

# Can multi-stakeholder forums mediate indigenous rights and development priorities? Insights from the Peruvian Amazon

D. RODRIGUEZ<sup>a</sup> and J.P. SARMIENTO BARLETTI<sup>b</sup>

<sup>a</sup>PIACI Specialist, Federacion Nativa del Rio Madre de Dios y Afluentes (FENAMAD), Jr. 26 de Diciembre 276, Puerto Maldonado, Peru

<sup>b</sup>Center for International Forestry Research, Av. La Molina 1895, La Molina, Lima 15023, Peru

Email: daniel.lonxe@gmail.com, j.sarmiento@cgiar.org

## HIGHLIGHTS

- The 185 groups of Indigenous Peoples in Isolation and Initial Contact (PIACI) identified in South America's Amazon and Gran Chaco are protected by national and international legal frameworks based on the principle of "non contact"; 20–26 of those groups live in the Peruvian Amazon.
- The multi-stakeholder PIACI Roundtable was organized in Loreto (Peruvian Amazon) to support the recognition process for five Indigenous Reserves to protect forested areas with officially recognized PIACI activity.
- The conflict of rights and economic interests over the areas of the proposed Reserves challenges the Roundtable's equity and raises wider questions on the capacity of multi-stakeholder forums (MSFs) to support respect for the recognised rights of vulnerable peoples and promote a productive and equitable relationship between their rights and mainstream development interests.
- The PIACI Roundtable presents a key lesson for MSFs seeking to responsibly engage with the rights of vulnerable populations – recognised rights are not negotiable.
- To support the recognised rights of vulnerable peoples, MSFs must be designed so that their participants collaborate in recognising the challenges to rights coming from different levels, actors and discourses, learn from those challenges, and tailor solutions and/or recommendations to deal with those challenges.

## SUMMARY

The protection of indigenous peoples in isolation and initial contact (PIACI) is one of the most complex issues in the human rights and environmental agenda. The implementation of frameworks to protect PIACI involves addressing conflicts by the advance of public and private initiatives and interests in their territories. This paper focuses on PIACI Roundtable, a multi-stakeholder forum (MSF) established in Peru's Loreto region to contribute to protecting these groups. The MSF sought to address the long-standing delays in the creation of five Indigenous Reserves for PIACI in Loreto's forests. The paper argues that MSFs may be fruitful spaces to raise awareness of the rights of vulnerable peoples and coordinate the implementation of supporting actions, but only when participants hold a shared respect for those recognised rights. If not, MSFs may become spaces where powerful actors relegate recognised rights to a perspective among others.

Keywords: indigenous peoples in isolation and initial contact, representation, conflict transformation, extractive development

## Les forums à parties prenantes multiples peuvent-ils faire office de médiateur entre les droits des indigènes et les priorités développementales? Aperçus de l'amazone péruvienne

D. RODRIGUEZ et J.P. SARMIENTO BARLETTI

La protection des populations indigènes isolées et en contact initial (PIACI) est l'une des questions les plus complexes dans l'agenda des droits de l'homme et de l'environnement. Mettre en œuvre des cadres érigés pour protéger PIACI signifie faire face aux conflits résultant de l'avance d'initiatives publiques et privées et d'un intérêt porté à leur territoire. Cet article se centre sur la table ronde PIACI, un forum à parties prenantes multiples (MSF) établi dans la région péruvienne de Loreto pour contribuer à la protection de ces groupes. Le MSF a cherché à prendre en main les délais existant depuis longtemps dans la création de cinq réserves indigènes pour PIACI dans les forêts de Loreto. Cet article essaie de démontrer que les MSFs pourraient être des espaces fructueux, mettant en avant les droits des populations vulnérables et coordonnant la mise en place d'actions les soutenant, mais uniquement quand les participants font preuve d'un respect partagé de ces droits reconnus. Dans le cas contraire, les MSFs deviennent des espaces où des acteurs puissants relèguent les droits reconnus au niveau d'une perspective parmi d'autres.

## ¿Pueden los foros multiactor mediar entre los derechos indígenas y las prioridades de desarrollo? Perspectivas desde la Amazonía peruana

D. RODRIGUEZ y J.P. SARMIENTO BARLETTI

La protección de los Pueblos Indígenas en Aislamiento y Contacto Inicial (PIACI) es uno de los temas más complejos en la agenda de derechos humanos y el medio ambiente. La implementación de marcos para proteger a los PIACI requiere abordar los conflictos que emergen debido al avance de las iniciativas e intereses públicos y privados en sus territorios. Este artículo se centra en la Mesa PIACI, un foro multiactor (FMA) creado para contribuir a la protección de estos pueblos en la región de Loreto (Amazonía peruana). El FMA aborda los retrasos y retos para la creación de cinco Reservas Indígenas para PIACI en los bosques de Loreto. El artículo sostiene que los FMA pueden contribuir a la sensibilización de diferentes actores sobre los derechos de los PIACI y la articulación de acciones de protección, pero su efectividad está condicionada a que exista un consenso entre sus participantes sobre el respeto de esos derechos reconocidos. En caso contrario, existe el riesgo de que los FMA se conviertan en espacios donde actores poderosos releguen los derechos reconocidos de minorías altamente vulnerables a ser una cuestión de opinión.

### INTRODUCTION

This paper focuses on PIACI Roundtable, a multi-stakeholder forum (MSF) organized to protect the Indigenous Peoples in Isolation and Initial Contact (PIACI<sup>1</sup>) in Loreto region of the Peruvian Amazon. The MSF was created amid an ongoing process for the recognition of five Indigenous Reserves to protect forested areas with officially recognized PIACI activity. The process was framed by conflicts regarding overlapping land-use rights and the interests of a variety of government and private sector actors with different development priorities for those areas. PIACI's uncertain future is linked to these "wilderness and large landscapes"<sup>2</sup>, on which their lives depend (OHCHR 2012, IACHR 2013). The Inter-American and United Nations Human Rights systems recommend that public policies consider "isolation" as an expression of PIACI's right to self-determination, focusing on "their decision not to have contact and their choice to remain in isolation" (IACHR 2013: 10). The UN guidelines for national PIACI policies include recommendations for the recognition of their rights in contexts where they are incompatible with the rights of other actors or economic interests (OHCHR 2012). These guidelines advise following existing procedures in international law – conducting prior assessments on what implications the specific measures or choices could have for each party and, on that basis, grant the exercise of rights of those who would "suffer the worse consequences of the lack of the exercise of the right" (Ibid. 13). As PIACI are highly vulnerable, policies for their territories should be oriented to the prevention of induced contacts and the protection of the areas on which their lives depend.

Loreto's PIACI Roundtable is a prime example of the expansion of MSFs as a 'new' approach to promote collaboration and coordination in matters regarding environmental

threats, development challenges and vulnerable populations. Given the analytical possibilities, this paper explores the PIACI Roundtable to bring out three themes towards assessing whether MSFs can (and should) address rights issues. The first theme is whether MSFs can equitably deal with the recognition and respect of the rights of vulnerable populations in contexts with deep historical power inequalities. This is important, as the scholarly literature understands these spaces as potential arenas for underrepresented peoples to equitably engage with or hold more powerful actors accountable, yet also highlights that power inequalities can undo this potential (Cooke and Kothari 2001, Cornwall and Coehlo 2007, Baud and Nainan 2008).

The second theme is whether – by being a space for coordination and collaboration – MSFs can promote conflict transformation and the mediation between development and rights discourses (Driscoll 1996, Turcotte and Pasquero 2001). This is especially relevant in MSFs framed by competing development and rights interests and issues that are governed by different government sectors. Peru's legal framework on the matter – commonly referred to as *Ley PIACI* (PIACI Law) – tasks the Ministry of Culture with implementing protection policies through a Cross-Sectoral Special Regime that involves local, regional and national government actors. Several regional and local governments with jurisdiction over areas inhabited by PIACI have passed ordinances to protect PIACI and their territories, while at the same time supported opposing policies ranging from the expansion of development and infrastructure activities in the same areas to refusing to accept that PIACI exist. Indigenous organizations and their NGO allies have played an influential role in promoting PIACI rights, defending strict measures to protect the lives and territories of PIACI, and encouraging the involvement of subnational authorities in these matters.

<sup>1</sup> The MSF was officially created to promote the protection of both indigenous peoples "in isolation" and in "initial contact" (regional ordinance N° 011-2018-GRL/CR) Accordingly, it is commonly referred to as *Mesa PIACI* (PIACI Roundtable). However, the officially recognized indigenous groups in the areas proposed for Reserves in Loreto live in "isolation", and thus the correct acronym would be PIA after *Pueblos Indígenas en Aislamiento* ('Indigenous Peoples in Isolation'). The paper uses PIACI as it is the officially-used term by the MSF.

<sup>2</sup> <https://www.iucn.org/news/world-heritage/201706/wilderness-areas-are-fast-declining-and-world-heritage-can-protect-them-says-iucn-report>

The third theme tests the limits of the potential behind MSFs to legitimately and directly represent the stakeholders to an issue (Shirlow and Murtagh 2004, Wong 2014). In PIACI Roundtable, those who would potentially benefit or be impacted the most by its outcomes – PIACI themselves – by definition cannot participate in the process. Thus, government, NGO and indigenous actors speak on their behalf. Subnational MSFs such as PIACI Roundtable are called to play a key role in the coordination of stakeholders to support PIACI rights, but this role is challenged by the development priorities widely held by government and private sector actors in Loreto.

The paper argues that MSFs may be fruitful spaces to raise awareness of the rights of vulnerable peoples and coordinate the implementation of actions to support such rights. However, this is only effective when participants hold a shared respect for those recognised rights rather than allowing them to be up for discussion. Given the importance placed on development interests over the respect of the rights of vulnerable peoples living in the vicinity of extractive projects, such as those in Loreto, MSFs may become spaces where powerful actors relegate recognised rights to territory, culture and self-determination to a perspective among “others”.

The following section briefly explains the research methods, followed by background on PIACI and the research findings on Loreto’s PIACI Roundtable. The paper concludes with a discussion on the issues that arise from organizing MSFs around the recognition of the rights of vulnerable populations and lessons for wider MSF practice.

## METHODS

This paper is based on the review of relevant reports, legal documents, internal material produced by the PIACI Roundtable, and 35 in-depth interviews with national, subnational, and local level actors related to the MSF.<sup>3</sup> MSF organizers – from indigenous organizations, the regional government and an NGO – were interviewed, as well as participant actors from the national and regional government, indigenous organizations, and NGOs. Interviews were also conducted with different actors with solid knowledge of contextual factors in the region, including actors from academia, NGOs, the national and regional government, indigenous organizations and the private sector, that did not participate in the MSF. Interviewed actors were identified based on their competence, expertise and/or involvement in land-use and PIACI issues in Loreto. The collected information intended to provide a better understanding of the context in which the MSF and its processes and outcomes arose, and to analyse its effectiveness and equity. Although findings are limited to the MSF’s first year of activity, when fieldwork was carried out, additional observations were gathered during a workshop organized

to present the main findings to relevant organizations in November 2019. Combined, the authors have worked and carried out research with indigenous organizations and communities in the Peruvian Amazon for more than 30 years.

## CONTEXT: INDIGENOUS PEOPLES IN ISOLATION AND INITIAL CONTACT (PIACI)

A hundred and eighty-five PIACI groups have been identified in South America’s Amazon and Gran Chaco regions (Land is Life 2019). Their isolation is understood as a voluntary strategy to preserve their autonomy and integrity, following the history of violent colonization of their territories by outsiders. A commonly used distinction is between “indigenous peoples in isolation” or “isolated peoples” – who do not maintain regular contact with external peoples and actively refuse/avoid the presence of outsiders in their territories – and “peoples in initial contact”, who have recently started relationships and exchanges with others or those whose external articulation only involves sporadic contacts (OHCHR 2012). These groups are threatened by forceful or induced contact as they are highly vulnerable and typically lack immunity to common diseases and by the lack of effective protection for their territories against the pressure of formal and informal extractive and agro-industrial activities and development and infrastructure projects (Huertas 2004). The presence of outsiders in their territories – including loggers, miners, drug traffickers, missionaries, adventurers, and tourists – dramatically increases the risk of induced contacts and violent encounters (Huertas 2002).

Special protection measures have been established in international law to address the vulnerability of PIACI. The Organization of American States and the United Nations protect their right to live in isolation as well as their traditional territories and the resources on which their subsistence depends (OHCHR 2012, IACHR 2013). The legal and political acknowledgment of their vulnerability has led to a consensus around the principle of “non contact” in protection policies and frameworks. In Peru, indigenous organizations and allied NGOs promoted the creation of five Territorial Reserves to protect PIACI territories between 1990 and 2002, for a total extension of 2,812,000 hectares. Requests for the creation of five more Reserves in Loreto were filed between 1999 and 2006, but none of those areas have been officially recognized so far (see Table 1).

The adoption of PIACI Law in 2016 established the category of “Indigenous Reserves”, which were defined as: “Lands delimited by the Peruvian State, of transitory intangibility, in favour of indigenous peoples in isolation or initial contact, for the time they maintain that situation, to protect their rights, their habitat and the conditions that ensure their existence and integrity as peoples”<sup>4</sup>. The creation of an

<sup>3</sup> This research was carried out as part of a global study of subnational MSFs, part of the Center for International Forestry Research’s Global Comparative Study on REDD+ (see Sarmiento Barletti and Larson 2019; <https://www.cifor.org/gcs/modules/multilevel-governance/>)

<sup>4</sup> Article 2(d), Law 28736.

Indigenous Reserve has two steps: 1) the recognition of the existence of isolated peoples in a geographical area; and 2) the categorization of the Reserve that protects its territory. The new framework entailed that the existing Territorial Reserves were to be categorized as Indigenous Reserves, following regulated procedures. This process began in 2014 and has only been completed for three out of the five Territorial Reserves. As for the five proposed Reserves in Loreto, each request was evaluated between 2013–2015, but despite some progress in recent years, none has been officially recognized (GRAI and CEDIA 2018b).

#### CASE STUDY: LORETO'S PIACI ROUNDTABLE

Loreto is Peru's largest region (368,799 km<sup>2</sup>), representing over 28.7% of the national territory and 51% of the Peruvian Amazon. Loreto has been particularly affected by oil extraction, which started in the region in 1971. Five decades of oil extraction have led to profound environmental impacts as well as the deterioration of the socio-cultural practices, health conditions and livelihoods of local indigenous communities. Oil spills affecting indigenous communities are currently one of the main causes for social conflicts in the region.<sup>5</sup> Furthermore, the main drivers of deforestation in Loreto are large-scale agriculture, small-scale cattle ranching, and the planting of coca for cocaine production.<sup>6</sup> The Monitoring the Andean Amazon Project also identified two main deforestation hotspots associated to oil palm and cacao plantations.<sup>7</sup> Loreto's regional government is also promoting road-building projects that are expected to have profound environmental impacts. A recent report identified 23 regional and municipal road-building projects in the region for a total of 1546 km. These roads will cut through Permanent Production Forests, proposed Indigenous Reserves for PIACI, and other areas of forest under different use regimes (DAR 2018).

Around 9.5 million hectares of Loreto's total area are categorized as Protected Natural Areas. Loreto also includes the territory of different PIACI groups. Between 2017 and

2019, the Peruvian government has officially recognized the existence of a series of different isolated groups living in areas that have been requested by indigenous organisations for Indigenous Reserves in Loreto (see Figure 1). Most groups identified so far belong to cross-border Panoan-speaking peoples: isolated Kakataibo people in the proposed area of the Kakataibo Indigenous Reserve; isolated Matsés, Remo (Isconahua), Marubo and other unknown peoples in the proposed Yavarí Tapiche Indigenous Reserve; isolated Matsés, Matis, Korubo or Kulina-Pano and Flecheiro (Takavina) peoples in the proposed Yavarí Mirim Indigenous Reserve; and isolated Remo (Isconahua), Matsés, and Kapanawa in the proposed area of the Sierra del Divisor Occidental Indigenous Reserve. The study to recognize the isolated peoples of the proposed Napo Tigre and Tributaries Indigenous Reserve is ongoing.<sup>8</sup>

Despite the official recognition of PIACI in those areas, and that the requests were more than a decade ago, none of the five proposed Reserves had been created by the time of research. This delay exposed PIACI to serious risks and jeopardized the recognition of these areas as Reserves as extractive concessions, infrastructure projects and other activities were planned and implemented in those areas (see Table 2; AIDESEP 2018). Forty-one logging concessions and four hydrocarbon blocks were granted in the same areas that had been requested for the establishment of Indigenous Reserves by AIDESEP and ORPIO – the organization representing the indigenous Amazonian peoples of Loreto (ORPIO 2019). AIDESEP and ORPIO responded by starting legal actions in 2016 against the Ministry of Culture, demanding that it complied with the established legal deadlines for the creation of new Indigenous Reserves, and requested the implementation of precautionary measures during the procedures. In 2018, the petitioners obtained a favourable decision from Peru's Constitutional Court that ordered the Ministry of Culture to complete the processes to create the Indigenous Reserves in Loreto. The Constitutional Court also ordered Loreto's Regional Government to declare the invalidity of all authorizations, concessions and permits overlapping those

TABLE 1 Requested Indigenous Reserves in Loreto (AIDESEP 2018)

Proposed Reserve	Region	Requesting institution and year	Official Recognition of Isolated Peoples	Status
Yavarí Tapiche	Loreto	AIDESEP/2003	Yes	In process
Yavarí Mirim	Loreto	AIDESEP/2003	Yes	In process
Sierra del Divisor Occidental	Loreto	AIDESEP/2005	Yes	No
Kakataibo	Loreto, Ucayali and Huánuco	AIDESEP/1993	Yes	In process
Napo Tigre	Loreto	AIDESEP/2003	No	No

<sup>5</sup> <https://observatoriopetrolero.org/>

<sup>6</sup> [https://earthinnovation.org/wp-content/uploads/2018/09/profiles\\_led/SJS\\_Profiles\\_ENG/Peru/Profile\\_LORETO\\_Chan\\_2018\\_ENG.pdf](https://earthinnovation.org/wp-content/uploads/2018/09/profiles_led/SJS_Profiles_ENG/Peru/Profile_LORETO_Chan_2018_ENG.pdf)

<sup>7</sup> <https://maaproject.org/2018/synthesis3/>

<sup>8</sup> <https://www.gob.pe/institucion/cultura/noticias/21832-aprueban-los-terminos-de-referencia-para-la-elaboracion-del-estudio-previo-de-reconocimiento-de-pueblos-indigenas-en-situacion-de-aislamiento-de-la-solicitud-de-reserva-indigena-napo-tigre-y-afluentes>



FIGURE 1 Map of Proposed Indigenous Reserves in Loreto

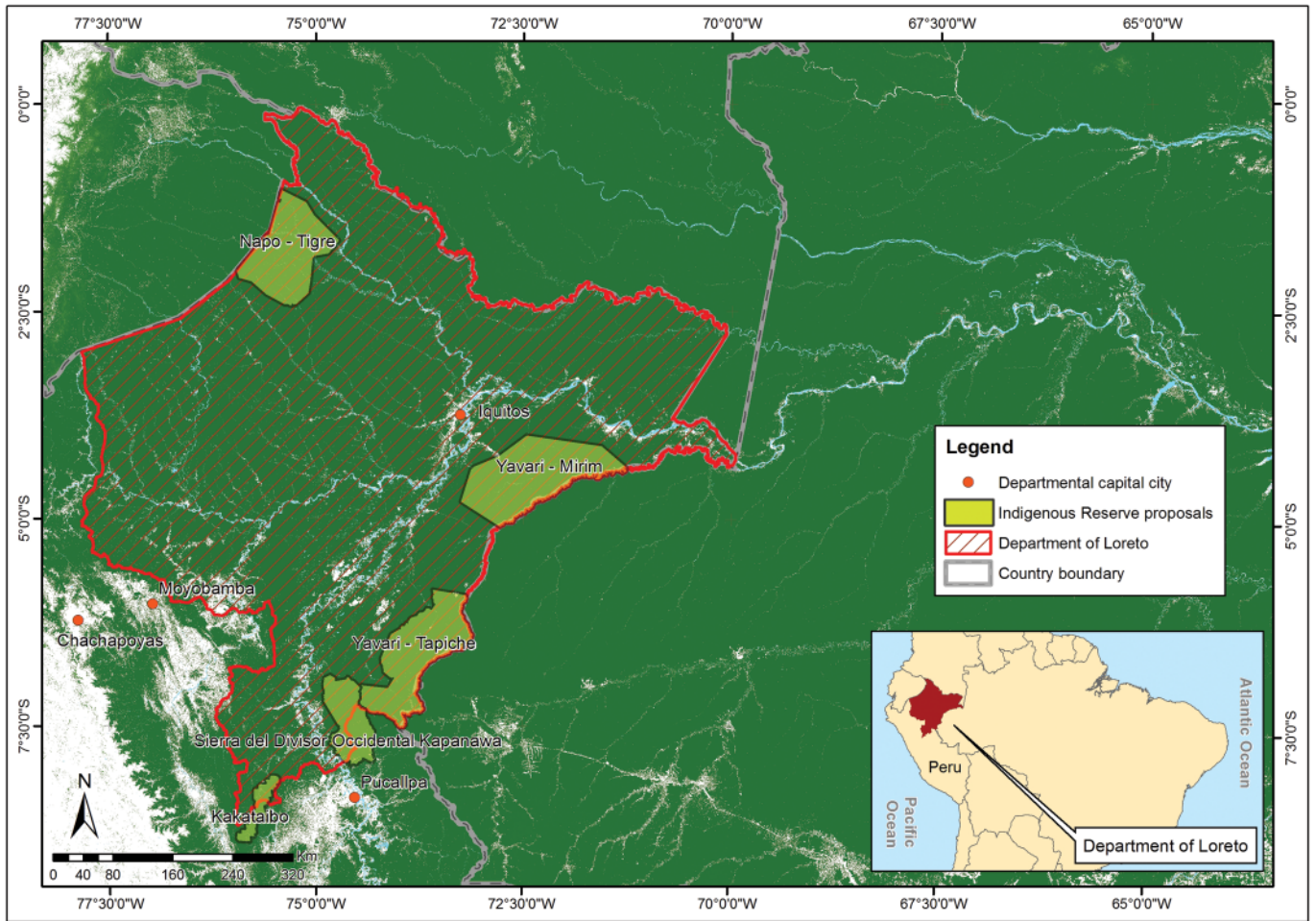


TABLE 2 *Overlapping activities in proposed Indigenous Reserves in Loreto (AIDSESP 2018)*

Proposed Reserve	Hydrocarbon concessions	Logging concessions	Road building projects
Kakataibo South and North	Blocks 133 and 107	Yes	No
Yavarí Tapiche and Yavarí Mirim	Blocks 135, 137 and 95	Yes	Yes
Sierra del Divisor Occidental	Blocks 31E and 31B	Yes	Yes
Napo - Tigre	Blocks 67, 39-A y 39-B	Yes	Yes

areas (SERVINDI 2019a). However, the Ministry of Culture appealed that decision in 2019, which paused the enforcement of the sentence (SERVINDI 2019b).

**The creation of Loreto’s PIACI Roundtable**

The MSF was established in 2018 by a Regional Ordinance, to serve as a “space for dialogue and analysis at the regional level, to adopt measures and mechanisms of coordination between public and private institutions, indigenous organizations and the civil society aimed to generate preventive actions oriented to respect the rights of the PIACI”<sup>9</sup>. As in

previous experiences with PIACI-related MSFs in Ucayali and Madre de Dios, the organization of PIACI Roundtable was led by ORPIO. ORPIO did so in collaboration with the Center for the Development of Indigenous Amazonian People (CEDIA), a national NGO. The initiative responded to growing concerns on the delays in the creation of the five Reserves and the absence of territorial protection for PIACI in Loreto. According to the NGO organizer, there were worries that “concessions and extraction rights had been granted and [PIACI] groups had been displaced and [were moving] towards unprotected areas where new [extraction] rights were about to be granted”. The creation of the MSF also relates to

<sup>9</sup> Article 4, Regional Ordinance 011-2018-GLR-CR

a number of workshops and meetings focused at raising the awareness of PIACI protection in Loreto that had been carried out by the Ministry of Culture in 2017.

The regional ordinance that created the PIACI Roundtable involved collaboration between Loreto's Office for Indigenous Affairs, CEDIA and ORPIO, with legal assistance from the Ministry of Culture. This technical document made two relevant points regarding the MSF's goals. The first was that its creation did not intend to take over existing competences and functions in regards to PIACI but sought to contribute to the implementation and articulation of protection policies. The regional ordinance highlights that the MSF's main role is to "implement the necessary mechanisms and measures for their protection, which would be coordinated and articulated by the Ministry of Culture with all sectors of the national, regional and local governments." The second point was that the MSF would contribute to unblocking the process of the requests for the creation of the five Indigenous Reserves in Loreto. Loreto's government set the creation of the MSF as a priority, as failing to do so "would involve pernicious delays to attend the rights of indigenous peoples in isolation and initial contact, which are granted by the State" (GRAI and CEDIA 2018a).

### **The Roundtable's membership: between effectiveness and legitimacy**

At the time of research, the MSF had 18 member organizations, including government and civil society actors (see Table 3). Half of its members included actors from Loreto's government that held key responsibilities including indigenous affairs, environmental issues, land use, agriculture, forestry, extractive activities, rural development, and infrastructure. The only national government actor in the MSF was the Ministry of Culture. The MSF also included five provincial municipalities with territorial jurisdiction over areas that had been included in the proposed Indigenous Reserves. There were also two indigenous organizations in the MSF – AIDSESEP and ORPIO – and one NGO, CEDIA.

Loreto's Office for Indigenous Affairs has led the MSF since its creation, supported by CEDIA. The agreement subscribed between both institutions states that CEDIA would "provide support with technical and logistic support for the implementation, compliance and execution of the [MSF's] activities (...) as well as the negotiation and management of the required financing resources." The organizers elaborated a map of stakeholders to inform the selection of the forum's

TABLE 3 *PIACI Roundtable's participants at the time of research*

<b>Institution</b>	<b>Number of Representatives</b>
<b>Regional Government of Loreto</b>	
Regional General Management	01
Regional Management of Indigenous Affairs	01
Regional Management of Planning, Budget and Territorial Development	01
Management of the Regional Environment Authority	01
Management of Social Development	01
Regional Directorate of Energy and Mines	01
Regional Directorate of Transport and Communications	01
Regional Directorate of Agriculture	01
Regional Management of Forestry Development and Wildlife	01
<b>National Government</b>	
Ministry of Culture	01
<b>Local Governments</b>	
Provincial Municipality of Maynas	01
Provincial Municipality of Requena	01
Provincial Municipality of Ucayali	01
Provincial Municipality of Ramon Castilla	01
Provincial Municipality of Loreto	01
<b>Grassroots indigenous organizations</b>	
Organization of the Indigenous Peoples of the Eastern Peruvian Amazon (ORPIO)	01
Interethnic Association for the Development of the Peruvian Rainforest (AIDSESEP)	01
<b>NGOs</b>	
Center for the Development of Indigenous Amazonians (CEDIA)	01

members, who were chosen based on each organization's institutional competences and jurisdictions, their degree of involvement in the protection of PIACI, influence over decision-making processes, their representativeness, and technical expertise, among others. Their selection also included the consideration of some subjective elements such as "the capacity for dialogue towards the generation of agreements in favour of PIACI" (CEDIA and GRAI 2017). A government sector organizer responded that some NGOs that worked on topics related to indigenous peoples were excluded from the MSF due to their institutional standpoints over extractive initiatives. He described three national NGOs with offices in Loreto as "anti-oil [extraction]... blocking development and would not contribute to productive exchanges" in the MSF. These decisions regarding the membership of the MSF reveal an interest in fluid dialogue and consensus rather than open confrontation. Furthermore, the fact that only CEDIA was granted membership in the MSF has been questioned by other NGOs. In subsequent conversations, a CEDIA representative noted that the criticism was valid, and that they had not expected to be included in the MSF. The role of any NGO, he noted, should be purely to support participants with technical matters.

The MSF's work may be hindered by the limited involvement of the stakeholders living in the areas closest to the proposed Reserves. A leader of the indigenous Matsés people, whose territory is adjacent to one of the proposed Reserves, responded that although they are meant to be represented by ORPIO in the PIACI Roundtable, their opinions do not always coincide. The interviewee stressed the importance of ensuring their participation in the forum as "when there is no Matsés we are not represented". These remarks are the expression of a context of negotiated equality between several forms of indigenous leadership in multi-ethnic indigenous institutions that go beyond the MSF. The underlying issues relate to the complex scenarios that emerge at the local level in shared territories between indigenous peoples settled in titled communities and those who live in the forest in isolation. The implementation of PIACI protection policies can generate conflicts of rights, particularly related to the limitations placed upon the movement and forest-use of settled communities – including Matsés people – who live adjacent to current or proposed Indigenous Reserves. Currently, indigenous organizations carry out most of the effort towards the negotiation and harmonization of both positions, in defence of the rights of both settled and isolated indigenous peoples. In this case, ORPIO represents 32 different indigenous peoples that live in the 1170 indigenous communities of Loreto. Thus, they represent different priorities and experiences and, importantly, different interactions with PIACI. This reveals wider questions about the representativeness of the Roundtable and MSFs more widely, and brings up the question of who is the most legitimate representative of PIACI at the MSF. As PIACI, by definition, cannot take part in the MSF, different actors must act as "ventriloquists" (Guerrero 2000) in their representation even though they do not know them. At the Roundtable, these include: the Ministry of Culture, who has the legal mandate to guarantee

their rights and coordinate related efforts; the national and regional organizations representing indigenous Amazonians, who are the catalysts for the recognition of PIACI and their rights in Peru (Rivas Toledo 2007); their NGO allies; the municipalities that govern the jurisdictions where PIACI live; and Loreto's Office of Indigenous Affairs, which is in closer engagement with the regional government and private sector actors with different interests on the areas requested for Indigenous Reserves. Paradoxically, some of the participants in the PIACI Roundtable promote development agendas that are contrary to PIACI rights, livelihoods, and socio-cultural engagement with their territories, or reject that PIACI exist.

As noted by the Matsés respondent above, the indigenous communities that live closest to PIACI groups, some of which are related to them by ancestry, do not participate in the MSF. Following the structure for the political representation of indigenous Amazonian peoples in Peru, the national and regional organizations represent those communities. However, those communities are also organised into local or river valley-based organizations that could present their perspectives on PIACI issues more directly as they are also stakeholders to the same issues. The wider research project for which this research was carried out found cases where the interests of indigenous peoples had been represented by other actors (commonly NGOs), and other cases where they had not been invited to MSFs addressing land issues that affected their communities. This "substitute representation" has also been noted in international MSFs such as the Roundtable on Sustainable Palm Oil, where small-scale farmers are represented by NGOs (Cheyns 2014).

### **Technical solutions to a political issue**

The MSF's work plan – its more concrete outcome to date – includes activities with the allocation of institutional responsibilities and a timetable. These activities include: a system of alerts and response in the event of PIACI-related sightings and emergencies; the elaboration a map of actors in the areas proposed as Indigenous Reserves; the organization of meetings and activities to raise awareness in areas where PIACI have been recognized; and the elaboration of a report on the existing projects in the areas that were requested as Indigenous Reserves (GRAI and CEDIA 2018b). Interviewed participants, including indigenous representatives and government officials, regarded the approval of the work plan as evidence of the MSF's progress. Organizers noted that the forum was succeeding in raising awareness about the existence of PIACI in Loreto, increasing their visibility, and legitimizing the claims to protect them. Furthermore, interviewed officers from Loreto's Office for Indigenous Affairs described the MSF as an opportunity to obtain support from the Ministry of Culture to resolve the legally and politically charged conflicts over which they have responsibilities and competences but lack the technical expertise, budget, and influence over decision making (compared to other government sectors) to resolve. Organizers noted that the Roundtable had facilitated dialogue between national and regional levels and across sectors of the government. They noted that by



bringing the Ministry of Culture and Loreto's Office for Indigenous Affairs together, the forum had contributed to building on Loreto's institutional competences and responsibilities towards PIACI. This is important, as a government actor argued that the overlap of different permits for land and resource uses on the areas of the proposed Indigenous Reserves was partly generated by the lack of coordination between national and regional level institutions, leading to "a divorce between what the regional government does and what the [Ministry of Culture does]." Finally, indigenous participants noted that the MSF provided them and their NGO allies with a forum to raise awareness of PIACI issues among policymakers, present their own proposals regarding PIACI matters, and to demand respect for PIACI Law. Participants stressed that meetings had been carried out in a context of equal relations and were facilitated in a fair and transparent way.

Two aspects of the work plan raise questions concerning the MSF's long-term effectiveness. First, that the activities included in the plan are of a technical rather than a political nature; thus, their fulfilment does not require that participants take a stance on any issue regarding the underlying conflict of rights. Fulfilling the work plan mainly depends on the will of the participating institutions and the availability of resources and technical expertise on the matter. Second, the fact that the focus of the programmed activities in the work plan is not legally or politically binding shapes the MSF's dynamics as it has avoided the emergence of conflicts between participants. Interviews with government participants revealed that the approach contributed to building a positive view of the MSF around its usefulness and its ability to make progress. As one of the organizers from CEDIA explained: "there has been a breakthrough. We have a [government actor] that deals with PIACI issues; before, they thought that when we talked about PIACI it was to bring them education and health and [agriculture]. We now have [government] sectors and people within the sectors that know about PIACI issues".

However, although the conflict-averse work plan and membership favoured a perception among its members that their participation was meaningful and productive, it generated uncertainty regarding its ability to find practical solutions to PIACI issues. During the research, concerns about the MSF's effectiveness in supporting the creation of the Reserves were expressed by its main non-government supporters – CEDIA and ORPIO – and by some regional government officials. A government participant noted that the more powerful offices within Loreto's government did not regard the PIACI issue as a priority or knew much about it, which affected the quality of the MSF's exchanges and its possibility to have a wider impact. The same interviewee noted that most regional government offices delegated participation to officials with little interest and commitment regarding PIACI issues and with limited decision-making authority.

Research also revealed other structural asymmetries, including the prominence of national and regional policies that promote economic development and natural resource extraction over indigenous rights and environment protection (see Arellano-Yanguas 2011 and Bebbington and Bury 2013 on the centrality of natural resource extraction for Peru's macroeconomic boom). Participants from Loreto's Office for Forestry and Wildlife highlighted that the overlapping extractive concessions in the proposed areas of the Reserves were a great challenge, as those concessions were central to the government's development plan for the region. This prominence, in turn, translated into significant inequalities between the decision-making power and influence of the government sectors that participated in the MSF. For example, an NGO non-participant stressed the inequalities in resources and political leverage between regional offices such as Indigenous Affairs compared to Agriculture. The latter has competences over forest management, which is central to Loreto's development agenda and to the interests of the timber sector and the growing oil palm industry in the region. Other government interviewees noted that environmental issues are usually considered to "slow down development". This antagonizing view results in a silo mentality as regional offices fail to develop integrative approaches: "the different offices within [Loreto's] Regional Government still do not understand that [the environmental issue] is not a single issue but rather is transversal" (NGO actor, non-participant).

PIACI advocates reported resistance from national and government institutions to assume their responsibilities towards the legal and political protection of PIACI, despite the passing of several Decrees that legally recognised PIACI in Loreto. They also noted disbelief or denial among government actors that PIACI existed, and described this as motivated by the fact that their existence compromises national and regional extractive development agendas.<sup>10</sup> In Loreto, research revealed not only a lack of information and interest among public institutions on PIACI matters, but also a strong antagonism towards this issue. As one participant from Loreto's regional government noted "uncontacted peoples do not exist. (...) I know of no evidence and I have worked with indigenous communities for 25 years." These opinions highlight the need to raise awareness and strengthen the articulation and dialogue among sectors that the PIACI Roundtable aimed for. However, they also highlight that an MSF that was organised to support PIACI rights and the intangibility of their territories over Loreto's development priorities had participants that did not recognize the existence of PIACI groups that were legally recognised by the national government.

A private sector non-participant noted how those interests translated into regional political agendas that address the lack of formal employment and years of economic stagnation in Loreto by opening up forest areas to colonization activities and resource extraction. In this context, interviewees coincided

<sup>10</sup> Consider former President Garcia's 'Dog in the Manger' editorial, where he argued that PIACI were part of a ploy by NGOs to block natural resource extraction in the Peruvian Amazon (Garcia 2007).



in highlighting that indigenous peoples and private actors are accounted by different standards when it comes to granting rights over land or natural resources. In particular, they stressed the willingness of the authorities to favour private over communal land ownership, and noted that this is reflected in the official procedures: “It is contradictory because indigenous communities are asked to fulfil many requirements to be titled, soil studies, etc., but to title individual plots they do not ask for anything more than permanent crops greater than or less than 6 months” (NGO actor, non-participant). This unequal treatment to register and title land has also been noted for the wider Peruvian Amazon (Monterroso *et al.* 2019). In similar vein, a representative of ORPIO expressed that the MSF’s goals were limited by the conflicting rights over the areas requested for the five Reserves and the kind development model promoted in the Peruvian Amazon where, he noted, “There is more national interest for extractive concession lots such as oil than for conservation. (...) When the Indigenous Reserves were proposed, there were no concessions, etc., there were free spaces. But they have been delayed so much that other permits have been given in those areas. Now there are many acquired rights and conflicts of interest.” The interviewee’s general scepticism on the possibility that the PIACI Roundtable will produce changes to existing disputes around land use rights is consistent with the strategies deployed by indigenous organizations to defend isolated indigenous peoples in the region, which in recent years have relied on the pursuit of legal actions against government institutions for the violation of the rights of these groups. Finally, different participants and non-participants stressed that although ensuring the MSF’s continuity and its work plan is important for PIACI rights in Loreto, the limited resources available for the MSF conditions its sustainability. They also expressed concern on how the process would be affected by policy shifts due to the frequent rearrangements of staff in national and regional public offices.

### The limits of collaboration for PIACI rights in Peru

Loreto’s Mesa PIACI is the most recent subnational MSF for the protection of PIACI in the Peruvian Amazon, following previous experiences in the regions of Ucayali and Madre de Dios. However, the MSFs in those two regions were established in the context of already existing Indigenous Reserves, and both forums sought to promote the engagement of regional public authorities in the implementation of protection policies related to those Reserves. The emergence of those two MSFs involved two main issues. Firstly, although five Territorial/Indigenous Reserves had been created between 1990 and 2002 in those two regions, they still lacked a control system as the only protection measures were those implemented by indigenous organizations and the indigenous communities adjacent to the Reserves. Secondly, the MSFs were organized in the context of former President Garcia’s promotion of hydrocarbon activities in PIACI territories, and

his denial of the existence of PIACI (Garcia 2007). Given this adversity, indigenous organizations promoted the creation of both MSFs to advance the rights agenda in articulation with regional authorities in Ucayali and Madre de Dios, given that the national government’s development agenda went against PIACI rights. In contrast, Loreto’s PIACI Roundtable addressed the delays in the official procedures to create Indigenous Reserves, and the increasing threats to the PIACI that inhabit these areas due to the region’s development agenda. Thus, given the recognised Reserves in Madre de Dios and Ucayali, the MSFs in those regions mainly promoted that government offices fulfilled their institutional competences, whilst in Loreto the MSF supported the recognition of the existence of PIACI and the protection of their territories among the different offices of the regional government. Hence, the acknowledgement of human and territorial rights in Loreto entailed potential challenges for the MSF as a space of dialogue and negotiation from the start. Its organisers attempted to control this by excluding some organisations from the PIACI Roundtable and designing a ‘technical’ work plan. The conflict of rights and economic interests over the proposed areas of the Reserves strongly conditions the effectiveness and equity of the MSF and raises questions on the capacity of such a space to navigate opposing standpoints and to promote solutions.

PIACI Roundtable’s support for the unblocking of the five Indigenous Reserves in Loreto is also challenged by the lack of consolidation of the national policy mechanisms that establish the articulation between government sectors involved the protection of PIACI. PIACI Law states that the implementation of protection policies in favour of isolated and initial contact peoples in Peru must involve all competent public sectors at local, regional and national levels. However, the “guidelines to attend and protect the rights of the indigenous Peoples in situation of isolation and Initial Contact, which are included in the National Plan”<sup>11</sup> are still pending, preventing the effective articulation between government institutions and the definition of their responsibilities. This is an obvious challenge to PIACI Roundtable’s objective. Interviews revealed that regional government participants did not understand the mandatory cross-sector nature of PIACI protection; most thought that PIACI were a competence of the national government and the regional government’s role on the matter was only complementary, and thus their lack of engagement and involvement was justified. Although the authors have also observed this position in Madre de Dios and Ucayali, in Loreto it is reinforced by two issues. The first is the impact of the region’s extraction-led development model on indigenous peoples, ranging from the bombing by the Peruvian Airforce of indigenous Matsés groups in the 1960s to make way for oil extraction in their territories (Varese 2006) to the oil spills that currently affect indigenous territories and livelihoods (Fraser 2020). The second issue is that the ‘existence’ of PIACI in Loreto is not as evident as in Madre de Dios and Ucayali, where there is abundant photographic and video evidence of

<sup>11</sup> Article 3, Law 28736.

PIACI activities and sightings (FENAMAD 2001, 2014; Survival International 2007, 2012; The Guardian 2016). This evidence ceased any questioning of the existence of PIACI in those regions by government actors and contributed to promote the engagement of regional government offices in PIACI protection. The ‘invisibility’ that characterizes PIACI in Loreto has prevented such dynamics in the region. Interviews and subsequent conversations with AIDSESP and ORPIO – the only two indigenous participants in the MSF – noted that both organizations doubt that the PIACI Roundtable will significantly change the current situation. They considered the MSF as one of many spaces at different levels (including courts) where they advocate for PIACI rights.

## DISCUSSION

The PIACI Roundtable highlights the Peruvian state’s roles as both the driver of an extractive agenda that has led to undeniable macroeconomic success, and the guarantor of the recognised rights of some of its most vulnerable citizens. The MSF brought together the official recognition by the Peruvian government of the existence and rights of PIACI, and the promotion of natural resource extraction (hydrocarbon and timber) and infrastructure development in the Amazon. In Loreto, this is framed by the overdue case of five proposed Indigenous Reserves in areas with government recognised PIACI activity. These areas are threatened by oil and timber extraction as well as by the expansion of road infrastructure and of oil palm and cacao plantations.

In theory, the multi-stakeholder, multi-sector and power imbalances that define the PIACI question in Peru would appear to make it an ideal case to work through an MSF. As MSF proponents note, these forums have great potential for effective collaboration-across different levels and sectors of government, bringing government and civil society actors with different access to power to collaborate, coordinate, and reach fair solutions (see Larson *et al.* 2018 for a review). MSFs’ potential to deal with unequal power relations is especially relevant as PIACI are among the most vulnerable groups in Peru. Furthermore, MSFs are lauded as a potential tool for transforming development trajectories in the context of the climate emergency. This transformation of trajectories may be the only sustainable solution to unblock the implementation of the five Reserves in Loreto, by re-shaping the region’s history of resource extraction to development practices that consider the rights of vulnerable populations to their territories and their self-determination.

However, while most government actors interviewed for this paper considered that the PIACI Roundtable was contributing to promoting awareness about PIACI issues, indigenous and NGO actors expressed their doubts on the possibility of actually ‘solving’ the issue at hand. In practice, the PIACI Roundtable reveals the limitations and challenges of setting up MSFs to support rights in such unequal contexts as the one described in this paper. The main challenge is in the power asymmetries and inequalities that characterises the relations between the government and indigenous peoples and their NGO allies in Loreto. These interactions are framed

by policies that are biased towards economic development and private investment, reflected in the unequal leverage of the regional government offices responsible for promoting the protection of PIACI. From this perspective, the MSF reflects the criticism most often levelled at participatory processes in terms of the unequal resources and competences of the participants and the asymmetric balance of power between them (see Cooke and Kothari 2001, Fransen and Kolk 2007, Sarmiento Barletti *et al.* 2020).

The PIACI Roundtable highlights three implications for addressing the rights of vulnerable populations and promoting conflict transformation through MSFs. The first is whether MSFs can actually support the recognition and respect of the rights of vulnerable populations in contexts with deep historical inequalities and development interests over their traditional territories. This is PIACI Roundtable’s foremost challenge. The MSF was designed to unblock the process for the recognition of five Indigenous Reserves, which would build on the recognised rights and existence of PIACI. However, organizers included some actors that perceived the safeguard of PIACI rights as an imposition on their understanding of Loreto’s economic progress (e.g. extractive development and roads) and others that refused to acknowledge their existence, despite recognition by the Ministry of Culture. Organizers failed to set a red line in terms of already recognised rights, potentially avoiding a heavy-handed approach as they sought to avoid conflicts between MSF participants. They had excluded NGOs that were perceived to be too radically against oil extraction and in favour of indigenous rights. Although not the original plan, this reduced what was inherently a matter of rights into a conflict of perspectives on whether PIACI exist, the nature of the forested areas in the proposed Reserves (e.g. whether it was a protected territory, source of natural resources, in-between space for road-building, hunting ground for local communities), and what should be done with those areas.

The second issue is whether MSFs can promote a productive and equitable relationship between development and rights. The PIACI Roundtable was unable to deal with the underlying issues that comprise the core of the problem it sought to engage with – the clashing interests of efforts to protect PIACI rights and the development initiatives promoted by private stakeholders and government actors in the areas earmarked for Indigenous Reserves. The possibility of dealing with the problem was challenged by the MSF’s plan of solely raising awareness and developing the technical capacities of regional government actors. The enforced “anti-politics” (Ferguson 1994) of the MSF separated the effort to create the Reserves from the necessary re-focusing of Loreto’s development agenda. This reveals that although the MSF’s future effectiveness may most obviously depend on the processes to recognise PIACI and categorise Reserves and the related legal actions of indigenous organisations against the Peruvian state, it fundamentally depends on the larger struggle about development models.

The third issue tests the limits of the potential behind MSFs for the legitimate and direct representation of stakeholders. This is a key question as the cornerstone of the legitimacy of MSFs is in their inclusion of legitimate stakeholders and

broadening of participation (Cheyins and Riisgaard 2014). However, the actors that would benefit or be impacted the most by PIACI Roundtable's outcomes cannot participate in it. Thus, government, NGO and indigenous actors spoke regarding their rights and interests. One of the key challenges of bringing different government actors to guarantee and build on PIACI rights is the lack of a framework for collaboration between sectors, which has led to further tensions between the national and subnational institutions in the MSF. Interviewees from regional offices regarded PIACI affairs as the responsibility of the Ministry of Culture, leading to a lack of accountability in Loreto's regional government. Although the participation of different actors and government sectors for dialogue and collaboration in support of PIACI rights may be positive, it becomes a challenge when they perceive rights as an option, creating a sense that the rights over the five Indigenous Reserves are up for discussion. This seems to be recognised by indigenous representatives, who see these kinds of MSFs only as part of a wider strategy. That is why ORPIO and AIDSESEP are part of the MSF, participate in raising the awareness and institutional articulation of the relevant government actors, and in parallel carry out legal actions against the Peruvian state. Given the recognized shortcomings of MSFs, this may be a more realistic appreciation of the possibilities, based on their previous experiences as the least powerful actors in a range of different participatory processes.

Finally, the PIACI Roundtable leaves important lessons for MSFs seeking to responsibly engage with the rights of vulnerable populations. Firstly, MSFs must place a clear red line – recognised rights are not negotiable. Although MSFs may indeed have the potential to find consensus outcomes, the PIACI Roundtable shows that there has to be a certain degree of shared understanding among participants. MSFs might then serve well to negotiate aspects related to how these recognised rights are supported through the implementation of other activities. In the case of the five Indigenous Reserves in Loreto, it could allow different stakeholders to negotiate with the government to reach compensation or concession rights elsewhere. This mediatory capacity, with an awareness raising component, would also support discussions about land-use restrictions with the communities living close to the Reserves. Secondly, effective discussion and mediation requires the commitment of participating institutions to appoint delegates who are motivated and also hold decision-making powers. This should be accompanied by the broadening of participation to include local indigenous and non-indigenous communities and their NGO allies, and place the MSF as a platform to construct relationships of accountability, transparency in political processes, and effective participation. Finally, to support the recognised rights of vulnerable peoples, MSFs must be designed so that their participants collaborate in recognising the challenges to rights coming from different levels, actors and discourses, learn from the challenges, and tailor solutions and/or recommendations to deal with them. In Loreto's PIACI Roundtable, this would require an honest discussion of the rights repercussions of the region's development agenda.

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