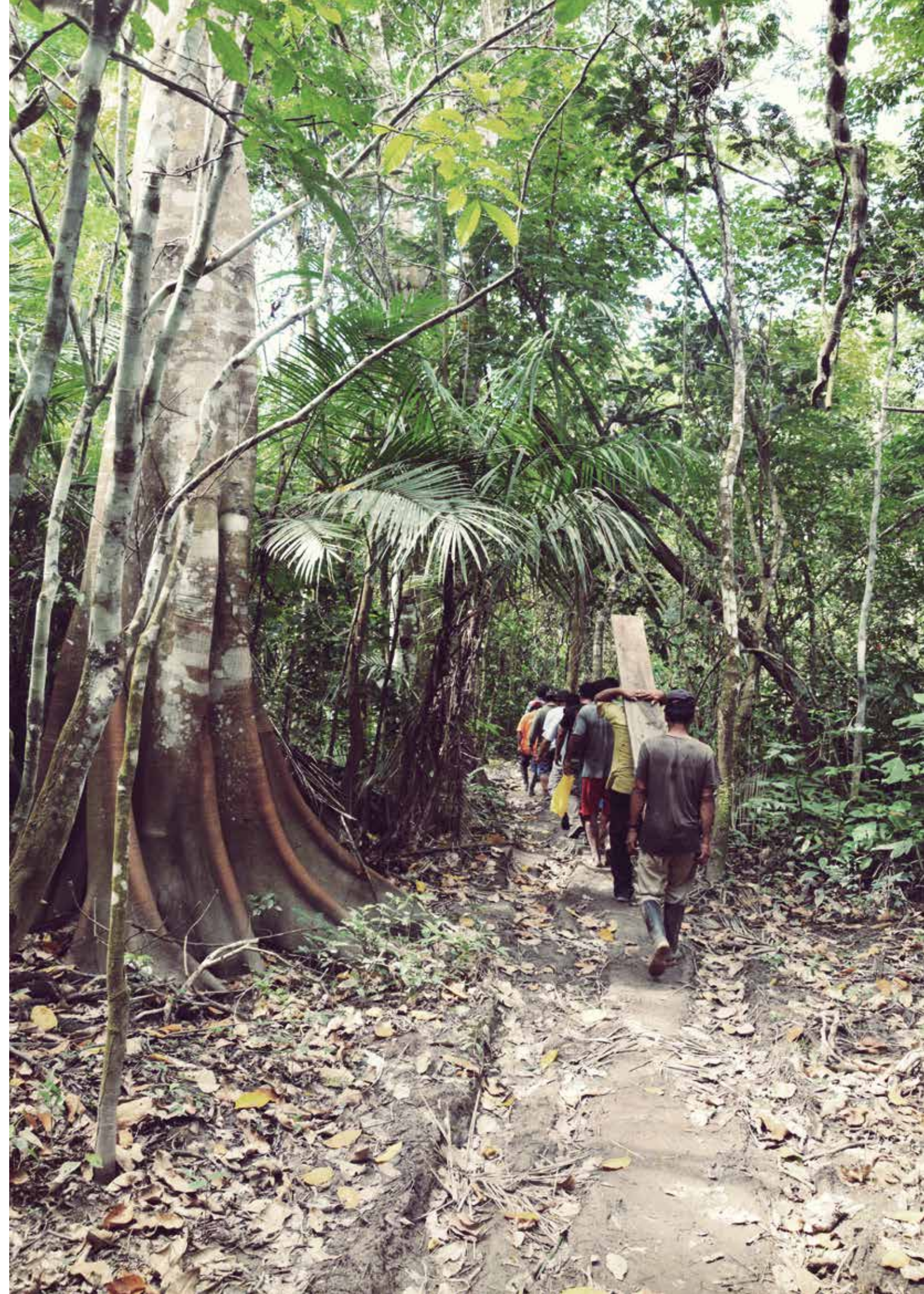
Government entities, above all the Ministry of Agriculture and the agrarian agencies within the regional governments, hold responsibility for causing land conflicts and not acting to resolve them. At the same time, other Government ministries seek to generate economic growth by promoting investment in extractive industries and infrastructure mega projects without first securing the consent of affected Indigenous Peoples and communities. The State’s failure to fulfil its obligations in turn exposes social leaders and HRDs to an environment marked by harassment and violence, where they experience kidnappings, death threats, shootings and even assassination.

This situation is then made worse by decisions by government agencies and law enforcement bodies to withhold or delay any action to sanction illegal actors and the absence of specific police mechanisms to guarantee the security of HRDs, who are more often persecuted and criminalised by the cynical use of the law by the State itself or by other actors. As noted above, these perverse and disruptive legal actions mean that HRDs and communities must resort to depleting the few resources and limited time they possess in order to defend themselves against unfounded accusations and the retaliatory use of litigation.

Furthermore, the weak logistical capacity of State authorities is evident in cases where environmental and criminal prosecutors are either unwilling or physically unable to verify or register cases involving deforestation, land grabs and human rights violations which often occur in remote locations. For instance, in 2017 prosecutors declined to investigate complaints made by Ashaninka communities in the Ene valley due to the presence of armed groups of narco-traffickers in their territory. In 2018, an environmental prosecutor wasn’t physically fit enough to be able to reach the site of reported deforestation in the territory of Anak Kurutuyaku, thus the case has not progressed.



The Kichwa community of Nuevo Lamas de Shapaja are challenging Peru’s flawed and discriminatory legislative framework which blocks the full titling of Indigenous territories through the court system. Credit: FPP/Tom Younger



9. EXISTING STRATEGIES OF PREVENTION AND PROTECTION

9.A INSTITUTIONAL MECHANISMS FOR PREVENTION AND PROTECTION OF HRDs¹¹⁸

In Peru there are no specific or effective mechanisms to provide protection to HRDs, much less Indigenous communities. The closest, intended for any person suffering from violence or threats, are personal guarantees. However, a number of serious limitations mean that these are inadequate for dealing with the kinds of situations HRDs face in the Peruvian Amazon.

- Personal guarantees were not designed to respond to circumstances of special risk due to social conflict, but rather to domestic cases involving threats or physical aggression in urban contexts.
- They are intended to address individual and not collective situations, which are those that frequently involve land and environmental defenders, especially in cases involving Indigenous Amazonian peoples where it is often not possible to identify the aggressors.
- They are difficult to access for HRDs, commonly Indigenous and rural people who lack the financial means to get to the district or provincial prefectural offices and hire the services of a lawyer to advise them.
- The procedural rules are rigid and problematic, hindering their progress and effectiveness. For example, the Interior Ministry's local offices lack power to demand that information be shared with public or private institutions to allow for fact-checking; notifying the accused requires an address that they generally cannot offer; and proceedings are usually adjourned and ultimately archived when the defendants do not attend.
- The process seeks to promote reconciliation instead of administrative sanctions, which would serve as a greater deterrent to aggressors.

- Their scope for action is limited and they fail to account for people who deliberately foster conflictive situations, such as those actors promoting land trafficking, dealing only with those directly responsible for carrying out acts of aggression.
- They do not allow for truly preventive measures to be taken before specific acts involving threats or aggression occur, even if the context makes these very likely.

At the very least, personal guarantees present one option for HRDs in Peru: they are a formal public complaint mechanism that informs the State of situations which merit intervention. This means that in the future, government authorities cannot allege that they were ignorant of the facts to avoid responsibility.

For example, having experienced death threats and attacks, Shipibo leaders from Santa Clara de Uchunya and FECONAU have requested personal guarantees on 10 occasions from the Provincial Prefecture of Coronel Portillo, in Pucallpa. Only one of these requests was granted - in the case of Huber Flores in February 2017 - while the other requests, related to the leaders Carlos Hoyos, Iván Flores, James Rodríguez, Luisa Mori, Robert Guimaraes, Jamer López, Policarpo Sánchez, Edinson Mahua, among others, were all rejected, because the denounced declined to show up for the proceedings. Before the requests were finally rejected, the refusal by the denounced to appear caused lengthy delays, elevating the costs, time and energy for the members of the community seeking protection.

In January 2018, the Ministry of Justice and Human Rights approved the National Human Rights Plan 2018 - 2021, which includes human rights defenders and Indigenous Peoples as "special protection groups" (other groups identified as being particularly vulnerable include women, journalists and Afro-Peruvians), with the strategic objective "to ensure the safe and equal exercise of the work of human rights defenders". The National Plan set out to create a register of risk situations for defenders by 2019, and the creation of a protection mechanism by 2021.

In April 2019, the MINJUSDH approved a Protocol to Guarantee the Protection of Human Rights Defenders,¹¹⁹ including measures such as the creation of a register of attacks and threats against HRDs, as well as protective measures which the State may take in response to such situations.

The implementation of the Protocol was subject to some delays during the first part of 2019, due to concerns raised by certain industrial associations representing extractive industries. Between May and September 2019, five requests for intervention were made to the MINJUS. While each case represented a different problem and level of risk, two involved conflicts over natural resources and illegal logging.

Critics of the new protocol point out that it doesn't go far enough to explicitly address the underlying structural drivers of criminalisation and violence towards HRDs, particularly in the Peruvian Amazon; however, this has the potential to change if the MINJUS is able to secure the cooperation, for instance, of MINAGRI and its regional agrarian offices. They also indicate that the MINJUS' capacity to follow up on action requests is currently very limited.

It also remains to be seen in the implementation phase to what extent protection mechanisms are designed in a way which supports Indigenous Peoples' efforts to defend and exercise their collective rights over their territories.¹²⁰

An additional strand contained within the Plan involves the creation of a plan to address issues relating to Business and Human Rights. At the time of writing, this plan was at the stage of initial diagnosis and information-gathering.

While the Human Rights Plan and HRD Protocol represent positive policy developments, they remain insufficient in the face of situations of great urgency, especially since there is already extensive documentation detailing violence and threats against HRDs in the Peruvian Amazon. The possible eventual implementation of a Protocol has no bearing on the fact that there are actions and reforms that could well be adopted in the immediate term, even more so when it is the State, through its institutions, that is the principal aggressor or has the possibility of offering quick remedies.



Indigenous guards are an important example of community-based, collective prevention and protection systems for addressing threats to territories and HRDs.

Credit: Anak Kurutuyaku

9.B COMMUNITY-BASED SYSTEMS FOR PREVENTION AND PROTECTION

Although the State has the main obligation to guarantee the right to defend human rights, in insecure and even deadly environments, Indigenous Peoples and local communities have been developing their own systems for collective prevention and protection against threats.

These community alternatives rarely if ever receive public funding. Instead, they emerge from communal experiences of self-organisation in contexts of high conflict where communities experience the limited presence, lack of protection or even hostility of the State (in Peru, for example, there are security agreements between extractive companies and the National Police), which adds to the violence coming from para-State armed groups. A key example in this regard are the Ashaninka communal self-defence committees which were formed during Peru's internal armed conflict in the 1980s and which remain active today in the face of violence from logging mafias and narco-traffickers.

An important example of local collective and community-based prevention initiatives in Peru are the *rondas nativas* ('Indigenous guards'), active in many Amazonian communities. Their functions involve patrolling and monitoring, identifying any emerging threats, relocating defenders at risk, and alerting state entities and allied organisations, in order to make visible and prevent further aggressions. At the same time, they seek to strengthen territorial governance and effective control over territories by supporting collective decisions taken by communal authorities.

The Peruvian Constitution recognises the right of Indigenous (both so-called 'native' and 'peasant' communities) communities to exercise communal justice. Whilst successive decisions by the justice system, including the Constitutional Tribunal, and the Congress have ultimately upheld this right,¹²¹ it is still common for communities which impart justice to encounter attempts to criminalise them for doing so, which acts as a deterrent. An important case in this regard concerns Indigenous leader Zebelio Kayap vs. mining company Afrodita; the Peruvian courts ultimately recognised that the Awajún were legitimately exercising communal justice when they apprehended representatives of Afrodita who entered their territory without consent.¹²²

There is no official State support for communities to patrol and monitor their expansive traditional territories, even as this can entail significant costs in terms of river transport, food and other logistics. In addition, there are still no formal channels to permit the incorporation of information generated by community monitors who frequently gather georeferenced photographic evidence about land rights violations and deforestation in their territories, data that could accelerate the work of prosecutors who are unable to access the remote areas where such violations are occurring. As an example of this, Forest Peoples Programme has been supporting its partners in Ucayali to document evidence of such conflicts using an easily accessible smartphone app designed for communities without internet access and limited computer literacy.¹²³



10. CONCLUDING OBSERVATIONS AND PROPOSALS FOR ACTION

In order to prevent further abuses against Indigenous communities and protect leaders and HRDs protecting their territories and rights, The Peruvian Government must:

1. Desist from issuing any further rights to non-Indigenous third parties which might affect untitled Indigenous lands in Amazonian regions (including **possession certificates, private land parcels, concessions or easements and the reclassification of forested or protected lands for agricultural purposes**) until effective mechanisms are put in place to safeguard untitled Indigenous lands, in line with Peru's human rights obligations;
2. 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 and a mechanism to ensure these areas are not overlapped by the adjudication of other rights;
3. MINAGRI must develop and approve guidelines, mechanisms and a corresponding budget and system of prioritisation aimed at the resolution of disputes arising from land-titling processes, in particular those associated with high levels of socio-environmental conflict;
4. Develop institutional, administrative, and judicial mechanisms to secure the restitution of ancestral Indigenous lands which have been issued to third parties without adequate due diligence and revoke any such rights established over those lands;
5. Urgently develop a multi-sectoral and intercultural plan of action, coordinated between the competent authorities to address the issue of illicit coca cultivation and production in Indigenous territories. This must be carried out with the full participation of Indigenous community leaders, who are those most affected by such actions aimed at eradicating narcotics production and trafficking;
6. Comply with legal obligations and international climate agreements by reforming laws and public policy that violate Indigenous Peoples' 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;
7. Publicly endorse, value and where necessary support Indigenous Peoples' initiatives to defend and protect their territories, including monitoring and surveillance by communities and their designated guards. MINJUS should enter in dialogue with Indigenous Peoples' communities and organisations in order to formally recognise communities' georeferenced data in formal legal denunciations about territorial conflicts and deforestation with a view to improving and accelerating access to justice for affected communities;
8. The Ministry of Justice (MINJUS) must dedicate public resources to support the physical security and legal defence of threatened and criminalised leaders through the establishment of a decentralised legal support programme focused on Indigenous Peoples, human rights and land defenders;
9. MINJUS, in coordination with various organs of the justice system and Ministries of relevant sectors, must create dedicated and well-resourced protection mechanisms for threatened land rights defenders, in accordance with international standards, in consultation and with the full participation of Indigenous organisations;

10. 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 parties in the case of environmental crimes. This will allow their 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.

Companies must:

1. Commit to respecting human rights in their business operations and supply chains, including the collective customary rights of Indigenous Peoples as recognised in international human rights law, and the work of HRDs. This may include adopting and making publicly available a human rights policy; carrying out human rights due diligence, including through an assessment of unrecognised Indigenous customary territories in the area to be affected, including through coordination with Peru's network of Indigenous organisations affiliated with AIDSESP; and providing for access to remedy when they have caused or contributed to human rights abuses;
2. Obtain the free, prior and informed consent (FPIC) of any potentially affected Indigenous Peoples and local communities prior to authorising or commencing any project. This consent must be sought in accordance with collective rights to self-determination and the standards of FPIC established by international human rights jurisprudence applicable in Peru;
3. Establish and/or strengthen grievance mechanisms at the operational level in accordance with Principle 31 of the UN Guiding Principles on Business and Human Rights;¹²⁴
4. Issue public statements condemning threats, harassment and intimidation directed at HRDs who exercise their legitimate right to express concerns about potential or actual negative impacts from business operations;
5. Publicly report on the implementation and enforcement of human rights policies in their full supply chain (including third party suppliers) to allow for verification by genuinely independent third parties and affected groups;
6. Publicly disclose and make available to Indigenous Peoples and local communities information about investments in supply chains in Peru. This should include details of holdings, clients along value chains, as well as relevant social and environmental impact assessments and investors' social and environmental standards and commitments.

Investors and financiers must:

1. Take steps to ensure their investments respect the human rights of affected peoples, including the rights of Indigenous Peoples. Publicly report on the implementation and enforcement of human rights policies to allow for verification by independent third parties and affected groups;
2. Undertake human rights due diligence on all investments to identify, prevent and protect from possible risks those HRDs and communities affected by business operations. Take timely action to address such risks and ensure access to remedy is available;
3. Publicly disclose and make available to Indigenous Peoples and local communities information about investments in supply chains and areas where human rights violations and the dispossession and destruction of territories are occurring, including details of holdings, clients along supply chains, relevant social and environmental impact assessments and investors' social and environmental standards and commitments.

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119. MINJUSDH. "MINJUSDH aprueba Protocolo para garantizar la protección de personas defensoras de derechos humanos." Gob.pe press release, 29 April 2019, <https://www.gob.pe/institucion/minjus/noticias/27931-minjusdh-aprueba-protocolo-para-garantizar-la-proteccion-de-personas-defensoras-de-derechos-humanos>
120. Forest Peoples Programme. "Protection but no prevention? Inputs to the Ministry of Justice's Protocol on Human Rights Defenders in Peru." ForestPeoples.org, 29 March 2019, <http://www.forestpeoples.org/en/node/50380>
121. See Ruíz Molleda, J.C. "El desarrollo normativo de la justicia comunal en el Perú." Instituto de Defensa Legal, 2 August 2019, <https://idl.org.pe/el-desarrollo-normativo-de-la-justicia-comunal-en-el-peru/>.
122. AIDSESEP. "Sala Penal de Bagua absuelve a Zebelio Kayap de los delitos de secuestro que le imputaron desde el 2009." AIDSESEP, 2013, <http://www.aidesepe.org.pe/noticias/sala-penal-de-bagua-absuelve-zebelio-kayap-de-los-delitos-de-secuestro-que-le-imputaron>
123. For more information, visit <https://www.digital-democracy.org/mapeo/>
124. Principle 31 regarding Effectiveness criteria for non-judicial grievance mechanisms states:
 "31. In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be: (a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes; (b) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access; (c) Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation; (d) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms; (e) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake; (f) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights; (g) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms; Operational-level mechanisms should also be: (h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances."

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Photo front page: Indigenous Peoples of Ucayali mobilise in defence of their territories and rights during protests which brought the city of Pucallpa to a standstill in March 2016.

Credit: Tom Younger