Regnskogfondet
RAINFOREST FOUNDATION NORWAY

Human rights and resource conflicts in the Amazon

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Rainforest Foundation Norway (RFN) works to protect the world's rainforests and secure the rights of indigenous peoples and forest peoples. RFN collaborates with more than 70 local environmental, indigenous and human rights organisations in 12 rainforest countries in the Amazon, Southeast Asia, Oceania and Central Africa.

In Norway, we work to promote policies that are consistent with rainforest protection, and to promote awareness among the business sector and the public of the impacts of their investments, activities, and consumption pattern on the rainforest and its peoples.

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AIDESEP The Interethnic Association for the Development of the Peruvian Rainforest
BNDES The Brazilian Development Bank
CIDOB The Confederation of Indigenous Peoples of Bolivia
CIMI The Roman Catholic Church's church's council for indigenous issues (Conselho Indigenista Missionário), Brazil
CNA The Agriculture and Livestock Confederation of Brazil
COSIPLAN South American Council of Infrastructure and Planning
CPT The Roman Catholic Church's committee for land issues (Comissão Pastoral da Terra), Brazil
CRS Catholic Relief Services
FECONACO The Federation of Indigenous Communities of the Corrientes River, Peru
FPIC Free, Prior and Informed Consent
IACHR The Inter-American Commission on Human Rights
ISA The Socio-Environmental Institute (Instituto Socioambiental), Brazil
ILO The International Labour Organisation
IIRSA The Initiative for the Integration of the Regional Infrastructure of South America
RAISG The Amazonian Network of Georeferenced Socioenvironmental Information
RFN Rainforest Foundation Norway
OAS The Organisation of American States
UNASUR The Union of South American Nations
UNDRIP The United Nations Declaration on the Rights of Indigenous Peoples
UN-REDD The United Nations Programme on Reducing Emissions from Deforestation and Forest Degradation
UPR Universal Periodic Review of the United Nations Human Rights Council

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1. Summary and conclusions

This report investigates an alarming increase in human rights violations in the Amazon region. Human rights defenders, environmental activists and indigenous peoples are facing attacks and are being put under systematic pressure; and rights to land and to consultation are regularly encroached.

The Amazon comprises the largest tract of tropical rainforest in the world. Numerous indigenous peoples have traditionally inhabited this region, and 25 percent of its total land area is formally recognised as indigenous territories. Such territories are an effective means of protecting the forest. Deforestation and problems related to illegal logging have a lower incidence in indigenous territories than other areas, including protected areas.

The rainforest and the indigenous territories are rich in natural resources such as timber, water, oil and gas, gold, and other minerals. The high price of energy and raw materials ensures that these resources are in high demand. Current developments in the Amazon are characterised by intensive natural resource exploitation and heavy investment in infrastructure development, to a large extent coordinated on a regional basis. The intensified hunt for resources is leading to increased pressure on the land, territories and way of life of native peoples. Their right to participation in decision-making processes on the adoption of measures that directly impact on their living conditions is constantly being challenged, and reports of heightened violence against human rights defenders gives great cause for alarm. At the same time, many small-scale conflicts such as those arising from illegal logging and gold mining persist.

The aggregate scope of these conflicts is placing massive pressure on indigenous peoples and their lands, as well as on organisations and individuals working to safeguard human rights and the environment.

Al of the Amazon states acknowledge that indigenous peoples inhabit their territories, and that these have distinct rights. Most of the states have signed and ratified the fundamental human rights conventions, as well as international agreements on indigenous rights, such as the International Labour Organisation's Convention No. 169 on Indigenous and Tribal Peoples and the UN Declaration on the Rights of Indigenous Peoples. There has also been progress on the national level regarding the development of the legislative framework for the protection of indigenous peoples and their rights to land and to self-determination. On paper, then, native peoples have seen important progress over the last decades.

In reality, the situation is a different one. The UN Special Rapporteur on the Situation of Human Rights Defenders reports that human rights defenders working on land and environmental issues in the Americas are more exposed to physical attacks than those in other parts of the world. Many activists are being killed because of their efforts to safeguard fundamental rights, and conflicts often arise over extractive projects and competition over land. This is confirmed by a survey on the killing of persons working to safeguard the right to land and to natural resources over the last decade. These numbers are on the rise, and almost 80 percent of all killings in this period occurred in the three Amazon countries of Brazil, Peru and Colombia.

The Inter-American Commission on Human Rights reports that baseless criminal actions are systematically being brought against human rights defenders in the region. Various civil society actors are also expressing concern, and point to infringements of civil rights such as freedom of speech; conflicts over land rights; and violations against established indigenous rights. Criminal charges against indigenous leaders and members of local communities appear disproportionate and politically motivated.

This overall picture is substantiated by statistics as well as specific examples from individual countries. Peru's ombudsman reports that there has been an almost threefold rise in the number of social conflicts in the country since 2008, and that socioenvironmental conflicts comprise two thirds of the total number. In Bolivia, the number of social conflicts more than tripled from 2009 to 2011; and in Brazil, disputes over land and territories are at a ten-year high. In the report, individual cases are highlighted to illustrate this situation. The report also shows how a confrontational and authoritarian discourse adopted by heads of state contributes to undermining human rights, including the territorial rights of native peoples.

Norway is an important actor in the Amazon region, and has for several decades been a key supporter of indigenous organisations. Through its international climate and forest initiative, Norway has pledged to allocate hundreds of millions of US dollars to support measures adopted by Amazon countries to halt deforestation. At the same time, Norway is investing in companies that are abusing the rights of indigenous peoples and destroying the rainforest. This accords great responsibility to Norway.

A stronger spotlight on the human rights situation in the Amazon region is necessary in order to avoid a further exacerbation of the situation, and in order to uncover methods of ensuring that economic development does not compromise fundamental human rights or undermine the rights attained by the region's indigenous peoples over the last decades.

The report concludes with a set of recommendations to Norwegian authorities on how they might strengthen their efforts to promote human rights in the Amazon region. Given the pressures to which human rights are being subjected such as documented in this report, it is necessary to consolidate the human rights component of Norway's involvement in the Amazon.

Photo: Karsten Thomassen

2. Introduction and background

This report was written to follow up on expressions of concern about increasing pressure on the human rights of indigenous peoples in the Amazon region. Rainforest Foundation Norway's local partners are feeling the effects of intensifying conflicts over natural resources in the rainforest, and point to a lack of democratic participation as well as human rights violations related to large-scale construction and resource extraction projects. RFN is hopeful that the report, and its recommendations, can draw further attention to the precarious human rights situation linked to resource conflicts in the Amazon. It is not least important that Norwegian authorities help ensure that Norway's involvement in the region improves the human rights situation and does not contribute to a weakening of the rights of indigenous peoples and of mechanisms that protect the rainforest.

This chapter follows with an introduction to the Amazon rainforest and to the relationship between human rights and rainforest protection. Chapter 3 examines the status of human rights and indigenous rights in the nine Amazon countries, as well as the relationship between human rights and rainforest protection. Chapter 4 sees an investigation into the extent to which these formal rights are being respected in practice, by reference to examples from Peru and Brazil. Chapters 5 and 6 assume a more overarching perspective, discussing the relationship between the level of conflict and pressure on resources and human rights in the Amazon. Chapter 7 examines Norway's role in the region, while the report's final chapter report offers recommendations on how Norwegian authorities can might enhance their contribution to the protection of human rights in the Amazon region.

The report is part of Rainforest Foundation Norway's continuous efforts to document the relationship between human rights and rainforest preservation. Other publications about rights-based rainforest protection are Rights-Based Rainforest Protection (2012) and Rights and REDD in the Amazon Countries and Paraguay (2011).

Background: The Amazon – the rainforest and the people

The Amazon is the world's largest rainforest. To gain an understanding of the current human rights situation within its confines, one must look to the relationship between population, environment and natural resources.

The Amazon region extends over an area of 7.8 million square kilometres in South America.[1] Approximately two thirds of its total area is contained within Brazil. 10 percent is contained within Peru, while Colombia, Bolivia and Venezuela all hold around 6 percent of the Amazon rainforest within their borders.

In total, 33 million people inhabit the Amazon region. This population includes 385 indigenous groups, with a total population of 1.6 million people.[2] Of these, around 70 indigenous groups have chosen to live in voluntary isolation from wider national society.[3] Even though indigenous people in numerical terms only account for a small minority of the population, they comprise the majority of the cultural diversity in the Amazon countries.

Human rights and rainforest protection

To prevent human rights violations is an end in itself, in the Amazon rainforest as in the rest of the world. At the same time, increasing numbers of international studies have demonstrated that there is a strong correlation between securing the rights of indigenous peoples and other local communities, and preserving the rainforest. In an analysis published by the World Bank's Independent Evaluation Group in 2011, different types of protected area in the tropics are compared. The authors call attention to the fact that while the highest categories of protected area have a reduced incidence of forest fires, forests are protected even more effectively in areas where the local population can make use of existing natural resources. Areas inhabited by indigenous peoples occupy a unique position, and indigenous territories are shown to have been an extremely effective means of reducing deforestation in Latin America.[4]

Another global study makes similar findings, on the basis of a meta-analysis of published case studies. In a comparison of the role of protected versus community-managed forests for the long-term maintenance of forest cover in the tropics, the authors conclude that

> forests managed by local communities on the whole exhibited a lower and less variable rate of deforestation than protected forests.[5]

One of the most recent studies to assess the effectiveness of various categories of protected area for rainforest protection in the Amazon was published in May 2013. The study covers every country in the region except Brazil. Indigenous territories encompass 4.4 percent of the total land area of the countries included in the study, but only accounted for 1.5 percent of the total loss of forest cover in the period 2004-2012. Similarly, a comprehensive study from Brazil shows the rate of deforestation to be approximately the same on indigenous lands as in the highest categories of protected area. However, it is worth noting that indigenous lands are often located close to the frontier of deforestation, and their forest resources are subject to much greater pressure than those of shielded nature reserves:

> Uninhabited reserves tended to be located away from areas of high deforestation and burning rates. In contrast, indigenous lands were often created in response to frontier expansion, and many prevented deforestation completely despite high rates of deforestation along their boundaries.[6]

1 The borders are defined by a combination of the extent of the rainforest cover, the watersheds of the Amazon and Orinoco rivers, and political-administrative borders. Source: RAISG (2012) Amazonia under pressure. Available at: http://raisg.socioambiental.org/mapa

2 RAISG (2012) Amazonia under pressure. Available at: http://raisg.socioambiental.org/mapa

3 «Uncontacted» or «isolated» tribes are terms for indigenous groups that live in voluntary isolation from wider national society. In most cases, the tribe has been subjected to encroachments from loggers, gold miners, road construction workers or the like, and has withdrawn further into the forest in order to avoid contact with wider society.

4 Nelson, A. & Chomitz, K. M. (2011) Effectiveness of Strict vs. Multiple use Protected Areas in Reducing Tropical Forest Fire: A Global Analysis Using Matching Methods PloS ONE 6(8): Available at: http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0022722

5 Porter-Bolland, L. et al. (2011) Community Managed Forests and Forest Protected Areas: An Assessment of their Conservation Effectiveness Across the Tropics. Forest Ecology and Management, vol 268, pp 6-17. Available at http://www.sciencedirect.com/science/article/pii/S0378112711003215

6 Nepstad, D. et al. (2006) Inhibition of Amazon Deforestation and Fire by Parks and Indigenous Lands. Conservation Biology Volume 20, No. 1, pp 65–73. Available at: http://onlinelibrary.wiley.com/doi/10.1111/j.1523-1739.2006.00351.x/abstract;jsessionid=700A85B073339AEFCC6F88A6FAC3E9C0.d01t02?deniedAccessCustomisedMessage=&userIsAuthenticated=false

Photo: Vincent Rosenblatt

Indigenous territories, then, are the most effective means of rainforest preservation. The study's authors suggest that this can be ascribed to the fact that the forest's inhabitants have an inherent interest in its long-term protection, as it forms the basis for their livelihoods. This observation chimes well with RFN's experiences from the field.[7] The relationship between rights and rainforest protection pertains to self-determination and the recognition of territories. Where indigenous peoples have long-term legal security of tenure and control over resources, there is a better foundation for the long-term preservation of forest than can be said of most categories of protected area.

An understanding of this close linkage between the rights of indigenous peoples and the prospects for long-term forest protection must also be kept in mind when examining the human rights situation in the region and the threats faced by indigenous communities.

7 Rainforest Foundation Norway (2012) Rights-Based Rainforest Protection. Why securing the rights of forest peoples is the right way to save the forest. Available at: http://www.regnskog.no/en/publications/reports/_attachment/36142/binary/37129?_download=true&_ts=14406717c6a

A member of the local Quechua people inspects oil contamination in the rainforest in Peru. The water and the soil are heavily contaminated by oil and heavy metals after decades of oil spills and the release of effluent directly into the rivers. Photo: Stefan Kistler

FACTS

- The Amazon region encompasses 7.8 million square kilometres.
- It contains more than half of the earth's remaining rainforest areas.
- The rainforest extends into nine different countries (Brazil, Colombia, Peru, Venezuela, Ecuador, Bolivia, Guyana, Suriname and French Guiana).
- The Amazon is the world's largest river system; 15 percent of the world's surface fresh water flows through the Amazon River.
- The region is the world's most significant reservoir of biodiversity, and is home to almost 400 indigenous peoples.

Cultural and biological diversity

The Amazon is home to an astounding biological diversity. Between 50 and 80 percent of all terrestrial species can be found in tropical rainforest, and the Amazon rainforest comprises more than half of the world's remaining rainforest areas.

Several studies have documented a striking correlation between areas of cultural and biological diversity. The UN's «State of the World's Indigenous Peoples» affirms that

> The areas they inhabit often coincide with areas of high biological diversity, and a strong correlation between areas of high biological diversity and areas of high cultural diversity has been established.[8]

This correlation can be ascribed to several factors. One important factor is clearly that indigenous peoples have naturally settled in areas with high biological diversity. Another is that they have deliberately altered the natural environment around them, with a resulting increase in biodiversity. In the Amazon rainforest, for example, there is ample evidence of pre-Colombian anthropogenic soil and agricultural terraces in wetlands, and of seeds and plants having been imported from other areas.[9] [10]

The role of the Amazon in the battle against climate change

Deforestation of the Amazon rainforest has until recently been by far the most important source of greenhouse gas emissions in South America. This is in spite of the fact that the continent has population of close to 400 million, tens of cities with a population exceeding one million, a large-scale extractive industry, numerous smelters, and an extensive manufacturing industry. In Brazil, the proverbial industrial locomotive of South America, deforestation until recently accounted for 60–70 percent of emissions, the country placing fourth among the world's biggest emitters of greenhouse gases.[11]

Deforestation and forest degradation in developing countries is responsible for around 15 percent of global greenhouse gas emissions. Estimates of tropical forest biomass, and hence carbon stock, vary significantly.[12] These carbon stocks are so vast, however, and annual rates of greenhouse gas emissions still so high, that halting the deforestation of the Amazon rainforest is decisive in the battle against climate change over the coming century.

8 UN (2009:84) State of the World's Indigenous Peoples. Available at: http://www.un.org/esa/socdev/unpfii/documents/SOWIP_web.pdf

9 Bensusan, N. and Lima, A. (2003) Quem cala consente? Subsídios para a proteção aos conhecimentos tradicionais (Documentos ISA no 8) São Paulo, Brazil: Instituto Socioambiental (ISA). Available at: http://www.socioambiental.org/banco_imagens/pdfs/70.pdf

10 Mann, Charles C. (2005) New Revelations of the Americas Before Columbus. Alfred A. Knopf: New York.

11 World Resources Institute, Climate Data Explorer. Available at: http://www.wri.org/project/cait

12 Zarin, D. J. (2012) Carbon from Tropical Deforestation. Science Vol. 336 no. 6088 pp. 1518-1519. Available at: http://211.144.68.84:9998/91keshi/Public/File/41/336-6088/pdf/1518.full.pdf

PARO NACIONAL
INDEFINIDA DE LOS
PUEBLOS AMAZÓNICOS
DISTRITO-IMAZA-PRESENTE
EN DEFENSA
DE LA AMAZON
PARO NACIONA

Photo: Rainforest Foundation Norway

3. Human rights and indigenous rights in the Amazon countries

This chapter examines the formal human and indigenous rights situation in the Amazon countries, as well as how international bodies and organisations monitor the same. There are significant variations between the countries when it comes to how much land is actually recognised and titled; and significant conflicts of interest and conflict potential related to territories and natural resources can be observed in all of the countries.

Human rights

The formal status of human rights in the Amazon region is relatively sound judging by the countries' constitutions and the adoption of international treaties. All nine countries in the Amazon region have ratified the UN's two fundamental human rights covenants (1966): the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. These covenants accord equal rights to the countries' citizens, including traditionally marginalised groups such as indigenous peoples and descendants of African slaves.

Seven of the nine countries have also ratified the American Convention on Human Rights (1969), under the remit of the Organisation of American States (OAS). The exceptions are French Guiana, which in capacity of being a French overseas department is legally a part of Europe, and Guyana. Venezuela ratified the convention in 1977, but withdrew in September 2012.[13]

13 One reason was that Venezuelan authorities maintained that the Inter-American Commission on Human Rights (IACHR) was interfering in the country's internal affairs. The withdrawal process takes 12 months; the country was thus effectively outside the American human rights system as of September 2013.

Who has signed what?

	Has ratified the International Covenant on Economic, Social and Cultural Rights (1966)	Has ratified the International Covenant on Civil and Political Rights (1966)	Has ratified the American Convention on Human Rights (1969)	Has ratified ILO Convention No. 169 (1989)	Voted for the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)
Bolivia	YES	YES	YES	YES	YES
Brazil	YES	YES	YES	YES	YES
Colombia	YES	YES	YES	YES	YES **
Ecuador	YES	YES	YES	YES	YES
French Guiana	YES	YES	*	NO	YES
Guyana	YES	YES	NO	NO	YES
Peru	YES	YES	YES	YES	YES
Suriname	YES	YES	YES	NO	YES
Venezuela	YES	YES	YES / NO ***	YES	YES

* French Guiana is a French «overseas department». As such, the country cannot ratify the American Convention on Human Rights.

** Colombia abstained from voting in 2007, but has later endorsed the declaration.

*** Venezuela ratified the American Convention on Human Rights in 1977, but denounced it in 2012.

Sources: the UN and the OAS

As a rule, the countries are signatories to the various human rights conventions. The principles contained within these conventions have to a large extent been incorporated into their constitutions, but only to a varied extent into domestic legislation.[14]

All of the Amazon countries' constitutions were promulgated after 1987, with the exception of Guyana and French Guiana. They have adopted modern human rights principles, and in some cases, the newer constitutions lead the world when it comes to respecting the collective rights of indigenous peoples (Bolivia) and the inherent rights of nature (Ecuador).

The countries are monitoried by international bodies

The various human rights conventions have their own expert committees which monitor the countries' application of the conventions' provisions. In addition, both the OAS and the UN Human Rights Council conduct systematic reviews of the human rights situation in the member countries. These reviews demonstrate that theory and practice are far between in the Amazon countries.

In the UN Human Rights Council's so-called Universal Periodic Reviews (UPRs), brief country reviews produced by the countries themselves are assessed. These assessments are predominantly positive, and thus stand in contrast with other, more detailed assessments. In the Universal Periodic Reviews of Bolivia (2010), Brazil (2012), Peru (2012) and Venezuela (2012), the countries receive praise for progress in the fields of poverty reduction, healthcare and education, as well as for improving systems for the investigation and punishingment of human rights violations. As regards the situation for indigenous peoples, the UPRs cite advances in the legislative sphere, but fail to go into the challenges related to specific violations of their rights.[15]

The reports produced by the expert committees working under the remit of the UN's human rights conventions are more detailed and critical than the UPRs. A case in point is the evaluation of the human rights situation in Ecuador by the UN Committee for Economic, Social and Cultural Rights in November 2012. The committee expressed concern about a number of issues, among others a lack of judicial independence, the discrimination of indigenous peoples, and mining activities on the land of local communities without prior consultation.[16]

14 IACHR (2009) Indigenous And Tribal Peoples' Rights Over Their Ancestral Lands And Natural Resources. OAS official records, doc 56/09

15 Universal Periodic Review – Bolivia (2010); Brazil (2012); Peru (2012); and Venezuela (2012)

16 UN (2012) Committee on Economic, Social and Cultural Rights considers report of Ecuador. Available at: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12791&LangID=E

The OAS has two bodies that monitor the human rights situation in its member countries: the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (see box for details). The pronouncements of these bodies are more detailed, more specific and far more critical of the member countries than the UPRs.

The difference between the Commission and the Court

The inter-American human rights system has two main bodies: the Commission (IACHR) and the Court. Both bodies assess complaints of human rights violations in member countries. The Commission has its headquarters in Washington, D.C. in the United States, and mainly works by way of hearings, reports and country visits; it is only mandated to issue recommendations to the member countries. The Court is based in San José in Costa Rica. Cases can be referred to the Court by the Commission when a country has failed to adopt the latter's recommendations. Through its decisions, the Court can compel member countries to amend their policies or legislation.

The IACHR's concerns regarding the Amazon countries relate to, inter alia, violence and a lack of public safety; impunity for abuses committed by police and military forces; attacks on the rights of indigenous peoples; and attacks on human rights activists and community leaders. The IACHR has long been particularly concerned with the rights of indigenous peoples, and has published several reports on the subject during the last few years.[17]

The judicial processes in the Inter-American Court of Human Rights tend to stretch over many years, but the decisions, once issued, are highly significant. Firstly, they decide how the states are to act in the case at hand. Secondly, they create a precedent in the inter-American human rights system; and thirdly they influence the other international and domestic legal norms on the issues exemplified by the case in question. As described later in this chapter, the Court has made several significant decisions concerning the rights of indigenous peoples over the last few years.[18]

As for civil society, Amnesty International, among others, has published reports on the human rights situation in the Amazon countries. These echo the IACHR's assessments. Amnesty International is particularly concerned with the persecution of human rights activists and the widespread impunity in the region.[19]

Indigenous rights

Indigenous people are, like the citizens of every country that has adopted the human rights conventions of the UN and the OAS, covered by these *as individuals*. It is also recognised within human rights legal doctrine that certain groups have collective rights. In addition, indigenous peoples are accorded rights *as peoples* through various conventions and declarations (see the table on the previous page). These come in addition to fundamental human rights, and their purpose is to protect the distinctive, collective aspects of the lives of indigenous people.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted in 2007, states that the UN General Assembly is

> Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests. [20]

All of the Amazon countries voted in favour of the declaration and, as such, have officially endorsed this statement.

The two most important instruments for indigenous rights globally are the International Labour Organisation's Convention No. 169 on Indigenous and Tribal Peoples (1989) and the UN Declaration on the Rights of Indigenous Peoples (2007).

The ILO's Convention No. 169 (C169) is to secure the right of indigenous peoples themselves to decide their

17 See e.g. IACHR (2009) Indigenous and Tribal Peoples' Rights over their Ancestral Lands and Natural Resources. OAS official records, doc 56/09.

18 E.g. Saramaka vs. Suriname (2007) and Sarayaku vs. Ecuador (2012)

19 Amnesty International's Annual Reports for 2012 and 2013.

20 United Nations Declaration on the Rights of Indigenous Peoples. Available at http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

future, and to protect them from forced assimilation. The convention touches on many aspects of the lives of indigenous peoples, such as the rights to bilingual education, a healthy environment, and land rights; the rights to consultation and to participation in decision-making processes; and the protection of cultural values. *The UN Declaration on the Rights of Indigenous Peoples* (UNDRIP) deals with issues such as self-determination; indigenous territories; health; education; and culture; and on many fronts it goes further than ILO Convention No. 169 in establishing indigenous rights. As a declaration, the document is not legally binding, but the norms that it advances have increasingly become established as such within international law. As mentioned above, all nine Amazon countries voted in favour of UNDRIP.

All of the Amazon countries acknowledge the existence of indigenous peoples on their territories, and that these have distinct rights. The overall, formal human rights status of indigenous peoples in the Amazon countries is thus stronger than in many other regions. In practice, however, indigenous peoples are among the most vulnerable and exposed groups in all of South America. Indigenous people systematically rate lower in statistics on health, education and poverty – and are subjected to violence and abuse to a much higher degree – than the population at large.[21] This is backed up by, among others, Amnesty International, which has expressed concern in its latest annual reports over the situation of indigenous peoples, and has investigated the rights of indigenous peoples in a number of special reports.[22]

Indigenous rights in the Amazon countries' legislation

As mentioned above, most Amazon countries' constitutions are less than 25 years old, and they reflect the key international human rights treaties.

Bolivia is an illustrative example. The country has officially espoused the principles promulgated by ILO Convention No. 169 and UNDRIP in its domestic legislation, and the new constitution of 2009 states as early as Article 1 that Bolivia is a plurinational state founded on cultural, linguistic and juridical pluralism. Article 2 states that

> Given the pre-colonial existence of the indigenous and aboriginal peasant nations and peoples and their ancestral control of their territories, their self-determination within the framework of State unity is guaranteed, which includes their right to autonomy, self-government and culture, and the recognition of their institutions and the consolidation of their territorial entities [...].[23]

In Brazil, indigenous rights were incorporated into the constitution of 1988. In it, their rights to territories and to customised healthcare and education are recognised. The Colombian constitution (1991) guarantees the territorial rights of indigenous peoples, and is more far-reaching than that of any other Amazon country when it comes to respect for and advancement of indigenous peoples' self-determination.[24]

In Peru, the current constitution was enacted in 1993 under the authoritarian rule of then president Alberto Fujimori. It gives constitutional precedence to international human rights treaties which Peru has ratified – among them ILO Convention No. 169. This entails that the convention overrides domestic legislation.

In Venezuela, indigenous rights were for the first time recognised in the new constitution of 1999. The constitution accords the state the responsibility for recognising indigenous territories, and for the representation of indigenous peoples in the national assembly. In 2005, the right of indigenous peoples themselves to organise socially and politically was enshrined in law.[25] Ecuador's new constitution of 2008

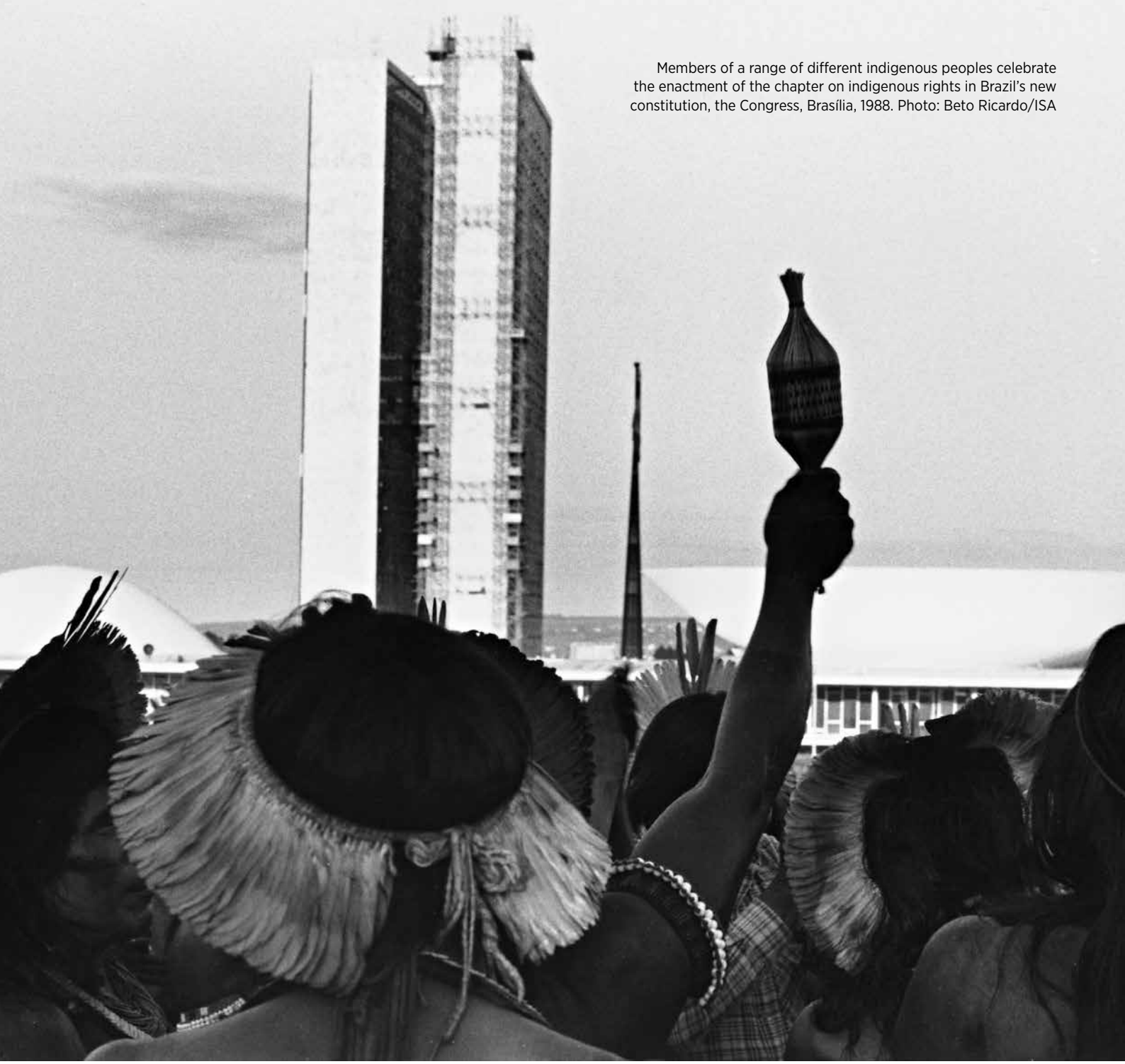
21 ECLAC (2006) Indigenous Peoples of Latin America: Old Inequalities, Mixed Realities and New Obligations for Democracies in the Twenty-First Century. Chapter three in Social Panorama of Latin America 2006. Available at: http://www.eclac.org/publicaciones/xml/4/27484/PSI2006_Cap3_IndigenousPeople.pdf

22 See e.g. Amnesty International (2011) Sacrificing Rights in the Name of Development

23 ILO (2009:20) Indigenous and Tribal Peoples' Rights in Practice. Available at: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_171810.pdf

24 Little, P. E. (2013) Megaproyectos en la Amazonía.

25 ILO (2009:42-43) Indigenous & tribal peoples' rights in practice. Available at http://www.ilo.org/indigenous/Resources/Guidelinesandmanuals/WCMS_106474/lang--en/index.htm



Members of a range of different indigenous peoples celebrate the enactment of the chapter on indigenous rights in Brazil's new constitution, the Congress, Brasília, 1988. Photo: Beto Ricardo/ISA

accorded the country's indigenous peoples a broad set of rights – among others the right to free, prior and informed consent. In Guyana, the constitution recognises, as a matter of principle, indigenous peoples' status as distinct peoples, as well as their rights to land and to natural resources. Neither Suriname nor French Guiana have enacted legislation recognising the rights of indigenous peoples as peoples.[26]

While the Amazon countries' constitutions on the whole recognise fundamental indigenous rights, the remaining domestic legislation is often weaker. In several cases, domestic legislation is inconsistent with a country's constitution or with the international conventions which it has adopted. A case in point is Peru, where the legislation only allows for the recognition of small settlement areas – as opposed to traditional territories, where indigenous peoples engage in hunting and fishing, and have their sacred grounds.

Guyana also has its own law governing indigenous peoples' rights: The Amerindian Act (2006). It contains a number of weaknesses that have been criticised by, inter alia, the United Nations Committee on the Elimination of Racial Discrimination and the Amerindian Peoples Association, a Guayanese indigenous organisation.

26 Rainforest Foundation Norway (2005): State of the Rainforest 2005

Two important rights: The right to land and the right to be heard

The right to land, and the right of indigenous peoples to consultation prior to the adoption of legislative and administrative measures that are likely to directly affect them, are fundamental to the fulfilment of other rights, such as the rights to clean water and to food, healthcare, education and political participation.

1. The right to land, territories and resources

In total, 27.5 percent of the Amazon is officially recognised as indigenous territories, numbering more than 2,300 altogether.[27] In addition, a large number of new indigenous land claims, as well as demands for the extension of existing territories, are being reviewed by national authorities. Many of these territories overlap with logging, mining, and oil and gas concessions.

Indigenous peoples have a special connection with the land, the rivers, the forests and the mountains where they live. These are the places where their ancestors have lived, and where their knowledge, religion, culture and world view have evolved. For most indigenous peoples, therefore, land and territories hold a spiritual value which far outweighs the economic and aesthetical aspects connected to these areas. This distinct connection is the reason why the right to land, territories and resources is so central in all indigenous law. In UNDRIP, this right is formulated thus (Article 26):

> Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise owned or acquired.[28]

UNDRIP thus states that indigenous peoples have a right to the areas they have traditionally inhabited, as well as to the resources to be found there. Further on in the same article, the declaration affirms that it is the responsibility of states to give legal recognition and protection to these lands. ILO Convention No. 169 also confirms the right of indigenous peoples to their traditional lands, as well as the duty of states to recognise them. Article 14 states:

> 1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. [...]
>
> 2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.[29]

The ILO specifies in its Guide to ILO Convention No. 169 that this concept embraces «the whole territory they use, including forests, rivers, mountains and coastal sea, the surface as well as the sub-surface».[30]

According to the convention's Article 15 (1), indigenous peoples also have rights to the natural resources of these territories and, in its guide to the convention, the ILO points out that «these resources comprise both renewable and non-renewable resources such as timber, fish, water, sand and minerals».[31]

On this question, the Amazon countries' legislation differs from ILO Convention No. 169. The majority of their constitutions declare that oil, gas, and mineral resources belong to the state. This is a significant source of conflict in the Amazon region. The Inter-American Court of Human Rights has established through various judgements that the right of indigenous peoples to land and to territories is an important principle. In an important ruling from 2001, the Court ordered Nicaragua to change its domestic legislation in order that it recognise the territory of the indigenous Mayagna community of Awas Tingni.[32] In 2005, the Court affirmed that indigenous peoples' territorial rights also comprise the physical demarcation of the territories. In the case of the Yakye Axa Indigenous Community versus Paraguay, the Court stated that «merely abstract or juridical recognition of indigenous lands, territories, or resources, is practically meaningless if the property is not physically delimited and established»[33]. In a groundbreaking judgement issued in 2007, the Court supported the claim of the Saramaka, a people of African descent, to territories in Suriname. The Court affirmed that their property rights do not depend on domestic law for

27 RAISG (2012) Amazonia under pressure. Available at: http://raisg.socioambiental.org/mapa

28 United Nations Declaration on the Rights of Indigenous Peoples. Available at http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

29 Indigenous and Tribal Peoples Convention, 1989 (No. 169). Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

30 ILO (2009:91) Indigenous & tribal peoples' rights in practice. Available at http://www.ilo.org/indigenous/Resources/Guidelinesandmanuals/WCMS_106474/lang--en/index.htm. Emphasis in the original.

31 ILO (2009:107) Indigenous & tribal peoples' rights in practice. Available at http://www.ilo.org/indigenous/Resources/Guidelinesandmanuals/WCMS_106474/lang--en/index.htm

32 IACHR (2009, paragraph 46) Indigenous and Tribal Peoples' Rights in Practice over their Ancestral Lands and Natural Resources. OAS official records, doc 56/09.

33 IACHR (2009, footnote 99) Indigenous and Tribal Peoples' Rights in Practice over their Ancestral Lands and Natural Resources. OAS official records, doc 56/09.

their existence but, rather, are grounded in and arise from customary laws and tenure.[34]

Varying implementation of territorial rights in the Amazon countries

Even though the constitutions of the six biggest countries in the Amazon region refer to indigenous peoples' right to their traditional lands, there is a considerable degree of variation both in the more detailed regulation and, not least, in the practice of recognising and demarcating indigenous territories. In some countries, such as Bolivia, Brazil and Colombia, there are several large indigenous territories that encompass all of, or at least large parts of, the indigenous peoples' traditional lands. In Peru, on the other hand, small, delimited settlements are the most common.[35]

In most cases, the domestic legislation accords indigenous peoples the right to surface resources on their territories, in accordance with UNDRIP and ILO Convention No. 169. At the same time, it is usually the state that owns the sub-surface resources, such as oil, gas and minerals. This is to some extent particular to Latin American countries, and is linked to the Spanish tradition of the king's exclusive rights to mining. In Brazil, the state also owns the hydropower potential on indigenous territories. These resources are of great value to the states, but exploiting them is not unproblematic. The exploration for, and exploitation of, such resources on indigenous territories has engendered a large number of conflicts. Such conflicts are often linked to a lack of consultation with the indigenous group in question.

34 FPP (2009) Indigenous Peoples' Rights and Reduced Emissions from Deforestation and Forest Degradation: The Case of the Saramaka People v. Suriname. Available at: http://www.rightsandresources.org/publication_details.php?publicationID=992

35 Comunidad Nativa Matsés is the only one of 1,280 formally recognised indigenous territories in Peru that comprises large parts – approximately 50% in this case - of an indigenous people's traditional lands. Peruvian legislation does not currently accord indigenous peoples the right to large continuous indigenous territories based on traditional tenure, in spite of the fact that the country has ratified ILO Convention No. 169.

2. The right to self-determination, consultation and consent

According to international law, indigenous peoples have a clear right to self-determination. Article 3 of UNDRIP affirms that

> Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.[36]

36 United Nations Declaration on the Rights of Indigenous Peoples. Available at http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

What does free, prior and informed consent mean?

The right to free, prior and informed consent (often referred to by its acronym, FPIC) has been one of the most important demands of the international indigenous movement for a number of years. The formulation was incorporated into the UN Declaration on the Rights of Indigenous Peoples, but there is disagreement over what it should mean in practice. The opposing factions in the debate are often made up of affected indigenous groups on the one hand and national authorities and business corporations on the other. Many guides on how to understand the term have been made. One of the latest was produced by the UN Programme on Reducing Emissions from Deforestation and Forest Degradation (UN-REDD), based on the definition employed by the UN Permanent Forum on Indigenous Issues, with financial support from Norway. A very short summary of the guide follows below.

Free: The affected community itself should direct the process, unencumbered by any type of externally imposed pressure or coercion.
Prior: All information must be provided in time for the affected community to be able to evaluate it and make its decision before the initiation of the proposed activity.
Informed: All information should be objective, accurate and complete, and delivered in appropriate language and format
Consent: A collective decision reached through the community's customary decision-making process, that may be a «Yes» or a «No» to the proposed activities. [1]

1 UN-REDD (2011) Guidelines on Free, Prior and Informed Consent. Draft for Comment. Available at: http://www.unredd.net/index.php?option=com_docman&task=cat_view&gid=1333

From Article 7 of ILO Convention No. 169:

> The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic social and cultural development.[37]

Indigenous peoples thus have the right to freely determine the development of their own territories. What is most relevant for the purposes of this report, however, is what happens when other actors, be they state or private, wish to gain control over natural resources or undertake projects that may affect the circumstances or territories of indigenous peoples. Here, ILO Convention No. 169 is unequivocal on indigenous peoples' right to participation. Article 7 continues as follows:

> In addition, [the peoples concerned] shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.[38]

The establishment of schemes for consultation on measures which affect indigenous peoples is a cornerstone of both UNDRIP and C169. Both documents accordingly elaborate in great detail on this topic. C169's Article 6.1 states that governments shall consult indigenous peoples «through their representative institutions», and Article 6.2 states that

> Consultations [...] shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.[39]

UNDRIP goes further still. Where C169 stipulates that achieving consent is an objective, the Declaration asserts that states shall consult with indigenous peoples «in order to attain their free, prior and informed consent». Article 19 of UNDRIP affirms that

> States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. [40]

The reality in the forest is a different one

Again we see that the gap between theory and practice persists. The Inter-American Court of Human Rights has through various rulings affirmed indigenous peoples' right to consultation. In June 2012, the verdict was issued in the case in which the Kichwa people in the village of Sarayaku in the Ecuadorian Amazon had accused the country's authorities of allowing petroleum exploration activities on their territories, without prior consultation or consent. The Court found in favour of the indigenous community, finding that the Ecuadorian state violated the community's right to be consulted, as well as their community property rights. According to Amnesty International, the sentence will have a far-reaching effect on countries across the region, as it determines beyond any doubt that states bear a responsibility to carry out consultation processes before carrying out development projects affecting indigenous peoples, and establishes in detail how consultation should be undertaken.[41]

In 2007, in the case of the Saramaka people v. Suriname, the Court affirmed that indigenous and tribal peoples' property rights may only be restricted by states «under specific, exceptional circumstances». When large-scale projects may affect the integrity of the lands and natural resources of an indigenous people, the state has a duty not only to consult with the affected community, but also to obtain its free, prior and informed consent.[42]

New domestic laws on consultation

Several countries in the Amazon region are in the process of developing their own sets of rules on consultation with indigenous peoples. The National Congress of Peru in 2011 adopted a specific law on consultation, scheduled to be implemented from 2013. The law on consultation was an avowed wish of the country's indigenous movement, but both the legislative process leading up to the adoption of the law and the results of the process have been the subject of criticism from the selfsame indigenous movement. Most of the sources consulted for this report conclude, all the same, that the law is a step forward.[43]

37 Indigenous and Tribal Peoples Convention, 1989 (No. 169). Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

38 Ibid.

39 Ibid.

40 United Nations Declaration on the Rights of Indigenous Peoples. Available at http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

41 www.amnesty.org/en/news/ecuador-inter-american-court-ruling-marks-key-victory-indigenous-peoples-2012-07-26

42 FPP (2009) Indigenous Peoples' Rights and Reduced Emissions from Deforestation and Forest Degradation: The Case of the Saramaka People v. Suriname. Available at: http://www.rightsandresources.org/publication_details.php?publicationID=992

43 Interviews with Raquel Yrigoyen, lawyer and specialist in indigenous law at the International Institute on Law and Society (IILS), Peru and Ramón Rivera, lawyer in the Peruvian ombudsman's indigenous peoples' programme, Peru

Photo: Stefan Kistler

In Bolivia, the process of developing a law on consultation got under way in 2012, with support from the United Nations Indigenous Peoples' Partnership (UNIPP).[44] There is no corresponding process in Brazil, but some researchers are claiming that the new national programme for resource management on indigenous territories (PNGATI) is, in practice, an attempt to operationalise indigenous peoples' right to consultation.[45]

Nor does Ecuador have a law on consultation, but the country's authorities in July 2012 adopted a «regulation for carrying out free, prior and informed consultation in the tendering and allocation processes regarding hydrocarbon areas and blocks». Some of the country's indigenous rights experts argue that this regulation fails to meet the requirements of consultation as defined by C169 and UNDRIP.[46]

A recurrent theme in the inter-American human rights system is one of complaints on the part of indigenous communities that they have not been consulted in the correct manner.[47] It is therefore positive that the states have expressed a wish to operationalise and fulfil indigenous peoples' right to consultation. Critics have objected that the new laws and regulations are narrower in their remit than both international standards and the states' constitutions. As yet, the countries have limited practical experience with consultations following the adoption of the new regulations.

44 UNIPP (2012) Consolidated Annual Progress Report on the Implementation of the United Nations-Indigenous Peoples' Partnership (UNIPP)

45 Braaathen and de Souza (2013) Semi-Autonomy: Contemporary Challenges for Indigenous Peoples in Brazil

46 Mazabanda, C. (2013) Consulta previa en la 11a ronda petrolera ¿Participación masiva de la ciudadanía?

47 IACHR (2009) Indigenous and Tribal Peoples' Rights in Practice over their Ancestral Lands and Natural Resources. OAS official records, doc 56/09

Photo: Stefan Kistler

4. Resource races and rights violations in the Amazon

As we have already seen, there is a gap between the commitments that the various countries have made in terms of safeguarding human rights, and what they do in practice. This chapter contains an initial discussion of the conditions for human rights and environmental activists in the Amazon countries, before moving on to a closer examination of cases from Peru and Brazil respectively that illustrate the human rights challenges related to the management of natural resources in the Amazon.

The defenders of human and indigenous rights are under attack

Both the UN, the Inter-American Commission on Human Rights and Amnesty International are voicing concern over a wave of attacks on human rights defenders across the globe. According to these institutions, the situation is especially grave in the Americas. According to a report published in 2011 by the UN Special Rapporteur on the Situation of Human Rights Defenders:

> Defenders working on land and environmental issues are also highly exposed to attacks to their physical integrity, often by non-State actors, and many are killed because of their work on the environmental impact of extractive industries and development projects, or the right to land of indigenous peoples and minorities. The Americas seems to be the region where these defenders are most at risk.[48]

A report on attacks on human rights defenders in the Americas, published the same year by the IACHR, identified seven especially exposed groups. Three of them were «campesino and community leaders», «indigenous and Afro-descendant leaders», and «defenders of the right to a healthy environment».[49] Amnesty International confirms that the majority of the cases on which it takes action in the Americas relate to the defence of land, territories and natural resources:

> Women and men, working to defend human rights related to land, territory or natural resources make up the majority of cases of human rights defenders on which Amnesty International took action from 2010 to 2012 in the Americas. Most were working in areas affected by internal armed conflict, land disputes or mega-projects.[50]

Both the UN, the IACHR and Amnesty International refer to a number of cases from the Amazon in their reports. Notwithstanding the fact it has not proved possible to find any overall statistics on attacks on human rights defenders in the Amazon region, it is clear that the problem is widespread.

A study carried out by Global Witness in 2012 on the killing of environmental activists showed that the number of killings linked to disputes over land is on the rise globally, and that the Amazon countries top the statistics. Of a total of 711 reported killings in the

48 UN (2011) Special Rapporteur on the Situation of Human Rights Defenders. A/HRC/19/55, para. 123

49 IACHR (2011) Second Report on the Situation of Human Rights Defenders in the Americas. OAS/Ser.L/V/II. Doc 66

50 Amnesty International (2012:28) Transforming Pain into Hope: Human Rights Defenders in the Americas

period 2002-2011, there were 365 killings related to land disputes in Brazil; 123 in Peru; and 70 in Colombia.[51] The organisation reports that the quality of the underlying data varies markedly from country to country and that the actual numbers are in all probability much higher. It is still striking, however, that 78 percent of all registered killings related to land disputes over a decade occurred in just three Amazon countries.

Most of the sources interviewed for the present report can themselves be categorised as environmental and human rights advocates. They agree that attacks on human rights activists and organisations are a major problem in the Amazon region, and the majority believe that the problem is on the rise.

"We are clearly witnessing the persecution of rights defenders", says a source within the environmental movement in Peru.[52] According to him, the country's authorities pay little heed to their cause, instead advancing the cause of mining and infrastructure development companies and promoting intensive resource extraction in lieu of safeguarding the rights of the local population in the Amazon. He also explains that the judiciary protects the investors by regarding concessions as private property, and that the police and the armed forces as a rule side with business corporations in cases where they should be protecting the respective interests of various different stakeholders.

Another source from Peru with expertise on indigenous rights explains how the state is attacking human rights activists and organisations, both physically and via the media. She points out that even lawyers from the country's ombudsman's office (Defensoría del Pueblo) were physically attacked by the police during protests over the Conga mining project in the Andes region. «This is a policy of persecution to frighten, to make people afraid».[53]

Several sources also claim that there is an increasing criminalisation of human rights defenders and organisations in Peru.[54] The IACHR has observed the same trend on a wider geographical scale:

> The increasingly systematic and recurring way in which baseless criminal actions are brought against human rights defenders has caused this obstacle to gain visibility in the region.[55]

Criminalisation of indigenous leaders and limited room for manoeuvre

According to the umbrella organisation for indigenous peoples of the Peruvian Amazon, AIDESEP, there are currently more than 1,500 indigenous leaders under arrest, criminal investigation or accusation in Peru. The organisation believes that this is the result of a conscious strategy on the part of the state to weaken their resistance to natural resource extraction on their lands.[56] Those numbers have not been verified, but the analysis is shared by all the sources consulted in Peru. Another source maintains that reporting the indigenous leaders to the police for corruption, tax evasion and violence is also a strategy to diminish their capacity and, in turn, the capacity of their organisations.[57] The IACHR has witnessed the same trend:

> The IACHR has observed that multiple criminal complaints are brought by the affected businesses and their workers or by the authorities; many of the crimes with which the indigenous leaders are charged are written in very vague and broad language, and are, therefore, contrary to the principle of legality.[58]

Amnesty International has also called attention to this trend. In a report on human rights violations linked to large development projects, the organisation writes that

> Indigenous leaders and community members also face criminal prosecutions under charges that seem to be disproportionate and politically motivated.[59]

Indigenous peoples constitute an especially vulnerable group. The attacks and harassment targeted at their leaders can affect the development of their communities in a variety of ways, as these leaders, rather being simply the political authorities of their communities, are also their spiritual authorities and are seen as fonts of ancestral wisdom and as essential to their peoples'

51 Global Witness (2012) A Hidden Crisis. Increase in Killings as Tensions Rise over Land and Forests. Available at: http://www.globalwitness.org/sites/default/files/A_hidden_crisis.pdf

52 César Gamboa, director of the environmental NGO Rights, Environment and Natural Resources (Derecho, Ambiente y Recursos Naturales – DAR), Peru

53 Interview with Raquel Yrigoyen, lawyer and specialist in indigenous law at the International Institute on Law and Society (IILS), Peru

54 Interviews with Søren Hvalkof, anthropologist with extensive experience from the Amazon and Roberto Espinoza, sociologist and adviser to the umbrella organisation for indigenous peoples of the Peruvian Amazon (AIDESEP), Peru.

55 IACHR (2011:29) Second Report on the Situation of Human Rights Defenders in the Americas. OAS/Ser.L/V/II. Doc 66

56 Interview with Roberto Espinoza, sociologist and adviser to the umbrella organisation for indigenous peoples of the Peruvian Amazon (AIDESEP), Peru.

57 Interview with Søren Hvalkof, anthropologist with extensive experience from the Amazon

58 IACHR (2011:128-129) Second Report on the Situation of Human Rights Defenders in the Americas. OAS/Ser.L/V/II. Doc 66

59 Amnesty International (2011) Sacrificing Rights in the Name of Development: Indigenous Rights under Threat in the Americas. London, UK: Amnesty International Publications

cultural and spiritual development.[60] As such, the persecution and criminalisation of indigenous leaders is not simply a problem pertaining to individual human rights: it can also constitute an attack on the whole group and their way of life as a people.

The following section contains a closer examination of two different situations, in Brazil and Peru respectively, to shed light on the challenges being faced in the Amazon region with regard to human rights generally and indigenous rights in particular.

An example from Brazil: Fundamental rights are under threat

Two thirds of the Amazon rainforest, and more than one third of all remaining rainforest in the world, can be found in Brazil. The destruction of the Brazilian Amazon had made the country top the statistics on deforestation, greenhouse gas emissions and endangered species.

Brazil has been working to change this. In the decades that followed the fall of the military dictatorship in 1985 and the promulgation of the current constitution in 1988, Brazil made significant progress with regard to the titling of indigenous territories. As outlined in Chapter 3, Brazil's indigenous peoples have secured the recognition of their rights to large areas of land corresponding to their traditional lands. They have gained perpetual usage rights over the forest and surface resources, and have the opportunity to maintain their culture and way of life – provided that these areas are protected. There are still over 200 claims to indigenous territories under review.

To some extent, healthcare and schooling programmes have also been developed, often instigated by non-governmental organisations. Even though many significant challenges remain when it comes to fulfilling the fundamental rights of indigenous peoples, Brazil has in many ways been a pioneer on this front.

In the course of the last 10 years, the rate of deforestation in the Brazilian Amazon has been drastically reduced – in fact, it was reduced by 80 percent from 2004 to 2012. Two of the main factors behind this successful reduction are the introduction of strong legislation and a resolute effort by the state over the last decade to curb deforestation.

These positive trends are now being reversed, however, in the realms of both deforestation, legislation and state policy.

BRAZIL

- In the latest census (2010), around 900,000 Brazilians identified themselves as indigenous
- Divided among 230 indigenous groups
- Speak 180 languages

In a statement issued by a united Brazilian environmental and human rights movement in 2012, the current government, headed by incumbent president Dilma Rousseff, was accused of overseeing «the biggest step backwards for the environmental and human rights agenda since the fall of the military dictatorship».[61]

The most serious attacks

Brazil has over the last few years seen systematic attacks on indigenous rights and on legislation on protected areas, from various interest groups and on various different levels. These attacks can be grouped into three tendencies:

Firstly, pressure to amend laws that secure indigenous peoples' right to territories and hence their way of life and culture. Legislative bills have been tabled in the Congress that, if passed, will weaken indigenous peoples' constitutional territorial rights; permit mining operations on indigenous territories; and weaken regulations on environmental licenses and environmental impact analyses (EIAs). At the same time, the process recognising indigenous territories has come to a halt.

Secondly, a strong focus on large infrastructure development and energy projects, mineral extraction and industrial agriculture exacerbates the resource conflicts, and undermines rights to clean water, food security and other fundamental needs. At the same time, the development is characterised by a lack of consultation and participation for affected local communities, and inadequate guidelines for the assessment and handling of social and environmental consequences. In addition, actors with interests that diverge from those of indigenous peoples make use of the judicial system to curb constitutional collective rights such as indigenous peoples' right to territories.

Thirdly, violations against – and encroachments of the rights of – individuals and local communities, such as illegal gold and mineral extraction and mounting violence, threats and legal action against indigenous communities and environmental activists.

60 IACHR (2011:124) Second Report on the Situation of Human Rights Defenders in the Americas. OAS/Ser.L/V/II. Doc 66

61 Retrocessos do governo Dilma na agenda socioambiental. Available at: http://www.socioambiental.org/nsa/detalhe?id=3512

Davi Kopenawa Yanomami is an internationally renowned indigenous leader and spokesperson for the Yanomami people in Brazil. He is engaged in a tireless struggle for his people's rights. Photo: Vincent Rosenblatt

Human rights

From a human rights perspective, each single element in this list in itself gives cause for alarm. However, what is most alarming to Brazilian human rights and indigenous organisations is the aggregate pressure and the degree of coordination behind it. According to an analysis from the Brazilian organisation Instituto Socioambiental (ISA), there are currently 83 proposed legislative bills in the Congress that threaten indigenous territories and protected areas.[62]

57 of these legislative bills seek to limit the territorial rights of indigenous peoples. Two constitutional amendment bills with provenance in the agribusiness lobby[63], in particular, are a great cause for concern. One of the bills is designed to further political control over the establishment of indigenous territories by shifting decision-making authority from the executive to the legislative branch of government[64]; while the other is designed to effect the opening up of existing indigenous territories to natural resource extraction.[65] The indigenous movement has not been included in the process when the bills have been under consideration by the Congress, as the law entitles it to be.

Another legislative bill that is causing alarm seeks to open up indigenous territories to mining and mineral extraction.[66] A review reveals that there are currently more than 4,500 pending licence applications for gold exploration in areas that overlap indigenous territories.[67] In some cases, as much as 100 percent of the territory is overlapped by the licenses applied for. The Yanomami territory in Brazil is the area affected by the highest number of applications, and they comprise more than half of the territory in total (55 percent).

According to international human rights law adopted by Brazil (see Chapter 3), indigenous peoples have a right to participation in the decision-making process on legislative amendments and industrial and development projects that impact on their lands and living

62 The environmental and human rights organisation Instituto Socioambiental (ISA) 2013

63 The agribusiness lobby, or «Bancada Ruralista», is a special interest group in the Congress that represents Brazil's powerful agricultural elite

64 Constitutional amendment bill: PEC 2015

65 Constitutional amendment bill: PLP 227

66 Bill: 1610/96

67 O Globo: http://extra.globo.com/noticias/economia/empresas-fazem-mais-de-45-mil-pedidos-para-explorar-de-ouro-cobre-emterras-indigenas-7726202.html#ixzz2MSwsnpNG

conditions. This is among the rights being violated in the course of the developments we are witnessing in the Brazilian Amazon today, alongside the pressure on established land rights.

Another survey, also carried out by ISA, shows that around 75 percent of existing territories are facing a concrete territorial threat.[68]

Sônia Guajajara from the umbrella organisation for indigenous rights organisations of the Brazilian Amazon (COIAB) describes the situation thus:

> Before, we fought for the fulfilment of our rights. Now, we are fighting to avoid losing constitutionally recognised rights.[69]

In light of the heightened level of conflict, a range of advocacy groups and indigenous organisations have addressed the authorities. For example, RCA, a network of human rights and indigenous organisations, wrote the following in a letter to the authorities:

> It is not too much to ask to expect the Congress to uphold the laws that it has itself adopted; to respect the country's indigenous peoples in its legislation; and to halt bills that contravene the rights inscribed in the constitution of 1988.[70]

Why now?

Over the last decade, the primary industries have accounted for an ever larger proportion of Brazil's economic growth and export earnings. By far the largest increase in meat and soya bean production is in the Amazon.

At the same time, the mining activities are expanding, and the authorities are investing heavily in hydropower and road building projects. Indigenous territories and protected areas are viewed as obstacles to these projects.

The onslaught on the rights of indigenous peoples and environmental interests is often portrayed as a reaction against stricter enforcement of environmental legislation during the last decade. One assessment of the power structures underlying Brazilian society that is widely held within the Brazilian environmental movement states that when the landowners and developers saw the environmental legislation actually being put into practice – thus threatening their interests – they resolved to amend it.

68 The Amazonian Network of Georeferenced Socio-environmental Information (RAISG)

69 Cited in Cimi (2013)

70 www.rca.org.br/2013/07/nota-de-repudio-ao-ataque-no-congresso-nacional-aos-direitos-indigenas-constitucionais/

Many are also observing a decline in the political will to safeguard the rights of indigenous peoples. This decline is manifested in the fact, inter alia, that almost no indigenous territories or other types of protected area have been established during the presidency of the incumbent, Dilma Rousseff, and that Dilma elected not to meet with the indigenous movement until almost one a half years of her first term of office had passed.

Today, Brazil's native peoples are finding that many of the rights whose recognition they have secured over the last 25 years are coming under threat. The situation of the Yanomami people in the northern Brazilian Amazon, in the area bordering Venezuela, illustrates how indigenous peoples are engaged in a constant struggle to retain their land and their traditions.

The Yanomami people's tireless struggle for their rights

Deep in the Amazon jungle, on both sides of the border between Brazil and Venezuela, live the Yanomami. With a population of around 20,000 on the Brazilian side of the border, they are the most populous indigenous group in Brazil to still adhere closely to its traditional way of life; they live as they have done for thousands of years.

Until the 1970s, the Yanomami had barely been in contact with the outside world. During the 1970s and 1980s, however, their lands were invaded by gold miners, who brought deadly diseases and polluted the rivers, and regularly engaged in violent conflict with the native people.

Thousands of Yanomami died. Davi Kopenawa Yanomami was one of the many who lost a large part of their family – and ever since, he has fought to prevent anything similar from happening again. Today, he is an important spokesperson for the Yanomami, both in Brazil and internationally.

In the wake of the catastrophe involving the gold miners, the Yanomami in 1992 obtained the recognition of their right to their own lands, and the Yanomami territory was established by the authorities. Brazilian authorities also helped remove around 40,000 illegal gold diggers from the area.

Throughout the 20 years or so that have passed since, the indigenous peoples have been able to look to the new constitution for protection against attacks and illegal intruders. However, in spite of commitments enshrined in both domestic legislation and inter-

national conventions, protection from the authorities has been lacking. Indigenous groups have to a large extent had to protect themselves against illegal intruders; and fundamental rights, such as the right to healthcare and to education, have only been fulfilled to a limited extent. Nonetheless, the territories have been an important prerequisite for the fulfilment of those rights.

Today, gold mining yet again represents a growing threat to the Yanomami. The price of gold on the international market doubled from RS 50 in 2010 to RS 110 in 2011[71], and the Yanomami organisation Hutukara informs of increased gold mining activity.

Davi Yanomami has also found that his efforts to address the recent increase in incursions from gold miners have been hindered by the authorities. For the last five years, Hutukara has carried out a systematic survey of illegal gold mining activity and filed reports with the police. This resulted in a federal police investigation against him in 2011, in which he was charged with making false accusations.

The year after, he was formally indicted in accordance with the charges against him. Hutukara responded by releasing documentation supporting the grounds for filing reports with the police, and are demanding that the case be dismissed. They are also questioning whether the real purpose behind charging Davi was to intimidate him and to limit Hutukara's room for manoeuvre. It was only this year, after Davi, a lawyer, and several of Hutukara's members of staff had spent a considerable amount of time clearing up the case, that it was dismissed in a federal court.[72]

Those who are pushing for a weakening of indigenous rights are the same as those who seek access to the natural resources in the territories. With the memory of the catastrophic consequences of the gold mining rush in the 1980s and the knowledge that licence applications for gold mining cover more than half of the Yanomami territory, it is not hard to imagine that the Yanomami are fearful of the legislative bills that are to weaken both land rights and the rights to self-determination and consultation.

71 The environmental and human rights organisation Instituto Socioambiental (ISA)

72 Interview with Ana Paula Caldeira Souto Maior, lawyer at Instituto Socioambiental (ISA)

An example from Peru: Petroleum, pollution and rights violations

For more than 40 years, Peruvian and international oil companies have engaged in oil and gas extraction in rainforest areas in Peru. The negative consequences for the environment and for indigenous peoples have been extensive, and indigenous peoples' rights to land and to prior consultation on measures that affect them have not been respected. The advent of the oil and gas industry in the Amazon has led to sharp conflicts between Peruvian authorities and indigenous communities, as well as serious human rights breaches.

Petroleum in Peru

Over the last five or six years, there has been a massive increase in the number of oil and gas blocks opened for production in Peru. The upsurge got under way in earnest in 2008, under then president Alan García, when the proportion of the Peruvian Amazon made accessible to the petroleum industry was tripled. Now, 84 percent of the aggregate area of Peru's rainforest has been opened up to the oil and gas sector.[73]

The eagerness exhibited by Peruvian authorities to award licences for new oil and gas blocks has been a central element in the serious conflicts between indigenous peoples and the authorities in Peru that have arisen in recent years, and that had a tragic outcome with violent clashes in Bagua in 2009.

The native peoples of Peru generally exhibit great scepticism towards petroleum activities. This can be attributed to the experiences of some of the indigenous groups that have been in closest contact with the petroleum activities in the Peruvian Amazon.

The tragedy in Block 1AB

In the period from 1971 to 2000, the US company Occidental Petroleum was engaged in oil production in the oil concession known as Block 1AB. This concession covers large parts of the upper river basins of the Pastaza and Corrientes rivers in the region of Loreto, which borders Ecuador.[74] This area is inhabited by the indigenous Quechua, Achuar, Candoshi, Awajun, Wampis and Shapra peoples.

73 RAISG (2012) There are production or exploration activities in just over 40% of the blocks. Licence applications are pending for about 20% of the blocks.

74 Block 1AB has now been renamed Block 192. The concession is still widely known as Block 1AB, which is the term used on most maps and by most people. In this report, the concession is thus referred to as Block 1AB.

Photo: Stefan Kistler

During this period, Occidental Petroleum dumped on average 135 million litres of poisonous waste into the rainforest's rivers, lakes and soil – every single day.[75] Crude oil, drilling fluid, and other waste ended up in open pits. In order to reduce production costs, the company used outdated oil pipelines that were often damaged. Millions of litres of oil spilled into nature. The area of destroyed rainforest alone covers around 5,000 square kilometres, but the impacted area is many times larger. The area comprises forest and resources utilised every single day by indigenous peoples for hunting, fishing, crop cultivation, drinking water, and personal hygiene. In 2000, the concession was sold to the Argentinian oil and gas company Pluspetrol, which has continued its operation.

Indigenous peoples' demands and Pluspetrol's cleanup measures

The indigenous peoples inhabiting Block 1AB have over a number of years complained to the authorities that the contamination stemming from the oil production is destroying their lives and their health. The complaints have been supplemented by extensive photographic and video documentation from numerous investigations in the contaminated areas. The indigenous groups have demanded that the oil companies clean up the pollution, and have also addressed regional and national authorities with demands for a cleanup operation and for compensation for health problems and environmental damage.

As part of an agreement[76] with the local indigenous organisation in Corrientes, FECONACO, Pluspetrol has implemented some cleanup measures in the area, but these have largely proved ineffective – something that has been carefully documented by indigenous organisations.[77]

Undertook direct action to raise awareness

In 2006, Peru's ministry of health published a report based on investigations in Corrientes. The report showed that over half of those examined had danger-

75 Amazon Watch: http://amazonwatch.org/work/block-1ab

76 Acta de Dorissa, 2006

77 PUINAMUDT: http://observatoriopetrolero.org/

ously high levels of heavy metals in their blood.[78] Indigenous organisations have also warned of higher mortality due to cancer and other diseases, including skin and eye disorders.[79] The same year, indigenous people engaged in direct action against Pluspetrol by occupying one of its oil facilities. The company subsequently agreed to change its practices on the handling of drilling fluid, but only in certain places.

Local conflict turns to violence and the criminalisation of indigenous leaders

One of the activists was Alberto Pizango Chota, the president of the umbrella organisation for indigenous peoples of the Peruvian Amazon, AIDESEP. He also supported the widespread indigenous protests against petroleum activities both in the northern and southern Peruvian Amazon in 2008. The protests were symptomatic of rising levels of conflict in Peru, centred on indigenous rights and the management of the rainforest.

During this period, the indigenous movement mobilised against legislative changes designed to weaken indigenous land rights so as to make it easier for business corporations to gain access to the natural resources found on indigenous lands. The legislative changes were part of a process intended to culminate in a free trade agreement with the USA.

In June 2009, the conflict ignited, with violent clashes between protesting indigenous people and police in the province of Bagua. At least 33 people died and many more were wounded when police attempted to break up a 45-day indigenous road blockade, sparking further clashes elsewhere in the Peruvian Amazon.

Consequently, the Peruvian government sought to arrest Alberto Pizango on charges of sedition, accusing him of having led the protests and thus of being responsible for the violence. Pizango left Peru, spending 11 months in political asylum in Nicaragua. When he returned in May 2010, he was arrested on arrival at the airport, but was later released under strict conditions that severely limit his freedom.

78 Ministerio de Salud http://www.minsa.gob.pe/portalMinsa/destacados/archivos/242/RIO%20CORRIENTES.pdf

79 La Torre López L (1998) «Sólo queremos vivir en paz!» Experiencias petroleras en territorios indígenas de la Amazonía peruana, Grupo Internacional de Trabajo Sobre Asuntos Indígenas (IWGIA) y Grupo de Trabajo Racimos de Ungurahui, Copenhagen

After Bagua

What followed the events in Bagua was a period of inquiry that was characterised by a divide between those who believed that the authorities were at least partly to blame for the tragedy that had occurred, and those who felt that the indigenous people bore sole responsibility. In June 2011, the National Congress of Peru endorsed a report that ascribed some political responsibility for the events to the authorities, but cleared them of criminal responsibility.

In December 2012, state prosecutors announced that they were charging around 50 members of the indigenous movement with crimes committed in conjunction with the events in Bagua. One of the indictees is Alberto Pizango, who is accused of murder, illegal weapon possession, and disturbing the peace, among other crimes. The proposed sentence for Pizango and eight other members of the indigenous movement for the latter crime is life imprisonment. No representatives of the political authorities have been charged with crimes, but certain high-ranking police officers have been indicted after reports were filed against them by relatives of police officers killed in Bagua. It is not yet clear when these cases will be tried in court.

The road ahead – more oil, or respect for rights?

Returning to Block 1AB, in March and August 2013 respectively, Peruvian authorities declared an environmental state of emergency for the Pastaza and Corrientes river basins due to high levels of contamination. This followed protracted and intensive efforts on the part of organisations representing indigenous peoples inhabiting the contaminated areas, involving both documentation and advocacy work.

At the same time, both the authorities and Pluspetrol are now seeking to expand oil production as of 2015, but they are facing opposition from indigenous groups, who are refusing to discuss any expansion of the petroleum activities until the state and the company have addressed all the problems arising from the existing production. Another condition they are setting is that all indigenous land claims in the region be addressed first, in accordance with the international human rights conventions to which Peru is a party.

The right to consultation

From a human rights perspective, there is no doubt that indigenous land claims should be addressed prior

to the question of whether to open up Block 1AB to a further 30-50 years of oil production.

Both international law and the Inter-American Court of Human Rights affirm that indigenous land rights relate to traditional territories in their entirety, not just small settlement areas.

Another right that must be respected in this context is the right of affected indigenous groups to consultation. Indigenous peoples must be consulted in accordance with international standards before the decision on the expansion of petroleum activities is made. Both the UN Declaration on the Rights of Indigenous Peoples and the Inter-American Court of Human Rights state that if the potential consequences of such an expansion are so extensive as to threaten the integrity of indigenous territories and the natural resources to be found on them, the state must not only consult with indigenous peoples, but also obtain their free, prior and informed consent.[80] Immediately after Ollanta Humala took over as president of Peru in the summer of 2011, the country's National Congress passed a bill on indigenous peoples' right to prior consultation on measures that affect them. The legislation was adopted in the first half of 2012. The law was seen by many as a step forward, but was nonetheless criticised for failing to meet the standards set out in ILO Convention No. 169 or UNDRIP. AIDESEP is demanding that the law comply with C169 before it can come into force. The experience of 40 years of petroleum activities on indigenous lands demonstrates how closely linked the rights to land and to consultation are with other fundamental human rights, such as health and access to clean water. This lesson must be given due attention in the debate surrounding the possible extension of Block 1AB.

80 UNDRIP and the IACHR

Police take up position against local indigenous people protesting against oil production in Bagua, Peru in 2009. Photo: Reuters

Photo: Jørgen Braastad

5. The economic backdrop: Development boom displaces rights

In the previous chapter, we saw examples from Peru and Brazil of how rights are being violated and are subject to increased pressure from powerful business interests and political lobby groups. Every country has the right to exploit its natural resources to drive economic growth and development. At the same time, states have a duty to ensure that this occurs in a way that respects human rights and does not lead to serious environmental degradation. In the Amazon countries, rights organisations are increasingly reporting that this balance is not being maintained. Increased pressure to exploit natural resources has led to significant conflicts and breaches of human rights, especially the rights of indigenous peoples.

Indigenous people and human rights activists see clear parallels with earlier phases of the exploitation of the Amazon region's resources. During the 20th century, rubber production, agriculture, logging and oil extraction were the most important activities. The indigenous peoples of the Amazon have ever since the European colonisation of the region been systematically driven from their lands, and an unknown number of isolated tribes have been made extinct through disease or outright slaughter. The rainforest, too, has suffered. Almost 20 percent of the original rainforest cover in the Amazon has disappeared over the last 50 years, and an additional 30 percent has been significantly degraded as a result of human activity.

Several of the sources consulted for this report point out that current developments in the Peruvian and Brazilian Amazon are in many ways a regression to previous political and economic models that emphasise centralised growth without taking into account environmental considerations or the rights of minorities. In Peru, the point of departure was president Fujimori's self-coup in 1992. This laid the foundation for a period of authoritarianism, a new constitution and a new set of policies that opened the country to large private investments in areas where indigenous peoples have traditional rights.[81] In Brazil, the current model with large hydropower plants and road building projects in the Amazon has clear parallels with projects carried out by the military regime during the 1960s and 1970s.[82]

Today, the development plans for the Amazon are characterised by large infrastructure development and extractive projects.[83]

The large infrastructure development projects comprise roads, river transport and electric power development. An illustrative example is the new international, transcontinental highway in Peru and Brazil (Carretera Interoceánica del Sur), which was opened in 2011. It connects the Brazilian state of Acre with the Peruvian region of Madre De Dios, and realised the old dream on the continent of linking the Atlantic and Pacific Oceans via a road through the Amazon. Brazil has seen it as

81 Interviews with Beatriz Huertas, anthropologist and specialist on isolated indigenous tribes who previously worked in the Peruvian culture ministry's indigenous peoples' programme and Raquel Yrigoyen, lawyer and specialist in indigenous law at the International Institute on Law and Society (IILS), Peru

82 Interview with Adriana Ramos, director of the environmental and human rights organisation Instituto Socioambiental (ISA), Brazil

83 For a throrough review, see Little, P. T. (2013) Megaproyectos en la Amazonía.

vital to establish such a corridor in order to improve access to markets in its neighbouring countries to the west, and more important still to gain access to ports on the Pacific Ocean in order to facilitate export to China.

Hydropower development is at an all-time high in the Amazon. Tens of large hydroelectric power plants are under construction, and 246 new projects are at the planning stage.[84] Some of these are among the largest in the world, such as the Belo Monte Dam in Brazil. In 2010, the presidents of Brazil and Peru signed an energy agreement which stipulated that Brazil would finance and build 15 hydroelectric power plants in its neighbouring country, and in return would be allowed, over the next 50 years, to import some of the energy produced.

What the transcontinental highway, the Belo Monte Dam and the planned hydroelectric power plants in Peru have in common is that the Brazilian Development Bank (BNDES) is providing the bulk of the financing, and that Brazilian construction companies are being awarded the contracts.[85] Compared with the World Bank, BNDES' guidelines on social and environmental responsibility and human rights are weak.

The extractive projects comprise the extraction of raw materials for export – primarily hydrocarbons and minerals. These projects are in the main financed and carried out by private companies.

Mining operations in the Amazon are undergoing rapid expansion. More than 50,000 exploration licences, concessions and licence applications cover altogether 21 percent of the region's land area.[86] There is a large degree of overlap between indigenous territories and the presence of mineral deposits, which has led to numerous conflicts over many years.

Oil and gas production in the Amazon is also expanding. There are 81 blocks currently producing oil and gas, but plans are under way to expand the production to include 246 new blocks. These concessions in total cover more than 15 percent of the Amazon, and many of them overlap with indigenous territories.[87] The oil production primarily occurs in the border area between Ecuador and Peru.

84 RAISG (2012) Amazonia under pressure. Available at http://raisg.socioambiental.org/mapa

85 Leira, T. (2011) Brasiliansk imperialisme i Amazonas? Hvordan Brasil på samme tid integrerer og fragmenterer verdens største regnskog. Internasjonal Politikk no. 2/2011.

86 RAISG (2012) Amazonia under pressure. Available at http://raisg.socioambiental.org/mapa

87 Ibid.

ECONOMIC GROWTH AND EXTRACTION BOOM

- Over the last decade, South America has seen strong economic growth. In the period 2003-2010, the annual economic growth rate was 5.0 percent, compared to a humble 0.3 percent in the period 1998-2002. China's rising demand for oil, minerals and soya bean, and Brazil's growing investments in neighbouring countries, have been two important driving forces. Economic growth, coupled with a new set of policies for poverty reduction, has given rise to a South America with less poverty.
- Since the turn of the millennium, the South American countries have intensified regional integration efforts and laid plans for the large-scale development of physical infrastructure, in particular roads and hydroelectric power plants in the Amazon. These plans were first coordinated through the Initiative for the Integration of the Regional Infrastructure of South America (IIRSA). Since 2010, the IIRSA has been placed under the remit of the Union of South American Nations (UNASUR) and its Council for Infrastructure and Planning (COSIPLAN). Today, IIRSA/COSIPLAN have a portfolio of 571 projects with an estimated aggregate cost of almost 158 billion US dollars.[2] Around 40 percent of these costs are directly linked to infrastructure projects in the Amazon.[3]
- Viewed as a whole, the plans today threaten large parts of the Amazon rainforest. This is first of all due to the fact that modern technologies make it possible to exploit natural resources that were previously inaccessible. Secondly, easily accessible natural resources are becoming scarcer the world over. In today's globalised world, demand is high enough to sustain large-scale development in the Amazon, and the available capital resources are sufficient to cover the heavy investments needed. The consequences are similarly massive. The last study on a pan-Amazonian scale concludes that if all existing development plans for the region are realised, half of the remaining Amazon rainforest will disappear.[4]

1 ECLAC (2012) Structural Change for Equality: An Integrated Approach to Development. 34th session of ECLAC, San Salvador, 27-31 august.

2 http://iirsa.org/Page/Detail?menuItemId=72

3 Three of the IIRSA's Integration and Development Hubs – the Amazon Hub, the Guianese Shield Hub, and the Peru-Brazil-Bolivia Hub – comprise areas of the Amazon rainforest, together representing 39.3 % of the total budget. See http://iirsa.org/Page/Detail?menuItemId=72

4 Interview with Beto Ricardo, head adviser of Instituto Socioambiental, in a press release coinciding with the launch of the atlas Amazonia under pressure (2012). Source: http://raisg.socioambiental.org/prensa

According to the mapping network RAISG, which produces maps detailing the exploitation of natural resources in the Amazon based on the participation of recognised research institutions, around 95 percent of the indigenous territories and 80 percent of protected areas in the Amazon will be impacted by planned roads, hydropower plants and resource extraction projects in the region.[88]

Infrastructure and extractive projects add to existing pressures on the Amazon's native peoples and rainforest. Logging activities are expanding into areas where valuable timber is still to be found, such as indigenous territories in the border area between Peru and Brazil. Gold mining persists where there are still unexploited deposits, including on the Yanomami territories in Brazil and Venezuela.

In other words, the Amazon region comprises widely divergent and strongly conflicting interests, and environmental and human rights organisations claim that both the number and the intensity of conflicts is on the rise.

Heightened level of conflict

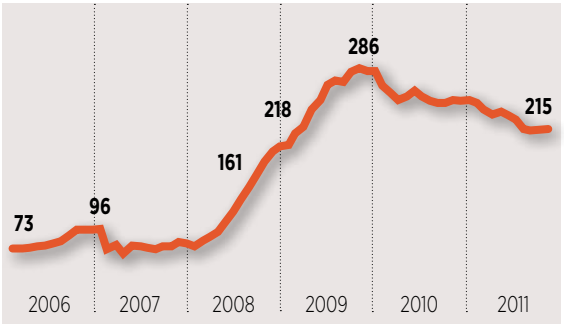
It is hard to find good statistics on the scope of, and tendencies within, conflicts of rights in the Amazon, and there are no overall statistics on this topic. The following section sees an attempt to portray the situation by means of an analysis of arguments put forward by authorities and those representing development interests, while also making use of quantitative indicators from Peru, Brazil and Bolivia.

Peru has seen heavy and occasionally violent confrontations between indigenous peoples on the one hand and authorities and developers on the other, as was clearly demonstrated by the events described in Chapter 4. The rhetoric adopted by the country's political leadership has not advanced the cause of reconciliation. During his time in office, former president Alan García wrote newspaper editorials in which he accused the indigenous population and its allies of being opposed to social and economic progress, and of being lazy:

> There are many unexploited resources [...] that are producing neither investment nor jobs. And all this because of a taboo from old ideologies, because of laziness.[89]

This type of rhetoric is symptomatic of the fact that the authorities have little appreciation for traditional ways of life; nor does the assertion indicate a great appreciation for local rights or environmental concerns. Development and extractive projects thus result in both rights violations and conflicts that could have been avoided or lessened through a different approach.

In Peru, the country's ombudsman has since 2004 compiled statistics on «social conflicts».[90] These conflicts are divided into ten subgroups, and one of these subgroups is «socioenvironmental conflicts» (conflictos socioambientales).[91] In a report from 2011, the ombudsman conducted an analysis of the country's social conflicts, and concluded that their incidence had more than tripled since 2006. From 2007 to 2012, the ombudsman registered an increase of more than 300 percent in the number of social conflicts, of which socioenvironmental conflicts constitute the majority.[92]



The number of social conflicts in Peru, January 2006 – September 2011. *Source: Defensoría del Pueblo, Peru*

A close inspection of the above graph reveals that the upsurge in conflicts began in January 2008. At that time, there were 83 registered conflicts, while in September 2009 there were 288, after which there is a steady decrease down to 215 in September 2011. According to the monthly reports published by the ombudsman, the number of conflicts has remained at this level up to the present time.

88 http://pib.socioambiental.org/es/noticias?id=119385

89 Alan García, president of Peru (2006-2011), El Comercia, 28 October 2007. Cited in Amnesty International (2011:3) Sacrificing Rights in the Name of Development: Indigenous Rights under Threat in the Americas. London, Amnesty International Publications

90 The definition of social conflict employed is the following: «A social conflict is a complex process in which social groups, the state and private companies perceive that their goals, interests, values and beliefs are incompatible or opposed, and that this opposition may lead to violence». Source: Defensoría del pueblo (2012:25) Violencia en los conflictos sociales. Informe Defensorial No. 156

91 This type of conflict is described as follows: «The dynamic is about the control and utilisation of and/or the access to the environment and its resources. In addition, both social, political, economic and cultural elements may be present». Source: Defensoría del pueblo (2012:34) Violencia en los conflictos sociales. Informe Defensorial No. 156

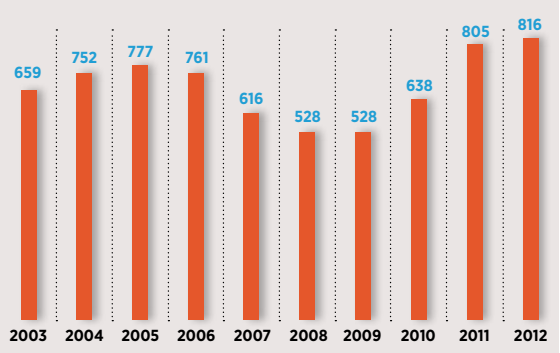
92 Defensoría del Pueblo (2012:37) Violencia en los conflictos sociales.Informe Defensorial No 156.

For the present context, the number of socioenvironmental conflicts93 is even more instructive than the total. The ombudsman's report from 2011 reveals that until December 2011, the number of socioenvironmental conflicts comprised 36 percent of the total number of conflicts.94 In the monthly report from July 2013, 66 percent of all conflicts belong to this group. In other words, the number of socioenvironmental conflicts has risen sharply since 2011, while the total number of conflicts has stabilised.

In Brazil, president Dilma Rousseff has shown little interest for indigenous peoples or the protection of their rights, and she is barely in contact with indigenous representatives. At the same time, she is in frequent contact with representatives of industrial agriculture, mining, and hydropower companies.[95] The rhetoric of those representing development interests may provide an indication as to the level of conflict. In Brazil, the industrial agriculture lobby the National Confederation of Agriculture (Confederação da Agricultura e Pecuária do Brasil – CNA) has demanded that all ongoing processes relating to the recognition of indigenous territories be suspended, and that the recognition of all existing territories be reassessed.[96] The head of CNA, Katia Abreu, is also a senator and the head of the «Bancada Ruralista», the special interest group in the Congress that represents the interests of Brazil's landowners and is behind the tabling of several legislative bills that seek to limit the territorial rights of indigenous peoples.[97]

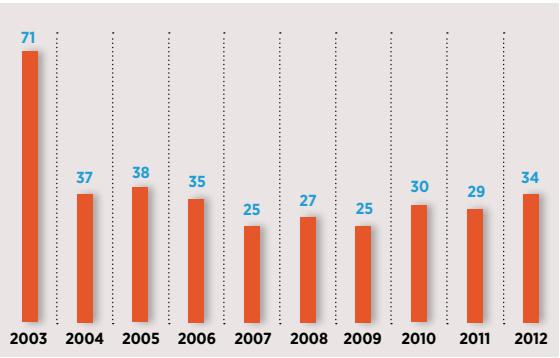
In Brazil, the ombudsman's office does not compile statistics that equate to those published by the Peruvian ombudsman. The most reliable statistics on land conflicts and abuses committed against indigenous peoples are compiled by the Roman Catholic Church's bodies responsible for land issues (Comissão Pastoral da Terra – CPT) and indigenous issues (Conselho Indigenista Missionário – CIMI).

According to CPT, the number of conflicts over land in Brazil fluctuated in the period 2003-2012. In the period from 2009 up to the present time, the number of conflicts has increased. In 2012, the registered number of land conflicts in Brazil peaked at 800.[98]



Number of land conflicts in Brazil 2003-2012. *Source: CPT*

563 indigenous people were killed in Brazil in the decade from 2003 from 2012, according to CIMI's overview. Viewed as a whole, the decade saw a slight increase in the number of killings.[99] In 2012, 60 indigenous people were killed in Brazil.[100] More than half of the killings that occurred during this period were in the state of Mato Grosso do Sul, just south of the Amazon. The fundamental conflict there arises from a failure to fulfil indigenous peoples' right to territories.[101]



Number of killings of indigenous people in Brazil 2003-2012. *Source: CIMI*

93 These are national statistics, and are not particular to the Amazon region. The statistics on socioenvironmental conflicts also comprise the many conflicts surrounding mining in the Andes region.

94 Defensoría del Pueblo (2012:55) Decimoquinto informe anual de la Defensoría del Pueblo al Congreso de la República. Enero-Diciembre 2011. Lima, Peru: Defensoría del Pueblo.

95 http://www.cimi.org.br/site/pt-br/?system=news&action=read&id=6937

96 http://www.canaldoprodutor.com.br/comunicacao/noticias/cna-defende-suspensao-da-demarcacao-de-terras-indigenas-atejulgamento-do-stf

97 For further details, see the section in Chapter 4 on attacks on indigenous rights and protected areas in Brazil

98 CPT's reports «Conflitos no Campo» for the years 2003-2012. Goiania, Brazil: Comissão Pastoral da Terra (CPT)

99 The statistics comprise all types of land issues, including the struggle of landless peasants for land reform. As regards killings, the statistics include killings committed by indigenous people.

100 CIMI's reports «Violência contra povos indígenas no Brasil» for the years 2003–2012. Brasília, Brazil: Conselho Indigenista Missionário (CIMI)

101 The indigenous group Guaraní-Kaiowa, one of the most populous in Brazil, was forcibly displaced from its traditional lands by farmers who were granted land by the state. They are now fighting to return to their land, but are being met with violence by the farmers and their armed guards. The desperate situation has led to a wave of suicides by hanging by boys and young men. According to the Brazilian ministry of health, 470 indigenous people have committed suicide in Mato Grosso do Sul over the last decade – an extremely high suicide rate for such a small population. Source: DIASI/DSEI-MS Ministerio da Saúde (the office for indigenous health issues in Mato Grosso do Sul and the ministry of health).

In Bolivia, the confrontation between authorities and parts of the indigenous population is similarly evident. President Evo Morales made the following statement about the construction of a road through the protected area and indigenous territory of TIPNIS, long before the consultation with the indigenous peoples inhabiting the area got under way: «Like it or not, we will build that road [through the indigenous territory]».[102]

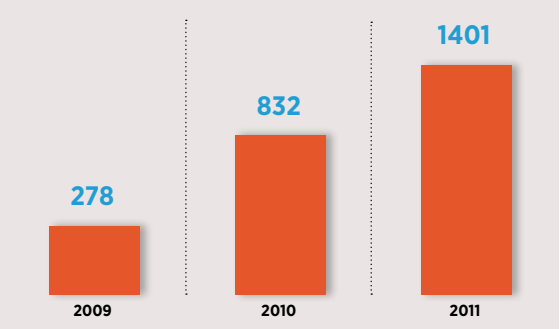
Such a statement is in blatant disregard of both Bolivian and international laws on indigenous rights, and adds to the level of tension the between the authorities and the indigenous population inhabiting the Amazon region.

The situation in TIPNIS provides an illustrative example of the serious social conflicts that are arising in conjunction with the massive infrastructure development and resource exploitation drive taking place in the Amazon. The more than 300 kilometre long road that the authorities plan to build through TIPNIS will facilitate the transporting of natural resources out of and through the area. The project is financed by the Brazilian Development Bank (BNDES); the estimated cost amounts to hundreds of millions of US dollars; and the road will be built by the Brazilian construction company OAS. The affected indigenous peoples in the area feel that their voices are not being heard. The Bolivian ombudsman's office describes the situation thus:

> The controversy surrounding the building of the road [through TIPNIS], and the conflicts that have arisen in areas that are of interest for the purposes of exploiting natural resources such as gas and minerals, have highlighted the government's decision to prioritise wealth creation as the foundation on which to build the plurinational state.[103]

The statement is couched in diplomatic terms, but the analysis is clear: The state's prioritisation of the exploitation of natural resources over and above the environment and the interests of indigenous peoples is engendering conflict.

The conflict over TIPNIS is just one symptom of a tendency towards an increase in social conflicts in Bolivia. The number of conflicts saw a sharp increase between 2009 and 2011, according to a report issued by Fundación UNIR Bolivia. UNIR registered a tripling of the number of active conflicts in Bolivia in the period viewed as a whole.[104] One cannot, however, draw definitive conclusions on the basis of data from such a short period of time, and UNIR itself points out that part of the increase may be due to an improvement in the registration of conflicts.



Number of active conflicts in Bolivia 2009-2011
Source: UNIR

Even if the statistics are too limited to form the basis for definitive conclusions, more qualitative data are indicative of the same underlying circumstances as the above numbers. Case reports from the Amazon region corroborate the image of growing levels of conflict. A study from the Madre de Dios region in the Peruvian Amazon shows that there are numerous social conflicts in the region that have not been incorporated into the ombudsman's national statistics. Where the ombudsman has only registered a single active conflict over gold mining in all of Madre de Dios, Catholic Relief Services (CRS) has registered thirteen in just one of the region's three provinces:

> The biggest social conflicts in Madre de Dios are between social actors (gold miners, peasants and indigenous peoples), and are related to gold mining [...]. These social conflicts are innumerable, given that there are around 2900 mining concessions. [...] 20 percent of [the aggregate area of] these concessions overlaps indigenous territories.[105]

Statistics, together with other indicators such as the rhetoric employed by the authorities and the developers, and the considerations of human rights activists themselves (see Chapter 4), provide reasonable grounds to conclude that tensions between indigenous peoples on the one hand and developers and authorities on the other are on the rise. That serious human rights violations are being committed in the region is beyond any doubt.

102 Evo Morales, La Razón, 30 June 2011. Cited in Amnesty International (2011:3) Sacrificing Rights in the Name of Development: Indigenous Rights under Threat in the Americas. London, Amnesty International Publications.

103 Defensoría Bolivia, Annual Report for 2012

104 UNIR (2012) Perfiles de la conflictividad social en Bolivia (2009-2011). La Paz, Bolivia: Fundación UNIR Bolivia.

105 Pachas, H. P (2013:04) Conflictos sociales en Madre de Dios: El caso de la minería en pequeña escala de oro y la ilegalidad. Available at: http://vigilanteamazonico.pe/phocadownload/informes/informesespeciales/1%20reporte%20de%20conflictos%20sociales%20en%20madre%20de%20dios%20crs%20usaid.pdf

Photo: AP

6. Two especially important rights under pressure

Chapter 3 called attention to the rights to land, territories and resources and, in particular, the rights to self-determination, consultation and consent. These are rights that are frequently placed under strain in conjunction with large-scale development and extractive projects. In part, this owes to the fact that such projects demand large areas of land, often in areas yet to be utilised by others than native peoples, and that they often have a short turnaround time. In sum, this produces a set of circumstances in which internationally recognised rights, which the states have committed to upholding, are not respected. This badly affects indigenous peoples, as they are already among the most vulnerable groups in the region. The rights violations are further aggravated by a high level of conflict and a lack of willingness on the part of the authorities to engage in dialogue.

Land, territories and resources

In a special report on human rights and development projects from 2011, Amnesty International writes the following:

> The expansion of mega-projects – such as large-scale extractive industries, monocultures, highways, tourism developments, wind turbines and hydroelectric dams – in Latin America has brought increased conflict over control of land and natural resources.106

The pressure on indigenous peoples' rights to territories and resources is exemplified by a number of large-scale projects. The road building project through TIPNIS in Bolivia is one example; the expansion of the petroleum exploration and extraction activities in the northern Peruvian Amazon is another (see Chapter 4). The hydroelectric power project in Belo Monte in Brazil will, in addition to damming up a vast area, dry up 100 kilometres of the Xingu River and completely transform the lives of indigenous peoples living along the river.

An example of smaller-scale projects that nonetheless have a large aggregate effect is the gold mining activity in Madre De Dios in Peru and on the territories of the Yanomami people in Brazil and Venezuela. In Bolivia and Peru, migration from the Andes region to the Amazon generates pressure on the lands of indigenous peoples – especially those lands not yet recognised as indigenous territories.

Today, native peoples are encountering more problems than before in their efforts to secure the fulfilment of their constitutional right to the recognition of their territories. In Brazil, all such processes have been halted following the involvement of the office of the president and the tabling of legislative bills in the Congress that are designed to weaken the rights of indigenous peoples. Both the government agency for the protection of indigenous peoples and their culture (FUNAI) and the ministry of justice, which currently oversees this procedural process, oppose the bills.[107]

In both Venezuela and Bolivia, the titling of indigenous lands is proceeding very slowly. In Peru, more than 1,000 indigenous land claims are still on hold, and it has proved impossible for indigenous peoples to secure the recognition of large areas of land as indigenous territories. Not one indigenous group in Peru has attained the recognition of all of its traditional lands as an indigenous territory.[108] As established in Chapter

106 Amnesty International (2012) Transforming Pain into Hope: Human Rights Defenders in the Americas. London, UK: Amnesty International

107 For more details, see Chapter 4 on attacks on indigenous rights and protected areas in Brazil

108 Interview with Roberto Espinoza, sociologist and adviser to the umbrella organisation for indigenous peoples of the Peruvian Amazon (AIDESEP), Peru

3, this is contrary to indigenous rights according to both ILO Convention No. 169 and the decisions of the Inter-American Court of Human Rights.

Lack of consultation with affected indigenous peoples

A large proportion of the conflicts between indigenous peoples and states in the Amazon region pertain to consultation and consent. The ILO's Committee of Experts on the Application of Conventions and Recommendations has made the following observation:

> With regard to consultation, the Committee notes two main challenges: (i) ensuring that appropriate consultations are held prior to the adoption of all legislative and administrative measures which are likely to affect indigenous and tribal peoples directly; and (ii) including provisions in legislation requiring prior consultation as part of the process of determining if concessions for the exploitation and exploration of natural resources are to be granted.[109]

Even though the law requires that indigenous peoples are consulted with, in practice this is often a formal exercise with no real bearing on the planning and implementation of development projects. It can hardly be called real participation if the consultation takes place after a decision has been made to press ahead with a development. The construction of the road through TIPNIS is a case in point. As early as 2003, Bolivian authorities made the decision to construct the road, while what is referred to as the «consultations» with the peoples inhabiting the area did not get under way until 2012.[110]

The Belo Monte Dam project in Brazil is another illustrative example. Indigenous groups in the area claimed that they had not been consulted in the proper manner but had, rather, only been informed of the decision to construct the dam complex after the fact. Brazilian authorities contended that the consultation had been carried out correctly. The IACHR backed the position of the indigenous groups, and in April 2011 called on Brazil to halt the construction work until a proper consultation had been carried out. Brazil's reaction shook the whole inter-American human rights system. Brazil recalled its representative to the Organisation of American States (OAS); called the Commission's recommendations «precipitous and unwarranted»; and held back hundreds of thousands of dollars in grants to the Commission.[111] The episode generated a great deal of political turbulence as well as a large amount of political and financial pressure on the OAS, and the Commission subsequently moderated its criticism of Brazil.

In Brazil itself, both the ombudsman (Procuradoria Federal dos Direitos do Ciudadão) and several domestic courts have, on a number of occasions, issued decisions calling for the cessation of construction work in Belo Monte due to the lack of consultation with affected indigenous peoples. The decisions have on each occasion been repealed by higher courts following appeals by the government via the Attorney General.[112]

Conflicts where concessions and indigenous lands overlap

The pressure on established land rights, and the lack of respect for the right to consultation and consent, are correlated with the increasing level of conflict surrounding extractive and development projects in the Amazon. In Bolivia, the number of conflicts peaked in 2011, at the same time as indigenous groups from the lowlands marched to La Paz to protest the planned construction of a road through the protected area and indigenous territory of TIPNIS. On 25 September, police attacked the participants with tear gas and rubber bullets.[113]

In Peru, one of the sources consulted for this report was very clear: «The conflicts arise due to increased investments in the Amazon».[114] Another source in Peru sees the conflicts as a result of the coming together of different rights: «The conflicts have their origin in overlapping rights».[115] This view is echoed and elaborated upon by a third source in the country. «The many social conflicts are in the first instance due to an overlap between oil and gas concessions and indigenous territories».[116]

109 ILO (2009:64) Indigenous & tribal peoples' rights in practice. Available at: http://www.ilo.org/indigenous/Resources/Guidelinesandmanuals/WCMS_106474/lang--en/index.htm

110 Amnesty International (2012) Right to Consultation and Consent of Indigenous Peoples in the Americas. Written statement to the 21st session of the UN Human Rights Council (10-28 September 2012)

111 http://latindispatch.com/2011/05/03/brazil-breaks-relations-with-human-rights-commission-over-belo-monte-dam/

112 http://site-antigo.socioambiental.org/nsa/detalhe?id=3656

113 IWGIA (2012) The Indigenous World 2012. Copenhagen, Denmark: International Work Group for Indigenous Affairs (IWGIA)

114 Ramón Rivera, lawyer in the Peruvian ombudsman's indigenous peoples' programme

115 Interview with César Gamboa, director of the environmental NGO Rights, Environment and Natural Resources (Derecho, Ambiente y Recursos Naturales – DAR), Peru

116 Interview with Beatriz Huertas, anthropologist and specialist on isolated indigenous tribes who previously worked in the Peruvian culture ministry's indigenous peoples' programme

Amazon tribesmen occupy the construction site of the enormous Belo Monte Dam complex in May 2013, in a desperate attempt to halt the project. Photo: Reuters

From January 2008 to September 2009, there was a threefold increase in the number of conflicts, and the numbers of those killed and injured in these conflicts also increased.[117] It was at this time, in 2008–2009, that the recently inaugurated president, Alan García, presented his new extractive policy, with a tripling of the areas in the Amazon opened up to the petroleum industry. Sources in Peru point out that García also made use of special legislative powers designated for acts of terrorism in order to counter social protests, which only left both sides more entrenched.[118]

In Brazil, the previous director of the government agency for the protection of indigenous peoples and their culture (FUNAI), Marta Azevedo, is clear in her evaluation of the government's priorities:

> We are seeing a boundless exploitation of natural resources and [economic] growth at full tilt. In that model, there is no room for minorities, family farming, indigenous peoples.[119]

Another highly placed source within FUNAI is even more forthright:

> [President] Dilma [Rousseff] is simply not interested. For her and the hard core [within the government], indigenous people are pebbles in their shoe, they are bottlenecks, obstacles standing in the way of rapid economic growth.[120]

Representatives of the confederation of indigenous peoples of the Bolivian Amazon, CIDOB, agree that there is a correlation between the conflicts and the development model:

> The correlation between the economic model and the social conflicts is very strong. Bolivia's economy is highly dependent on the export of natural resources. Many of those resources are located on indigenous lands. There will evidently be more conflicts in the future.[121]

117 Defensoría del Pueblo (2012:37) Violencia en los conflictos sociales. Informe Defensorial No. 156

118 Interviews with Ramón Rivera, lawyer in the Peruvian ombudsman's indigenous peoples' programme and César Gamboa, director of the environmental NGO Rights, Environment and Natural Resources (Derecho, Ambiente y Recursos Naturales – DAR), Peru

119 Interview with Marta Azevedo, president of FUNAI in the period April 2012 – June 2013

120 Interview with a source within FUNAI that prefers anonymity

121 Interview with Mario Paniagua, project coordinator for CIDOB, Bolivia

Photo: Rainforest Foundation Norway

7. Norway in the Amazon

Norway has over the course of many years played an important role in the Amazon, through long-time support for human rights work and indigenous organisations as well as the provision of significant funds for rainforest protection. At the same time, Norway invests in companies and industries that are causing deforestation and are, in some cases, also putting fundamental human rights at risk.

Since the early 1980s, the Norwegian Agency for Development Cooperation (Norad) – a directorate under the Norwegian ministry of foreign affairs – has administered its own programme in support of indigenous peoples in Latin America (the Indigenous Peoples' Programme); and as of the 1990s, non-governmental organisations such as Rainforest Foundation Norway and Norwegian Church Aid have channeled aid to partner organisations in the Amazon. This support has been of significant value to civil society, also to indigenous organisations themselves, and has aided the efforts of these organisations to promote human rights and to develop schooling programmes that are specially adapted to the culture and way of life of especially vulnerable groups.

This lasting engagement has provided the basis for a substantial increase in Norwegian aid to the Amazon region over last few years, chiefly exemplified by the Norwegian government's international climate and forest initiative. At the UN climate change conference in Bali in 2007, Norway pledged to allocate up to 500 million US dollars annually to efforts to reduce the emission of greenhouse gases from rainforest destruction. As part of this initiative, Norway has entered into cooperation agreements with Brazil and Guiana, and an agreement with Ecuador is also in the offing.

The agreement with Brazil is the most comprehensive, and Norway has pledged to contribute up to one billion US dollars to Brazil's Amazon Fund in return for reducing its deforestation of the Amazon rainforest.

At the same time as supporting rainforest protection and human rights initiatives in Latin America, Norway holds significant investments, via its Government Pension Fund Global (GPFG), in companies responsible for serious environmental degradation and severe human rights breaches in the same region. On a global basis, the GPFG has invested 13.7 billion USD in the seven industries that constitute the major drivers of deforestation worldwide.[122] These industries are: Mining; oil and gas; palm oil; meat; timber, paper, pulp; soya bean; and hydroelectric/energy. A large number of the 73 companies in high-risk sectors in which the GPFG has invested operate in the Amazon region. The fund's investments in the Spanish oil and gas company Repsol are particularly problematic. Repsol is currently engaged in hydrocarbon exploration activities in an area of the Peruvian Amazon inhabited by uncontacted indigenous tribes. At the close of 2012, the GPFG's shares in the company were valued at 300 million USD.[123]

Norwegian financial aid has also gone to companies involved in projects in the Amazon that are infringing human rights. In 2012, around 150 million USD in financial aid were invested in shares in the Brazilian company Desenvix, via SN Power. Desenvix is engaged

122 Rainforest Foundation Norway (2012) Beauty and the Beast. Norway's investments in rainforest protection and rainforest destruction. Oslo: Rainforest Foundation Norway & Friends of the Earth Norway.

123 The Norwegian newspaper Vårt Land, 13 August 2013

in the controversial hydroelectric power project in Belo Monte in the Brazilian Amazon.[124] The Belo Monte Dam is the third largest hydroelectric power project in the world, and the dam complex is being constructed on one of the Amazon River's largest tributaries, the Xingu River. The construction of the dam complex was initiated without properly informing or consulting with affected indigenous groups. The project has on several occasions been subjected to criticism from Brazilian courts and the Inter-American Court of Human Rights for being in contravention of human rights.

The Norwegian aluminium and renewable energy company Norsk Hydro, in which the Norwegian state holds a major ownership interest, also has a significant presence in the Amazon. Norsk Hydro has invested hundreds of millions of US dollars in Brazil, and it completed the biggest purchase on foreign soil in Norwegian history in 2011 when it acquired smelters and mines in the Amazonian state of Pará from the Brazilian company Vale. In the agricultural sector, the Norway-based company Yara is Brazil's biggest supplier of chemical fertiliser. Agricultural expansion and mining are two key drivers of deforestation, and particular vigilance is required from investors and authorities alike if they wish to avoid contributing to environmental degradation and encroachments of the human rights of affected populations.

Norway has a long-standing commitment to the rights of indigenous peoples in the Amazon region, and it is important that it continue to build on those foundations. At the same time, Norway does not have a comprehensive approach to the region. As an investor with ownership interests in a wide range of companies, not least via the Government Pension Fund Global, Norway has a responsibility to ensure that economic growth and natural resource exploitation occur in a manner that is respecting of the fundamental human rights of indigenous peoples and other groups.

124 http://agendapluss.no/bidrar-til-litt-av-hvert and http://old.dagogtid.no/nyhet.cfm?nyhetid=2531

Photo: FECONACO

Photo: Bo Mathisen

8. Recommendations to Norwegian authorities

The Amazon region is witnessing extensive violations of the rights of indigenous peoples and attacks on human rights activists. This situation has arisen in large part due to heightened conflicts over natural resources and land. Indigenous tribes depend on their traditional lands and on access to forest resources for their survival as peoples.

Norway plays a significant role in the Amazon – as a supporter of indigenous, environmental and human rights organisations and in capacity of its efforts to protect the rainforest, but also as an investor with ownership interests in companies and industries that are responsible for human rights breaches. In order that Norwegian authorities enhance their contribution to the protection of human rights in the region, Rainforest Foundation Norway recommends that they adopt the following measures:

1. Strengthen the human rights perspective in all Norwegian development policy vis-à-vis the Amazon countries, both in relation to aid and in relation to investments and business cooperation. Development policy must be geared towards securing the fundamental human rights of indigenous peoples and other forest-dependent local communities, including internationally recognised indigenous rights such as collective land rights and the right to consultation.

2. Enter into direct dialogue with individual countries to provide backing to human rights activists and human rights work in the Amazon, based on international human rights that the countries have pledged to uphold.

3. Increase support for indigenous peoples and other vulnerable groups in the Amazon region, with an emphasis on the recognition of indigenous land rights. Indigenous territories are the areas with the lowest rates of deforestation in the Amazon, so this is also an effective strategy to secure improved rainforest protection.

4. Enhance support for organisations engaged in human rights work in the Amazon region.

5. Ensure divestiture of the Government Pension Fund Global's holdings in companies responsible for serious human rights abuses and environmental degradation in the Amazon. In addition, the fund must bring its influence as an active owner to bear on investee companies to ensure that they respect human rights, including the rights of indigenous peoples. This must entail, inter alia, that companies
    - implement cleanup measures in the event that they cause damage to the territories or resources of native peoples, including the payment of damages for environmental degradation or poisonings;
    - refrain from carrying out operations on lands or concessions where the right to consultation and consent of indigenous peoples is not upheld; and
    - refrain from carrying out operations in areas inhabited by isolated tribes.

6. Undertake to establish a separate line of finance for indigenous organisations through Brazil's Amazon Fund.

7. Ensure that all REDD+* measures in receipt of financial support from Norway respect indigenous peoples' rights, in line with existing provisions of the UN Framework Convention on Climate Change.

*Reducing Emissions from Deforestation and Forest Degradation.

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HOMBRES TRABAJANDO

Regnskogfondet
RAINFOREST FOUNDATION NORWAY
www.rainforest.no
Photo: Thomas Marent.