Collective titling in the Peruvian Amazon
A history in three acts

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• About 12 million ha of land in the Peruvian Amazon are titled to more than 1300 native communities.
• Titling has been slowed because of overlapping claims and lack of clarity in institutional structures.
• Gaining title does not ensure full rights to use of forest resources, because forest management requirements are costly and complicated.
• Throughout the last 50 years, the greatest challenge to recognition of native communities’ rights to the lands and forests in the Amazon has come from economic development policies.
• Sustainable, equitable development in the Amazon requires evaluating Peru’s development model, which emphasizes foreign investment in extractive industries, as it undermines indigenous and community rights as well as international commitments to sustainability.

Over the past half-century, more than 1,300 native communities in the Peruvian Amazon have obtained title to about 12 million ha of land, including 17% of the country’s forests (Instituto del Bien Común 2016; Ministerio del Ambiente 2016). That puts Peru in fourth place in Latin America for indigenous land titling, after Mexico, Bolivia and Colombia (RRI 2015).

Nevertheless, the process that has led to these gains has also been fraught with setbacks for indigenous peoples. The struggle for tenure has led to the rise of local, national and regional Amazonian indigenous organizations, which have played an increasingly active role in advocating for policies that respect their land rights. Despite reforms, however, it remains difficult for indigenous people, who often depend on forests for their livelihoods, to obtain legal rights to full use of those resources.

This flyer presents a historical reflection on the opportunities for and obstacles to the collective titling of indigenous community lands in Peru in order to better understand the challenges ahead.

**Historical roots of tenure struggle**

The roots of the struggle for forest tenure by Peru’s indigenous peoples lie in the history of colonization of the western Amazon. The 19th century and early 20th century were marked by intensive extraction of natural resources, often by indigenous people who were enslaved or pressed into debt labor.

From the time the first European colonists ventured over the Andes, the Amazon Basin became prized as a source of timber, animal hides, wild game meat and, later, oil. But the most brutal period was the rubber boom that began in the late 19th century. At the height of the boom, indigenous slaves were tortured, maimed or killed if they did not deliver their quotas of latex. Tens of thousands died, while others fled deep into the forest (Santos Granero and Barclay 2002). Some of their descendants still live isolated, largely nomadic lives, especially on the border between Peru and Brazil, shunning contact with outsiders (Huertas Castillo 2004).

The establishment of rubber plantations in Asia spelled the end of the boom in South America, although rubber production continued into the mid-20th century. The upheaval caused by the rubber era, along with a border war between Peru and Colombia in the early 1930s, led to the resettlement of various indigenous groups in the Peruvian Amazon. That movement, combined with an influx of migrants from the Andes, sparked conflicts among lowland communities.

The first law granting rights to Amazonian peoples was Supreme Decree 03, issued in 1957, which gave use rights to forest-dwelling people.

The past half-century can be divided into three phases: a period of initial rights and organization, from 1969 to 1979; political and economic upheaval and the impact of neoliberal reforms, from 1980 to 2009; and continued efforts to gain land rights with new laws and initiatives since then.

**Act one: Two steps forward, one step back (1969–1979)**

Groundwork for indigenous collective land rights in the Peruvian Amazon was laid in the 1970s. The catalyst was a 1968 coup by General Juan Velasco Alvarado, who launched an agrarian reform that supported the collectivization of lands and income redistribution. Meanwhile, indigenous peoples began to organize themselves, forming their own ethnic federations. The Yaneshas in the central Peruvian Amazon created the first organization in 1969.
this initial period in the struggle for indigenous land rights resulted in the titling of 1.5 million ha to 331 native communities (including the formalization of the 114 indigenous reserves established since 1957). It also saw the birth of the national indigenous movement, with the formation of the Interethnic Association for the Development of the Peruvian Amazon (AIDESEP), the largest umbrella organization of Amazonian indigenous federations.

**Act two: The pressure cooker (1980–2009)**

Peru returned to democracy in 1980, but the decade was marked by political and economic turmoil. Political violence between the Maoist Shining Path and Peruvian security forces led to tens of thousands of deaths and disappearances. The capture or killing of the Shining Path’s top leaders in the early 1990s effectively diminished the violence, although remnants of the group persist in areas where coca, the main ingredient in cocaine, is produced.

During the second half of the 1980s, under President Alan García, the violence was accompanied by hyperinflation and economic collapse. That was followed by a severe economic adjustment in 1990, when President Alberto Fujimori instituted neoliberal economic reforms. Those measures, largely based on private property ownership, also affected indigenous land rights.

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**Act 1 (1969-1979)**

- Native Communities Law
- Birth of the national indigenous movement
- First integral titles granted, including agricultural and forest lands
- Prohibition on forest land titling, and bifurcation of forest and agricultural institutions
- Titling of small, fragmented areas

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In 1974, the Velasco government passed the Native Communities Law, granting collective titles to Amazonian indigenous groups organized as ‘native communities.’ The new law made people’s rights to these lands, once formalized, inalienable and guaranteed them against seizure (Chirif 2006). Nevertheless, significant challenges remained.

One was legislation on natural resources, which made forests state property and prohibited the private ownership of forest lands. Only land that had been approved for forest clearing and put into agricultural production could be titled. This distinction between agricultural and forest lands persists, affecting the institutional structure of natural resource management as well as the integrity of indigenous peoples’ lands and rights. Since then, native communities have received a property title over lands classified as suitable for agriculture and a usufruct contract over areas classified as forest lands.

In addition, titling procedures were unclear and titled areas tended to be small, fragmenting indigenous territories and leaving areas between communities open to colonization. Nevertheless,
Peruvian laws related to Amazonian land rights have historically favored agriculture over standing forests. That tendency, combined with popular sentiment that indigenous people should not have large territories because they supposedly do not make the land productive, has been reflected in titling practices.

Legislation passed in the 1990s and 2000s made it easier to break up collectively owned land into private parcels, especially in the Andes (after constitutional reforms in 1993). These changes in regulation also promoted individual titling over collective titling, affecting the formalization processes in the Amazon region. Economic reforms also promoted mining, oil and timber concessions with no consultation of the affected indigenous communities as required under International Labor Organization Convention 169, which Peru ratified in 1994. Large-scale infrastructure projects were launched as part of the Initiative for Regional Integration of South America (IIRSA). In 1995, the Inter-American Development Bank began funding a broad effort to provide individual land titles. Nevertheless, it was not until phase 3 of the Land Titling and Registration Program (PTRT3), which is currently under way, that serious attention has been given to titling native communities in the Amazon.

These efforts to title native lands have also faced administrative obstacles. Over the years, different government agencies were responsible for titling, until regional governments took over in the 2000s. In some cases, paperwork was lost as responsibility shifted. Forests have remained public property, but it has been difficult for communities to obtain usufruct contracts for the forest resources on their lands. In addition, to benefit economically from commercially valuable forest resources, communities must design and implement forest management plans, which is costly and time consuming.

Despite these obstacles, more than 9 million ha of native community lands were titled between 1980 and 2000, largely because of pressure from AIDESEP and the support of international organizations. New models of collective land rights were also established, such as communal reserves and reserves for isolated indigenous peoples. Communal reserves recognize the use rights of indigenous communities near protected areas, while territorial reserves recognize the rights of isolated indigenous groups or communities under initial contact with mainstream society.


- 9 million ha titled to native communities
- ILO Convention 169 ratified
- legislation to facilitate breaking up native community lands
- promotion of extractive industries and infrastructure without consultation or consent
- shifting administrative responsibility for titling, with accompanying confusion and stagnation affecting mainly native communities

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By 2000, however, titling of native community lands had virtually halted, partly because of unclear institutional structures and partly because of the granting of concessions for timber, mining, infrastructure projects, and oil and gas production that overlapped areas claimed by indigenous groups. Escalating conflicts over land rights came to a head in the first decade of the 2000s.

In 2006, Peru and the United States signed a free trade agreement, and President Alan García, newly elected to a second term, was responsible for implementing the accord. García publicly called indigenous people an obstacle to development and said the country could not leave large amounts of unproductive land in the hands of relatively few communities (García 2008). In 2008, the executive branch issued a series of legislative decrees to bring Peruvian legislation into line with the free trade agreement. The package included measures promoting the “reallocation of uncultivated lands” and two decrees that specifically affected forest land. Indigenous organizations said the decrees would make it easier for private companies to gain access to resources on their lands.

In April 2009, in the northern province of Bagua, indigenous people blocked a key Amazonian highway as part of a larger protest against the measures. The blockade continued for two months, until the government sent military forces to break it up on 5 June 2009. The violence that followed left 34 police and civilians dead and at least 200 people injured. Two weeks later, the decrees were repealed, and the government began talks with indigenous organizations to address grievances, including the lack of prior consultation about projects or laws affecting their communal rights.

**Act three: Regrouping to continue the struggle (2009–present)**

The violent events of June 2009 galvanized national and international support for indigenous peoples’ rights. A new law (Law 29785) that took effect in 2011 required prior consultation of native communities about any legislation, project or program that could affect their rights. The first consultation on legislation conducted under the new law was on Peru’s new Forestry and Wildlife Law (Law 29763).

International efforts to address climate change also began to create opportunities for indigenous peoples. Programs for reducing deforestation and forest degradation (REDD+) often involve indigenous organizations and support land titling initiatives. By the second decade of the 2000s, nearly a dozen titling programs were under way for native communities in the Amazon.

A series of decrees passed in 2009, which facilitated the access of private companies to indigenous lands, led to a protest that resulted in 34 deaths and over 200 people injured.

Overlapping land rights remain a problem (Monterroso and Larson 2018). More than 40% of the Peruvian Amazon, some 16 million ha, lie in oil or gas concessions, and at least half of that area overlaps titled communities (for further information on the situation of overlaps, see Monterroso and Larson 2018) and reserves for indigenous people in isolation (Finer and Orta-Martínez 2010; Haselip 2011). Most of those concessions were granted without any consultation process, before the consultation law was approved (in 2011). More than 9 million ha of commercial forestry concessions (more than 50% of the area classified as productive forests, according to Peru’s National Forest Service) also overlap native communities.4

The process for communities to obtain title to their land and usufruct contracts for forest resources is long, complicated and costly. The government decentralization that began in the early 2000s has further complicated the process, as regional governments lack funds and personnel. Laws define 20 steps: 8 for recognition of the community, 11 for titling and 1 for the usufruct contract. Research has shown that in practice, there are 35 steps: 10 for recognition, 20 for titling and 5 for a usufruct contract (CIFOR and WRI 2017).

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2 Ministerial Resolution No. 0547-2014-MINAGRI.
Titling does not guarantee communities any tranquility or full tenure rights. Some have unresolved border disputes with neighbors, while others, titled longer ago, lack georeferenced maps. Many native communities have not completed the process of registering their title, the only way to ensure full legal protection. There is no official information, but existing data indicate that more than 80% of titled communities have not been registered (Baldovino 2016; Instituto del Bien Común 2016).

Two main reasons account for the lack of registration: first, confusing procedures and lack of resources, given that the process involves a distinct government entity; and second, even in cases that started the process, the lack of georeferenced spatial data means that community lands were superimposed with areas already designated for other purposes, such as production forests. New overlaps may occur when indigenous communities request an expansion of their territory because of population growth or to gain access to forested areas that they customarily used. Title does not guarantee communities full rights to forests, and there is little assistance available for forest management. To diversify livelihoods, investments are needed to improve food security and support activities that permit forest-based income. Many communities reside far from markets, making commercial activity costly and complicated.

Some indigenous groups are seeking to solidify their rights to an integral territory, rather than one that is divided between titled agricultural land and forest land under contract (AIDESEP 2013). So far, however, the government opposes this approach, which would require a constitutional reform. Other groups have challenged overlapping claims in court, and indigenous organizations increasingly demand the right to prior consultation. Implementation of the consultation process has been uneven, however. In some cases, consultation occurs after the concession is granted. In others, indigenous organizations say they received insufficient information about the potential impacts of projects.

**Looking ahead**

History shows that while Peru’s Amazonian indigenous peoples have made progress in organization, and in gaining respect for their rights and recognition of their lands through changes in regulations since the 1970s, more work is needed to secure those rights. Efforts by indigenous organizations and civil society have been crucial in mobilizing political and financial support for implementation of these changes.

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3 In Peru, the use of the term ‘territory’ in this context refers to the claim to lands of ancestral use and the possibility of having full property rights over an area independent of the official classification of agricultural and forest areas.
Further advances require greater effort on the part of the national and regional governments. Breakthroughs in regulations and implementation have often occurred after a major conflict, such as the 2009 events in Bagua. Instead of reacting to conflicts, however, Peru must reflect on the past and take the necessary steps to safeguard the role and rights of its indigenous citizens.

The greatest challenge to recognition of native communities’ rights to the lands and forests they traditionally have used has come from economic development policies. Policy makers still tend to perceive large expanses of forest as both unpopulated and economically unproductive. Peru’s development model, which emphasizes foreign investment in extractive industries, undermines indigenous and community rights as well as international commitments to sustainability. Overcoming these obstacles to securing indigenous rights requires coalitions for change and a clear understanding of the roots of opposition.

For more information, see:

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