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THE RIGHT OF ACCESS TO LAND TITLING FOR NATIVE COMMUNITIES IN THE PERUVIAN AMAZON

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EXECUTIVE SUMMARY

PURPOSE AND STUDY QUESTIONS

The study of Right to Access to Land Titling by Indigenous Communities in the Peruvian Amazon is intended to examine the land rights situation of Amazonian native communities in Peru, past efforts at land titling, and to identify successes, failures, current difficulties, as well as potential opportunities for USAID to work in this area.

The guiding questions are as follows:

1. What is the current situation of land tenure, rights, and titling for Indigenous peoples?
2. What are the current approaches to land titling?
3. Have there been any unintended impacts on the Indigenous land titling process?
4. What are the lessons learned from USAID and other international cooperation interventions?

METHODOLOGY

The study was carried out with an eminently qualitative methodological approach that combined two data collection techniques: documentary review and in-depth interviews. The documentary review included 53 documents (books, articles and reports) and 12 national and international legal standards. Fifty-eight people from Lima, Loreto, Ucayali and Madre de Dios were interviewed.

CONCLUSIONS

1. There are different terms to refer to the Amazon Indigenous populations. Thus, although most of the regulations and statistical information related to the titling of their lands refer to “native communities,” the Ministry of Culture uses the term “Indigenous or native peoples” in accordance with international regulations and conventions. Many Amazonian Indigenous organizations claim their right to be considered “peoples” and not native communities.
2. The titling of lands of native communities is a procedure that recognizes a pre-existing right, given these populations have inhabited their territories since ancient times. These rights are recognized by international standards, ratified by Peru, which consider the right to territories as part of human rights, since they are the basis for the exercise of other rights such as economic and administrative rights.
3. Peruvian regulations on land titling for native communities have a community and not a peoples’ perspective, as proposed by international standards and Indigenous organizations, which weakens the unity of the peoples, their organizations and their ability to defend themselves against legal or illegal deforestation (which affects climate change), illegal economies, invasions, among others.
4. The approach to legal security of Indigenous territories goes beyond titling itself. It implies the protection and safeguarding of these territories, as well as access to basic health and education services; aspects in which the State, at its different levels, has a key responsibility.

5. The country is characterized by a multiplicity of legal norms at different levels related to the titling process, many of which are outdated, unclear, and complex. This prevents or makes the titling process long, expensive, and cumbersome. Other norms related to the promotion of public and private investment (hydrocarbons, mining, forestry, and environment) cause legal insecurity for native communities since they become inhabitants with land with assignment of use.
6. The creation of the General Directorate of Agrarian Property Sanitation (DIGESPAR) and the issuance of guidelines on community physical and legal sanitation to guide the implementation of the regional governments' functions are important developments of the Ministry of Agriculture and Irrigation (MIDAGRI) in the exercise of its stewardship in terms of recognition and titling of peasant and native communities. However, as it is a recently created institution, it shows incipient efforts of its stewardship concerning coordination, advice and capacity building for officials of the Regional Directorates of Agriculture, as well as for information management.
7. The regional governments, responsible for this process at the departmental level, have not achieved uniform progress in the titling process. This is due to various factors ranging from the lack of political will expressed in the meager budget allocated to this task, as well as the lack of a qualified professional team and even the existence of practices contrary to regulations and legality in the assignment of territories, to the detriment of the native communities.
8. In recent years, important developments have been made in the process of recognizing the legal status and land titling of the native communities of the Amazon, but there is still a gap of around 30 percent of native communities without title to their lands, and a similar percentage have not been able to register their titles with the Public Registry Office.
9. There is a great heterogeneity in the native Amazon communities, not only in relation to their formalization situation, but also with regards to their relations with other forms of production and commercialization, their contact with illegal economies, their development possibilities according to the quality of the lands in which they are located and the political commitment of their regional authorities.
10. The presence of illicit activities in Indigenous territories, such as drug trafficking, illegal logging, illegal mining and land trafficking, constitutes a serious risk for the survival of Indigenous peoples. The murder of Indigenous leaders defending their territories has been denounced, mainly, by the alternative digital press, due to the indifference of public opinion and the State's inaction.
11. A significant number of existing native communities—with or without title—face conflicts due to overlapping of their territories with other communities, invasion or ill-gotten possession, logging, oil, mining and illegal mining companies. These overlapping problems halt titling procedures.
12. There is lack of guidelines to establish standards and technical criteria to solve controversies in cases of communal land overlapping with forestry, mining and oil concessions or protected natural areas.
13. Organizations representing Indigenous populations have land titling as a priority item on their work agenda. AIDSESP was created as an institutional support for affiliated organizations in the face of threats focused on the territorial spaces of Indigenous populations.
14. Some of the non-governmental organizations that work in the Amazon play an important role in providing technical support for titling; the key to the success of their interventions is the involvement of native communities and their representative organizations.

RECOMMENDATIONS

The recommendations that are made, derived from the conclusions of the study, are aimed at supporting the Ministry of Agriculture and Irrigation (in its capacity as governing body) and the regional governments of the Amazon (directly responsible for titling) to make titling processes and procedures for native communities more efficient and effective, ensuring that they conform to international instruments on collective rights, such as ILO Convention 169.

The realization of these recommendations assumes the establishment of specific agreements either with MIDAGRI, with regional governments, or with Indigenous organizations, as well as the preparation and/or adaptation of projects with the support of economic and technical resources from USAID.

1. With the General Directorate of Agrarian Property Sanitation and Rural Cadaster (DIGESPACR) of the Ministry of Agriculture and Irrigation (MIDAGRI):
 - a. Review the norms that regulate the titling of native communities to update them in accordance with the current Constitution, clarify and simplify them. The Amazon regional governments and the two national Indigenous organizations (AIDSEP and CONAP) must also participate in this process.
 - b. Formulate a national public policy for the recognition and titling of native communities, with specific objectives and goals at the level of each of the Amazon regions and with an intercultural approach.
 - c. Prepare technical documents that provide standards and guidelines for the resolution of disputes in cases of overlapping of communal lands with forestry, mining and oil concessions or protected natural areas, based on successful experiences in countries with similar problems.
 - d. Update the national rural cadaster, based on the cadaster of the regional governments.
 - e. Update territory georeferencing of the native communities, based on the information provided by the regional governments.
 - f. Develop a monitoring system for the titling of native communities interconnected with the Regional Agrarian Directorates.
2. With the Regional Agrarian Directorates (DRA) of the regional governments:
 - a. Prepare specific studies that identify the main “bottlenecks” at the regional level, which help design the most appropriate strategies to cover the titling gaps of existing native communities. These studies must yield regional roadmaps.
 - b. Design and implement a permanent plan to strengthen the capacities of the personnel working for Regional Agrarian Directorates in regulatory matters related to recognition and titling, interculturality (language, relationship with native communities, worldview of Indigenous territory), among other aspects.
 - c. Update the regional cadaster of native communities, as well as their georeferencing, using the most appropriate and up-to-date technologies and methods (hardware, software, use of satellites, specialized personnel).
 - d. Design monitoring systems for the titling of native communities.

3. With Indigenous organizations (AIDSESEP and CONAP):
 - a. Design and implement a permanent training and updating system in current regulations on the recognition and titling of native communities, aimed at national and regional Indigenous leaders.
 - b. Design a national and international positioning strategy for the collective rights of Indigenous peoples, including the protection of environmental defenders, in the face of threats and aggression from illicit economies.
 - c. Disseminate among the native communities the regulations regarding their rights over their territories in alliance with non-governmental organizations specialized in the matter.
 - d. Participate proactively in the debate on the issue of native communities titling, through the identification of bottlenecks and the formulation of regulatory proposals to be channeled through Congress, DIGESPACR, and the regional government.

LAND AS A RIGHT OF THE AMAZONIAN INDIGENOUS POPULATIONS

In recent years, the land tenure situation of Amazonian Indigenous peoples in Peru has gained increased attention, not only because of the importance of their rights over their territory, but also because the spaces in which these populations live are part of the lungs of the planet, in the context of a serious and accelerated process of climate change.

VOLUME AND GEOGRAPHIC DISTRIBUTION OF THE AMAZONIAN INDIGENOUS POPULATION

According to the XII National Population Census of 2017 (INEI, 2018), the Amazonian Indigenous population reached 418,364 people, accounting for 1.3 percent of the national population, belonging to 44 Indigenous or original peoples and inhabiting 2,703 communities. This population covers the Forest and Forest Rim areas of 11 departments: Amazonas, Ayacucho, Cajamarca, Cusco, Huánuco, Junín, Loreto (where more than a third of the total Amazonian Indigenous population is located), Madre de Dios, Pasco, San Martín and Ucayali. The 2017 Census shows that the main economic activity of these populations is related to the ecosystem, where traditional or ancestral practices in agriculture, fishing, and hunting are carried out. ([Annex B](#)).

COMMUNITY OR PEOPLES?

This document uses the concept of “native community” as the term used in the national regulations referring to the titling of these communities, in all references to the problem of recognition and titling.

It should be noted, however, that there is a tendency towards the explicit recognition of “Indigenous peoples” or “native peoples” in national legislation. Thus, Section 70 of Act 28611, General Environmental Act (October 2005), states that: “In the design and application of environmental policy and, in particular, in the process of environmental land use planning, the rights of Indigenous peoples, farming and native communities recognized in the Political Constitution and in the international treaties ratified by the State must be safeguarded”. Likewise, Section 2 of Act 28736, Act for the Protection of Indigenous or Native Peoples in Isolation and Initial Contact (April 2006), defines “Indigenous peoples” as “those who recognize themselves as such, maintain their own culture, are in possession of an area of land, and are part of the Peruvian State in accordance with the Constitution. These include Indigenous peoples in a situation of isolation or in a situation of initial contact”.

Finally, Act 29785, Act on Prior Consultation (August 2011) established in its Section 7 the criteria to be considered in order to define Indigenous peoples. Objective criteria include (1) direct descent from the original populations of the national territory, (2) lifestyles and spiritual and historical ties with the territory they traditionally use or occupy, (3) their own social institutions and customs, (4) cultural patterns and ways of life different from those of other sectors of the national population. The subjective criterion is related to the collective group’s awareness of having an Indigenous or original identity and that “the farming or Andean communities and the native communities or Amazonian peoples may also

be identified as Indigenous or original peoples” and that “the names used to designate the Indigenous or original peoples do not alter their nature or their collective rights”¹.

LAND AND TERRITORY

In order to understand the connotations and implications of the exercise of land rights by the Amazonian Indigenous populations, it should be pointed out that—unlike the Andean Indigenous populations—they remained excluded from the colonial regime and were considered “savage tribes” for a long time. In addition to the occasional evangelizing “missions” created during the 17th and 18th centuries (the first and largest in Maynas, today Loreto), it was not until the mid-19th century that these populations began to have greater levels of contact with the Western world; first through the exploitation of rubber (with disastrous results for the affected peoples, who were under a regime of quasi-slavery), and then through the progressive settlement of colonists and the establishment of military bases, among other elements of contact (Chirif, 2021). More recently, the Peruvian Amazon has become a space in which the right to access and enjoyment of its riches and potential is being seriously threatened by the often-illegal presence of foreign actors that threaten the development and life of the Indigenous populations and the very survival of the territories in which these populations have lived for centuries.

At this point, it should be considered that Amazonian Indigenous populations are made up of “peoples” that are differentiated from one another and whose territorial occupation does not match the “organization” of communities established in twentieth-century legislation. For this reason, in Peru, the majority of Indigenous organizations and some civil society organizations claim the rights of the Amazonian Indigenous population to an integral territory in their condition as “peoples” and not as communities. The concept “Indigenous peoples” represents more appropriately the reality of these human groups, since their traits and cultural particularities are not endowed with content at a strictly communal level or sphere. Rather, it is at a supra-communal level -or one of greater proportions- where the elements that cause a given social group to take on the differentiated identity that defines it as a people, such as the collective way of life, culture, language, beliefs and practices that the Amazonian populations have developed over time, are structured and shaped. As pointed out by some authors (Larson et al., 2017), this position has not yet been accepted by the State, due to various factors ranging from the complexity of regulatory review and standardization to cultural conceptions that seek to confine the life and development of Indigenous populations, to Western parameters. Indeed, at present, the subjects of State policies on land rights and other rights are the communities and not the Indigenous peoples.

The importance of land for Amazonian Indigenous populations is acknowledged in Act 22175, Act on Native Communities and Agrarian Development of the Jungle and Jungle Rim (1978), Section 8 of which

¹Notwithstanding that the current legal framework still establishes limitations to those population groups that want to be recognized as Indigenous peoples and exercise rights as such, the case of the Achuar people that live in the department of Loreto, who were recognized as an Indigenous people by the Regional Government of that department, in 2018, stands out. [The Achuar people comprises 45 communities in the districts of Andoas, Pastaza and Morona, in the Datem del Marañón province.](#) However, the Public Registry refused to record this recognition, basing its decision on the fact that Peruvian law only recognizes the registration of native communities, but not of Indigenous or original peoples. [To date, the Federation of the Achuar Nationality of Peru \(FENAP\) has appealed before the Constitutional Court](#) and its leaders have expressed their intention to take their case to international instances

states: “Native Communities find their origin in the tribal groups of the Jungle and Jungle Rim and are constituted by groups of families linked by the following main elements: language or dialect, cultural and social characteristics, common and permanent tenure and usufruct of the same territory, with nucleated or dispersed settlement.”

It should be noted that the aforementioned Act 22175 refers to “territory” which, for the Indigenous peoples that inhabit it, not only represents the arable land, but all the physical space, flora and fauna that surrounds them: mountains, rivers, sky, vegetation, birds and both soil and subsoil. Thus, the demands of Indigenous peoples are not only focused on arable land, but on the entire territory on which it is located. This difference between “land” and “territory” is important because, in many cases, regulation focuses on the land, leaving aside the protection of the territory and, consequently, placing Indigenous peoples in a situation of vulnerability².

INDIGENOUS PEOPLES IN ISOLATION AND INITIAL CONTACT SITUATION

It should be noted that not all Amazonian Indigenous peoples in Peru are formally constituted as native communities. This last distinction is important when considering the case of the so-called Indigenous Peoples in Isolation and Initial Contact Situation (PIACI): population groups with tribal characteristics that by their own decision have no (or very limited) links with the national society. These groups are regulated by Act 28736 (May 18, 2006) and its Regulations. According to this law, the Peruvian State respects the decision as to how the PIACI wish to relate to the rest of the national society and the State; it recognizes its obligation to protect the life and health of the PIACI, as well as their right to own and use the lands they occupy for their traditional subsistence activities by restricting the entry of outsiders. For such purposes, the creation of Indigenous Reserves is foreseen, which are delimited territorial spaces that the State recognizes in favor of the PIACI with a temporary intangibility, since they exist as long as the PIACI maintain their situation of isolation and/or initial contact. Reservations can be extinguished if the PIACI decides to become a native community, if it has migrated to other areas outside of the Indigenous reservation, if it has integrated into a larger society, whether or not it is Indigenous, and if the PIACI disappears³. Indigenous Reserves are created by means of an executive decree of the culture sector, which requires the prior recognition of the PIACI to be protected⁴.

² In the case of natural resources located in the subsoil, the Peruvian legislative system determines that they belong to the State, which is the only entity empowered to authorize their use. Disposal of these natural resources located in Indigenous territories has displaced many of these peoples from their territories, contaminating the environment or putting their cultural survival at risk.

³ Section 31 of Executive Order 008-2016-MC, which amends the Regulations of Act 28736, Act for the Protection of Indigenous or Native Peoples in Isolation and in Initial Contact Situations.

⁴ As of 2020 there were seven Indigenous reserves; the Mashco Piro, Murunahua and Isconahua Reserves in the department of Ucayali; the Yavari Tapiche Reserves in the Loreto region; the Kakataibo Reserve in Loreto, Ucayali and Huanuco; the Kugapakori, Nahua and Nanti Reserves in Cusco; and the Madre de Dios Reserve in the department of the same name.

IMPORTANCE OF TITLING FOR INDIGENOUS COMMUNITIES

Different actors consulted and, more permanently and systematically, the Ombudsman’s Office, point out that it is essential for Indigenous communities to have their territories cleared, that is, to have their property deeds recorded in the Public Registries. The exercise of other fundamental rights, such as the right to economic and administrative autonomy, sustainable use of their communal lands, access to services and opportunities to improve their development, depend on the legal security that these property deeds provide to their communal lands.⁵ However, key informants interviewed also agreed that the titling of communal property does not in itself guarantee the defense of the territories populated by Amazonian Indigenous peoples, but it does provide them with tools for a more effective defense of these territories. However, there is no information available to establish the greater or lesser vulnerability of the communities to external aggressions (land invasions, illegal planting, logging, etc.) as a function of the titling of communal property.

On the other hand, titling becomes important in the context of climate change and deforestation due to the increased pressure of settlers (“environmental refugees”) seeking to exploit Amazonian resources for their livelihoods, as well as the presence of illegal logging. In this regard, Huamani (2021) emphasizes the importance of including the titling agenda of native communities as a strategy to mitigate climate change, since some studies conducted in Peru have found “that the territories of native communities have a significant effect on avoiding deforestation and that its effect is greater in comparison with protected natural areas” and that—at least in the short term—titling contributes to forest conservation” (Huamani. 2021:18).

REGULATORY FRAMEWORK

INTERNATIONAL REGULATORY FRAMEWORK

Two international standards and regulations exist that “develop special guarantees related to the importance that communal lands have in the life of Amazonian Indigenous populations and in the rights that these populations have over the lands they inhabit, regarding the use of natural resources that exist within them, the right of the Indigenous population to be consulted when their exploration or exploitation is proposed, to perceive the benefits of these activities, to not be transferred from them

⁵ A painful experience of the importance of territory for Indigenous populations occurred in the so-called “Baguazo.” In 2006, Peru and the United States signed a free trade agreement, in the framework of which the government issued—in 2008—a series of legislative decrees to align Peruvian legislation with the free trade agreement. The package included measures to promote the “reallocation of vacant lands” and two decrees specifically affecting forest lands, which would have facilitated private companies’ access to lands owned or formalized by Indigenous groups. In this context, a long and massive Indigenous protest took place, including a road blockade, which ended with the death of 34 policemen and civilians and at least 200 injured, in the city of Bagua, department of Amazonas. Two weeks later, the decrees were repealed, and the Government initiated a dialogue with Indigenous organizations to address grievances, including the lack of prior consultation on projects or laws affecting their community rights.

and, exceptionally, to carry out such work when they have their free and informed consent, among others” (Ombudsman Office, 2018:12).

The first of these standards is Convention 169 of the International Labor Organization (ILO) of 1989, ratified by Peru in December 1993 and in force since February 1995; this standard is binding for the countries that ratify it, which implies that the member State undertakes to adapt national legislation and to develop the relevant actions in accordance with the provisions contained in the Convention. The second is the United Nations Declaration on the Rights of Indigenous Peoples, approved by the General Assembly on September 13, 2007, which is not binding.

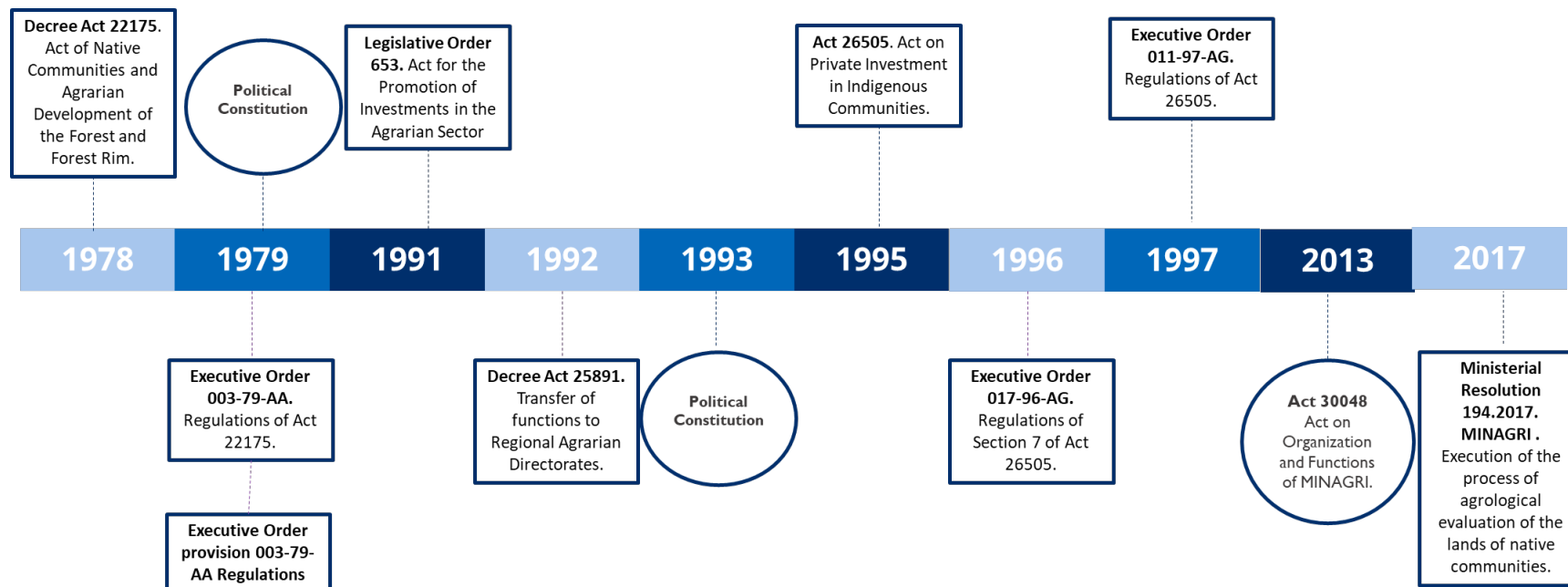
DOMESTIC REGULATORY FRAMEWORK

Regarding the national legal regulations on titling of native communities, different specialists agree in pointing out the following (Baldovino, 2016, Ombudsman Office 2018 and Quispe, 2021):

- Peru does not have a national land titling policy.
- The current regulations were enacted within the framework of the Agrarian Reform and under the 1979 Constitution and do not respond to the current 1993 Constitution.
- There are regulations that contain unclear and complex mandates that delay or impede the recognition and titling of native communities, such as Act 29762, Forestry and Wildlife Act, or Act 28834, Protected Natural Areas Act, which often act on communal lands that are not titled or in the titling process, generating overlapping with Permanent Production Forest (PPF) and protected areas, whose solution implies more complex procedures.
- There are regulations developed within the framework of public and private investment or other sectors (mining, forestry, environment) that can affect communal property, to the extent that they favor investment projects by speeding up the transfer of rural land ownership to third parties, whether belonging to farming or Indigenous communities. Among them, the Regulations of Act 26505, referring to private investment in the development of economic activities on lands of the national territory and of the farming and native communities (1995) and the Regulations of Article 7 of Act 26505, referring to easements over lands for the exercise of mining or hydrocarbon activities (1996), stand out.

The following is a timeline of the national regulations in force; the details are presented in [Annex C](#).

Timeline of current regulations related to native community land titling



Source: Adapted from Ombudsman’s Office (2018), Baldovino (2016) and Quispe (2021). Prepared by author.

INSTITUTIONAL FRAMEWORK: GOVERNANCE, PROCESSES AND PROCEDURES

The government agencies tasked with guaranteeing the rights of Amazonian native communities have undergone various changes over the last 30 years, resulting in progress, stagnation, and some setbacks in the recognition and community titling of their lands. Thus, the first entity in charge of the titling of Indigenous communal lands was the Ministry of Agriculture, through the General Directorate of Agrarian Reform (within the framework of the Agrarian Reform implemented from 1969 to 1979, DL 17716). In 1992, with DL 25902, the Special Project for Land Titling and Rural Cadaster (PETT) was created, an independent entity attached to the Agriculture sector, with the following main functions: “to prepare, consolidate and update the rural cadaster; and the physical-legal regulation of: rural lands, uncultivated lands and territories of farming and native communities, until they are recorded in the property registry”.⁶ The poor results of PETT led to its merger with the Informal Property Formalization Agency-COFOPRI in 2007.⁷

The merger and extinction of PETT, the responsibility of a new authority such as COFOPRI—which did not understand the rural reality of the country—and the expectations of regional governments within the strong decentralization process that the country was going through “generated serious problems and confusion about who had the competence in formalization actions, and what was the role of the actors involved and their responsibilities” (Baldovino, 2016: 42) which generated, in many cases, the near paralysis of formalization procedures. This confusing and uncertain situation ended in 2013, with the enactment of the EO 001-2013-AG: Scope of the governing role of the National Agrarian Policy in matters of legal physical reorganization and formalization of agrarian property.

GOVERNANCE

In 2013, the Ministry of Agriculture and Irrigation regained its role as the governing body for community land titling, with powers in regulatory matters and for supervising the execution of the function of recognition and community titling. The administrative procedures to guarantee these rights are carried out by the regional governments, in accordance with the function transferred within the framework of the decentralization process. A third actor in this scenario is the Ministry of Culture, which has among its functions, the issuance of guidelines on the recognition of communities belonging to Indigenous or original peoples.

One of the functions of the current Ministry of Agrarian Development and Irrigation (MIDAGRI) within the framework of its shared competences, in coordination with regional and local governments, agencies and entities of the Executive Branch, is “to issue, with respect to the functions transferred in agrarian and irrigation matters, the technical standards and guidelines for the physical-legal reorganization and

⁶ MISION DEL PETT

⁷ “The new institutional framework was also accompanied by the establishment of a new regime for the formalization of rural property, through the issuance of Legislative Decree No. 1089 (2008) and its regulations. These rules establish the procedures for the formalization of rural property, which are still in force today” (Baldovino. 2016 23).

formalization of agrarian property, as well as the lands of farming communities and native communities.” The same regulation assigns direct responsibility in this matter to the General Directorate of Agrarian Property Sanitation and Rural Cadaster-DIGESPACR (Act 31075 of 2020, Act of Organization and Functions of the Sector, Article 7).

On the other hand, the regional governments are responsible for “promoting, managing and administering the process of physical-legal regulation of agrarian property, with the participation of the actors involved, safeguarding the imprescriptible, inalienable and unseizable nature of the lands of the peasant and native communities” (Act 27867 of 2002, Organic Act of Regional Governments). The transfer of competences to the regional governments has been slow and not always efficient in this, as in other issues, thus negatively affecting the objective of closing the titling gaps in the native communities.

RECOGNITION AS A PRIOR STEP TO THE TITLING OF NATIVE COMMUNITIES

The process of legal reorganization of the native communities’ lands has two stages. The first is the recognition and administrative registration, under the responsibility of the Regional Directorate of Agriculture (DRA), which involves three phases: the preliminary phase (reception, evaluation and collection of information; preparation of the work plan; dissemination and notification of the field work to be carried out); the field phase, which includes the inspection visit, the population census and the economic study; and the processing phase, which includes the preparation of the technical report, the preparation of the legal report, the resolution of recognition, the notification of the Resolution; entry in the National Registry of Native Communities and recording in the Public Registries. In total, ten steps to achieve recognition, an essential requirement for titling.

It should be noted that completion of the process of recognition of a native community, involves coordinated work between the Ministry of Agriculture and Irrigation and the Ministry of Culture since, according to Ministerial Resolution 0435-2016-MINAGRI, responsibility for the entire process lies with MIDAGRI, except in the case of challenges to the applicant native community’s belonging to an Indigenous people, upon which a binding technical opinion will be requested from the Ministry of Culture. However, DL 1360 which “specifies exclusive functions of the Ministry of Culture as the governing body in matters of Indigenous or native peoples” (July 2018), establishes that the identification and recognition of Indigenous or native peoples is developed by the Vice-Ministry of Interculturality, through its technical bodies and, “that in the framework of the administrative procedures for the recognition of farming communities and native communities by the regional governments, if applicable, the Ministry of Culture will issue the guidelines that contribute to the recognition of communities belonging to Indigenous or native peoples” (Sections 2.1 and 2.2).

After obtaining the recognition of their legal status, the native communities are authorized to start the actual titling process.

PROCEDURE FOR COMMUNITY TITLING

The procedure for demarcating and titling native communities is extremely complex and cumbersome (Ombudsman’s Office, 2014 and Ombudsman’s Office, 2018). It begins with an application to the Regional Directorate of Agriculture, attaching a verbatim copy of the registration of the legal status and the validity of the power of attorney of the representative requesting the procedure. Before this, the

officials of the directorate plan the intervention in the community and notify the work to be carried out. Subsequently, an inspection visit is carried out with the participation of community leaders and neighbors. If there is no disagreement between the two parties, the community territory is demarcated and georeferenced, with the approval of the general assembly on the agreement of the boundaries.

After these actions, a field report, the plan, and the descriptive report are drawn up. Then, the land classification report is prepared, followed by a technical and legal report. This is followed by the issuance of the Director's Resolution approving the demarcation and titling of the applicant native community, the issuance of the property deed for the agricultural area and the signing of the contract for the assignment for use of the area with forestry suitability. Finally, the property deed is registered in the public registry, the document by means of which the resolution of approval of the demarcation procedure is finalized. As Baldovino points out, "with this document, the native community assumes that its territory has finally been granted in its favor." (Baldovino, 2016). A flowchart of the titling process can be found in [Annex D](#).

On this issue, the Ombudsman's Office, in its 2018 Ombudsman Report, recommends to the Congress of the Republic "to initiate a review process of the rules that regulate the demarcation and titling of farming communities, as well as the demarcation and titling of native communities, in order to guarantee their right to property through appropriate procedures that allow having a coherent regulatory system for the protection of their communal lands. It will be necessary to evaluate whether this initiative affects the collective rights of Indigenous peoples, in which case it will be subject to a process of prior consultation."

CURRENT STATUS OF LAND TITLING

According to Chirif (2021), the period of greatest land titling since 1974 occurred between 1991 and 2000, a period in which 734 communities were titled with an extension of 7,004,014 hectares equivalent to 43.6 percent of the total number of titled hectares as of 2021 (16'051,514 has.). This situation is explained by the fact that the previous government left 350 titling files ready. The other period of greatest titling was between the years 2016 to 2021 where 244 communities and 2.7 million hectares were titled (17.2 percent of the total number of titled hectares). See titling evolution by government in [Annex E](#).

Knowing the current situation of titling in the native communities of the Amazon is a major challenge due to the lack of updated official information that would allow us to assess progress in this area. To date, there is no official information systematized by MIDAGRI, the governing body⁸ in this area. There are various sources from public sector entities related to the subject, as well as sources from non-governmental organizations. As a result, there are different figures on the number of recognized native communities and the status of titling.

In fact, the records of the public entities linked to the issue—MIDAGRI, Regional Governments (GR), the National Superintendence of Public Registries (SUNARP) and the Ministry of Culture (MINCUL)—

⁸ In September 2018 MIDAGRI made official the Cadastral System of Farming and Native Communities (SIC), which seeks to provide its bodies responsible for titling (DIGESPACR and DRA) with a tool for the orderly recording of community titling. However, the system is still under construction and only provides access to public entities and not to the general public. <https://georural.minagri.gob.pe/sic-comunidades/>

present different results on the number of communities. For example, for 2017 MIDAGRI reported the existence of 2,090 recognized native communities in the Amazon, of which 1,447 were titled and 643 were pending titling (titling gap) (Ombudsman’s Office, 2018). For the same year, the Regional Governments and SUNARP, reported figures of 2,129 and 2,018 recognized communities and gaps of 601 and 709 communities yet to be titled, respectively (more detail can be found in [Annex F](#)).

In the same vein, the 2017 Census of Native Communities⁹ revealed that 9.8 percent of communities were not recognized by any entity. Of the recognized communities, 22.8 percent did not have titles, which would represent the titling gap. However, as can be seen in Annex F the estimated titling gaps with the information reported to the Ombudsman’s Office (2018) are above 30 percent. Although the differences in the results of the different sources of information are due, in large part, to methodological differences of the measurements¹⁰, recording and measurement problems, such differences reveal the need for a review of the recording and measurement systems used by the State in this area.

From the non-governmental side, initiatives such as the Instituto del Bien Común (IBC), which has implemented the Information System on Native Communities of the Peruvian Amazon (SICNA), were identified¹¹ from which the number of recognized native communities pending titling is estimated at 650.

Recognizing the diversity of existing information, this study considers the figures provided by the Regional Governments as the base information because they are the ones who have the direct function of titling native communities in the Amazon to date. This information reveals a total of 2,129 native communities in the Amazon as of 2017 and a gap of 30 percent, showing a wide heterogeneity of the gaps in the territory. As can be seen in Table I, Loreto is the department with the highest number of communities pending title (432 out of 631, representing 68 percent of the total national gap), followed by the regions of San Martín (68 communities pending title) and Ucayali (51 communities pending title) (Ombudsman's Office, 2018).

Exhibit I: Titling of native communities, according to regional government, 2017 (in figures)

REGION	TITLED (A)	PENDING TITLE (B)	TOTAL (C)	REGIONAL GAP (A/C)
Perú	1,498	631	2,129	30%
Loreto	689	432	1,121	39%
Ucayali	249	51	300	17%
Junín	164	26	190	14%
Amazonas	170	8	178	4%
Pasco	98	26	124	21%
San Martín	30	68	98	69%

⁹ By the National Institute of Statistics and Informatics (INEI).

¹⁰ Unlike the administrative records of institutions, the census collects information directly from Indigenous leaders.

¹¹ [The Information System on Native Communities of the Peruvian Amazon \(SICNA\)](#) is a georeferenced database containing geographic and socioeconomic information on titled native communities, recognized by titleholder, and to be recognized and titleholder. Most of the information contained in SICNA has been georeferenced in the field by IBC, but in some cases external sources such as CEDIA, ACPC, PETT, among others, have been used. For areas that do not have primary information, SICNA has maps of native communities from 1996 and 1997 using information from GEF, UNDP and UNOPS. h

REGION	TITLED (A)	PENDING TITLE (B)	TOTAL (C)	REGIONAL GAP (A/C)
Cusco	58	5	63	8%
Madre de Dios	27	6	33	18%
Huánuco	10	4	14	29%
Ayacucho	1	5	6	83%
Cajamarca	2	0	2	0%

Source: Ombudsman's Office, 2018

Prepared by author.

Finally, unpublished information from MIDAGRI's Sector Project Management Unit in charge of PTRT3 (Rural Land Cadaster, Titling and Registration Project) reports that as of 2022, there are 2,301 recognized native communities and 1,620 of them are titled (70.4 percent). The gap to be closed is 30 percent of untitled native communities (681 communities). This figure reveals that between 2017 and 2022 the number of recognized and titled communities increased, but the rate of titling is not sufficient to close the gap, which remains unchanged.

CHALLENGES TO THE TITLING PROCESS

Different challenges hinder or slow down the titling process of native communities, which are presented below.

PRESENCE OF ILLICIT ECONOMIES

Illicit economies such as coca cultivation and processing, illegal logging, and illegal mining are present in the Amazon. All of these affect the territory of native communities, in addition to the negative consequences on other crimes (such as human trafficking) and the socioeconomic development of Indigenous populations (Pachas, 2022).

In the case of drug trafficking, Indigenous people are pressured to grow coca leaf, causing them to lose control of their territories (Pachas, 2022). It is worth mentioning that coca leaf cultivation areas are expanding in the most remote areas, where migrants arrive from the VRAEM and from areas where crop eradication was carried out in order to start new coca leaf crops. Between 2016 and 2020, there is an increasing trend in coca leaf cultivation: from 44,000 hectares to 88,200 hectares in 2020, almost doubling the cultivation. In 2021, a slight decrease is observed (84,400 hectares), but higher than the pre-pandemic figures (ONDCP, 2022). In 2020, of the total 9,989 hectares of coca bush cultivation, 64.8 percent was located in native communities and 35.2 percent in the territory of farming communities ([Annex G](#)), affecting 16 Indigenous peoples. In some cases, they are located in more than one coca growing area: "Ashaninka (in the Aguaytia, Calleria, Pichis-Palcazu-Pachitea, and VRAEM coca zones), Awajún (Aguaytia, Lower Amazon, Calleria), Kakataibo (Aguaytia and Pichis-Palcazu-Pachitea), Kichwa (Aguaytia, Lower Amazon and Putumayo), Kukama Kukarima (Aguaytia and Lower Amazon), Matsigenka (La Convención-Lares and VRAEM), Shipibo-Konibo (Aguaytia, Calleria and Contamana), Yagua (Lower Amazon and Putumayo). The second case, those located only in a coca-growing area, corresponds to

the Asheninka and Iskonawa Indigenous peoples (in the Calleria coca-growing area), Harakbut (Kosñipata), Murui-Muinani and Secoya (Putumayo), Yanasha (Pichis-Palcazu-Pachitea) and Ticuna (Lower Amazon)” (DEVIDA, 2021: 5). See information in [Annex H](#).

Illegal logging in Indigenous territories causes people to leave their land in the hands of loggers for fear of reprisals, in addition to the loss of forest. In 2020, deforestation affected 203,272 hectares of forest, the highest figure in the last 10 years, with the regions of Ucayali, Loreto and Madre de Dios having the highest deforestation rates. One of the main causes is land trafficking (Instituto Igarapé/ Insight Crime, 2022). The confrontation of Indigenous peoples with illegal loggers has resulted in the death of Indigenous leaders. One of the best known of these crimes occurred in 2014, with the murder of four Ashéninka leaders from the Alto Tamaya Saweto community (Ucayali) who had been denouncing a mafia of timber traffickers operating in their community since 2011. Eight years later, these crimes still go unpunished. (Santos, 2022)¹².

Illegal mining, in addition to causing irreparable damage to the ecosystem of native communities, is accompanied—generally—by a series of criminal activities such as labor exploitation, sexual exploitation, and human trafficking (Pachas, 2022). It is most visible in Madre de Dios where “there are more than 3,000 mining concessions...in addition, thousands of illegal miners spread over some 500,000 hectares of land” (Igarapé Institute / Insight Crime, 2022: 29). Many of the mining concessions overlap with Indigenous territories.

To the extent that the State is absent to cover basic services and income generation, illegal economies are able to turn inhabitants of these areas into their allies by generating job offers. They are thus able to rescue spokespersons in the communities to achieve their mission, as mentioned by many representatives of Indigenous organizations.

EXPANSION OF LAND FOR AGRICULTURAL AND LIVESTOCK USE

In 2000, in the Peruvian Amazon basin, a total of 5.4 million hectares of agricultural land was recorded (7 percent of the entire Amazon). In 2018, 10.1 million hectares of agricultural land were recorded for an increase of 87 percent. “This increase, in Peru, is mainly due to small-scale agriculture developed by migrants. The mechanized agriculture, such as that of the Mennonite religious group as of 2015¹³, and agro-industrial expansion of oil palm, cocoa and rice plantations generate pockets of deforestation of hundreds of hectares. Most of these new areas begin with land invasion. After the plantations are

¹² IDEHPUCP (2022) reports that 19 members of Indigenous peoples (leaders and community members) were killed in their capacity as defenders of their territories against informal or illicit activities, between 2018 and June 2022.

¹³ Mennonites are a religious group often associated with agricultural activity and have become one of the main drivers of deforestation in the Peruvian Amazon. In October 2020, the Monitoring the Andean Amazon Project (MAAP) reported the deforestation of more than 3,400 hectares in three new colonies established in the Peruvian Amazon. In its report for 2021, it accounted for a fourth colony established, causing an additional 366 hectares of deforestation, and they have continued with the expansion of their first three colonies; “In total, we have documented the deforestation of 3,968 hectares in these four colonies established in the Peruvian Amazon since 2017, becoming the new leading cause of large-scale deforestation in Peru. Furthermore, there are strong indications that much of this deforestation is illegal” MAAP (2021).

installed, the property is formalized. This has been generating serious social conflicts with riverine and Indigenous populations.” (Tipula y Ríos, 2021: 81).

In some cases, the expansion of agricultural use of native community lands is being promoted by the regional authorities themselves. The USAID-ProBosques project reports the case of the Caimito native community (titled in 1975), which lost 73 hectares of its lands, which were titled by the Regional Agrarian Directorate of Ucayali (DRAU) in 2017, in 14 properties in the name of the Mennonite colony (of which five are already registered in the Public Registry). Similar cases occurred in the native communities of Buenos Aires, Junín Pablo and Nuevo Loreto. (ProBosques, 2021).

Likewise, the association Conservación Alto Amazonas reports the presence of settlers from the “Asociación Evangélica de la Misión Israelita del Nuevo Pacto Universal” (AEMIMPU) in the jungle of Madre de Dios, who are deforesting the jungle in the Iberia region, settling in forest concessions in the Madre de Dios Territorial Reserve where isolated native communities live.¹⁴ The colonizing vocation of this religious group, under the idea of an “empty” jungle, denying or minimizing the existence of native territories in the jungle of Madre de Dios and Loreto mainly, has also been denounced by the Institute of Democracy and Human Rights of the “Pontificia Universidad Católica del Perú” (IDEHPUCP, 2020). They point out that the “Israelites” would have many conflicts with native communities, due to land invasions, deforestation, and illegal timber extraction.

OVERLAPPING OF TERRITORIES

One recurring problem is the overlapping of Indigenous territories with concessions for the development of extractive activities (mining and oil), protected natural areas (ANP), permanent production forests (PPF), and national parks, among others. These overlaps cause conflicts over boundary issues that affect the recognition of native communities' rights by definitively or temporarily suspending the titling process.

The Natural Protected Areas Act (Act 26834, Section 4) establishes that national parks are public domain and cannot be adjudicated, so if the communities existed prior to the park's declaration, they can begin the recognition process but not continue the titling process. In these cases, the native community is granted the concession of use but not ownership. In cases of overlap with permanent production forests (PPF), a distinction must be made as to whether or not the area was granted as a concession. In both situations the National Forest Service (SERFOR) is the entity responsible for making a decision.

In the 2010s, two norms were enacted in order to avoid the paralysis of titling due to overlap with PPF. First, in 2014, Ministerial Resolution No. 0547-2014-MINAGRI, which established that community titling processes were not paralyzed when there was overlap with PPF. This was an insufficient measure, since for titles to be registered it was necessary for the PPF to exclude the territories destined for the community; a procedure called resizing of PPFs whose process was extensive, and its approval involved the signature of the Minister of MIDAGRI. The second norm is Ministerial Resolution No. 0368-2018-MINAGRI, which made PPF resizing guidelines less extensive than the previous ones. However, the native communities with the problem of overlapping with PPFs have not been able to get a title, among other reasons because SERFOR—the entity responsible for approving the PPF resizing—points out that

¹⁴ Conservación Alto Amazonas (undated)

the documentation sent by the GOREs for this purpose is deficient. For their part, the GOREs and project representatives point out that the observations issued by SERFOR are beyond their competence, as is the case of the land studies, for example (Huamaní, 2021: 75).

In 2017, 43.7 percent of the disputes identified during native community recognition and titling procedures reported by regional governments were due to overlap with PPFs, 19.4 percent due to overlap with any modality of natural protected area, 3.9 percent had overlap with mining or hydrocarbon concessions and 2.9 percent with forestry concessions. The same source refers that 11.7 percent had problems with private concessions (Ombudsman's Office, 2018). See [Annex I](#).

On the other hand, the 2017 Census of Indigenous Communities (INEI, 2018) reports that 14 percent of the total number of communities had conflicts with logging companies, 7.3 percent with oil companies and 5 percent with mining companies (see [Annex J](#)).

CADASTER UPDATE

Peru does not have an updated national cadaster¹⁵, which generates uncertainty and internal conflicts in the communities due to overlapping territories. The cadaster is a fundamental tool to facilitate land recognition and avoid land overlapping, avoid conflicts, and provide legal security to native communities.¹⁶

DIGESPACR is currently developing the Cadastral System of Peasant and Native Communities (SIC Communities) in order to have orderly, systematized, timely, and accessible information for different stakeholders. This system has historical information since 2010 that was transferred from the Informal Property Formalization Agency (COFOPRI) to the Ministry of Agriculture and Irrigation (MINAGRI, now MIDAGRI). The transferred rural cadaster was in Excel, its cut-off date was December 2010, they did not have data by community, and there was little systematization of the existing information. On the other hand, they had information from the DRAs who recognized and titled communities using different registration formats (Razuri, 2021, IBC, 2016, IBC-SICNA, 2016 and Carhuavilca M, 2021).

Currently, DIGESPACR is recovering cadastral information from before 2010 from both MIDAGRI (the PETTs) and the Regional Governments.

ABSENCE OF A TERRITORIAL GEOREFERENCING SYSTEM

The process of demarcating native communities has two important dimensions: the first is technical (georeferencing and mapping) and the second is legal (legal reports containing possible third-party land

¹⁵ Laguna (2022) defines the cadaster as the infrastructure of territorial information that from a computer and telematic system allows processing, storing, updating, interacting and incorporating georeferenced spatial limits based on ownership.

¹⁶ One of the problems of the obsolete cadastral system is that many titled communities are unable to register their territories with SUNARP (the governing body of the National Public Registry System in charge of granting the registration of the territory and with it, the legal security over the communal territories) because their plans have boundary errors. (Hallazi M. 2022).

rights, etc.). Georeferencing consists of the drawing up of maps, with their respective coordinates that facilitate the precise location of the territorial spaces in the native communities (Calderón and Bock, 2021). This stage is assumed by the regional governments. The demarcation stage also generates conflicts between native communities, with non-Indigenous third parties, and/or with associations and companies related to the overlapping of lands.

In the absence of an official system of geo-referenced territorial areas, initiatives from the private sector emerged, such as the IBC, which generated the Information System on Native Communities of the Peruvian Amazon (SICNA)¹⁷. For its part, the Interethnic Association for the Development of the Peruvian Rainforest (AIDSESEP) developed the AIDSESEP Territorial Planning and Information Center (CIPTA)¹⁸. Both institutions developed the registration of Indigenous territories in coordination with the leaders of regional and communal Indigenous organizations.

INSTITUTIONAL WEAKNESS

As mentioned above, it was not until 2020 that the General Directorate of Agrarian Property Sanitation and Rural Cadaster (DIGESPACR) was created as the governing body in titling matters. It is, therefore, a relatively new instance that is still in the development process and with enormous responsibilities in the matter of titling native communities, which are not in line with the scarce provision of human resources considered for its fulfillment¹⁹.

On the other hand, Article 51, paragraph n) of Act 2786724 - Organic Act of Regional Governments, specifies that regional governments must promote, manage, and administer the agrarian property sanitation physical-legal process, with the participation of the actors involved, safeguarding the imprescriptible, inalienable, and unattachable character of the peasant and native communities' lands, through the Regional Agrarian Directorates. In this regard, both the key informants and the collection of several documents coincided in pointing out that these governmental instances present various weaknesses, most of them related to human resources: (1) insufficient personnel, (2) temporary personnel and in many cases without sufficient preparation, (3) lack of specialists, (4) insufficient mastery of native languages, and (5) high turnover of specialized personnel mainly due to lack of budget and political patronage. Additionally, there are no national and regional titling monitoring systems of the

¹⁷ [SICNA: Información sobre Comunidades de la Amazonía](#)

¹⁸ [AIDSESEP Territorial Planning and Information Center](#)

¹⁹ The General Directorate of Agrarian Property Sanitation and Rural Cadaster (DIGESPACR) does not have line directors that are dependent on the General Directorate and, in order to fulfill its functions, it has a general director, 2 agrarian sciences engineers, 2 administrative specialists and 1 administrative technician. Following are some of its main functions: "to propose and develop plans, strategies, norms, directives, guidelines and standards for physical-legal sanitation and the formalization of agrarian property, including rural properties, vacant land with agricultural aptitude and land of peasant and native communities; as well as for surveying, maintaining and updating the rural land registry processes, in accordance with the norms of the Integrated National System of Property Cadastral Information." Other DIGESPACR functions are related with monitoring and supervision of the process by regional and local governments; with land registry organization; with training and technical assistance in the matter at the national level; with the supervision of compliance with the regulations on legal physical sanitation and formalization of agrarian property by regional and local governments; among others. [R. M. N° 0080-2021-MIDAGRI](#)

national (in process) and regional cadaster and of the georeferencing system, mentioned above (Ombudsman’s Office 2018, Hallazi, 2021 y Huamani, 2021)²⁰.

An aspect related to institutional weakness, which has been highlighted by almost all the informants, is the corruption of many officials responsible for the titling process. Corruption would allow many settlers to obtain their property titles in a short time and—in many cases—in communal territories and in PPF. Land trafficking, in which some officials have been involved, has even led to jail sentences for Ucayali region officials in 2018.

ROLE OF ORGANIZATIONS

INDIGENOUS ORGANIZATIONS

A characteristic of the Amazonian Indigenous populations in Peru is their extensive organizational network that ranges from the communal to the national level, including basin federations and regional organizations. The first Amazonian Indigenous organizations were formed in the late 1960s, as a defensive response to the accelerated colonization process and exploitation of primary resources, which both emerged in part as a result of government policy, based on the idea of an “uninhabited” forest. These organizations were, at first, local, then communal, and then regional or basin-based. The Ashanika, Amuesha, and Aguaruna from the Alto Marañón initiated the community federation movement.

To date, there are two organizations that nationally represent the Amazonian Indigenous peoples, AIDSESP (Interethnic Association for the Development of the Peruvian Forest) and CONAP (Confederation of Amazonian Nationalities of Peru)²¹.

For both national organizations (due to its seniority, AIDSESP more so than CONAP), the titling of territories issue is one of the main points on their agenda. Both organizations claim that Indigenous territory is integral and consider the titling of communal lands as one of the lines of their intervention, in such a way that they adapt to national regulations. But, in various forums in which they are present, they insist on the need to recognize their land rights as peoples and not as communities, in accordance with the provisions of the ILO Convention 169.

In recent years, AIDSESP, has become an important institutional support for regional and local organizations in the face of threats focused on the Indigenous population territorial spaces. The programs around which its work is organized are the following:

²⁰ As an example of institutional weakness, it was found that the Directorate for the Development of Peasant, Native and Social Management Communities of MIDAGRI had a director since January 2022. Another example is the case of the Sectoral Project Management Implementation Unit (UEGPS), whose executive director was removed.

²¹ AIDSESP, created in 1979, represents 1,809 Amazonian communities, which are affiliated in nine regional organizations and 109 federations, comprising 64 Amazonian Indigenous peoples. [AIDSESP is present in all the country’s Amazon departments](#). For its part, [CONAP](#)—established in 1995—represents 850 Amazon communities, represented by 70 Indigenous federations. Unlike AIDSESP, CONAP does not have regional federations.

- Forests and Climate: Amazonian Indigenous REDD+ strategies (RIA) and the Center for Information and Territorial Planning AIDSESEP (CIPTA), which includes cartographic information on the current situation of the communities within the framework of the processes of recognition and titling of their territories.
- Economy: productive projects, green economy.
- Hydrocarbons: advocacy actions on policies and regulations on hydrocarbon activities.
- Women: promote gender equity and greater participation of women in different levels of AIDSESEP organizations.
- PIACI: creation of Indigenous reserves and establishment of protection measures for the PIACI.
- Health: improve health care and promote an intercultural approach in the provision of this service.

For its part, CONAP organizes its action around three programmatic lines: (1) Indigenous territory: legal physical sanitation of the communities, recognition, and titling, (2) forests and climates: actions for adaptation and mitigation against the effects of climate change, and (3) Indigenous Forest management. CONAP has 33 federations distributed in the departments of Loreto, Ucayali, Cusco, Pasco, Junín, and Amazonas.

Unlike AIDSESEP, in the case of CONAP there is a direct link between national leadership and the local federations (in the absence of regional federations). This is explained by the fact that CONAP arose and grew from the divisions and subdivisions that came about at different levels of the AIDSESEP organizational structure. To this extent, AIDSESEP and its federations (particularly the regional ones) have a greater physical presence and greater institutional development in their spheres of action, unlike CONAP and its local federations.

On the other hand, it is worth mentioning the existence of the National Organization of Andean and Amazonian Indigenous Women of Peru (ONAMIAP), created on November 25, 2009 (International Day against Violence against Women), which includes 29 federations distributed in 15 departments²².

The ONIAMAP arose as an attempt to strengthen the leadership capacities of Indigenous women and incorporated different aspects for the exercise of their rights as women and as Indigenous people. They implemented the Territorial Governance program, which seeks the formulation of proposals for the access of Indigenous women to communal decision-making spaces on the use of the territory, demanding their recognition as qualified community members, as well as changes in communal assemblies' statutes in order to include a gender quota. Likewise, through the "Promoting the Recognition and Protection of the Rights of Indigenous Peoples in REDD+ in Burma, Nepal and Peru" project, they take on issues such as good forest governance, respect for local communities and Indigenous peoples' rights, protection of biodiversity, and sustainability.

One characteristic of ONAMIAP is that its bases are not the native communities, but the women organized within the communities, although the community itself (as a collective subject) is affiliated, in turn, to another regional Indigenous organization.

²² Ayacucho, Amazonas, Ancash, Cajamarca, Cusco, Huancavelica, Ica, Junín, Lambayeque, Lima, Loreto, Pasco, Piura, Puno, and Ucayali.

It should be noted that almost all Indigenous leaders agreed that the government agencies (national, regional and local) with decision-making capacity have not implemented adequate institutional channels for Peruvian Indigenous people to put forward their interests and have their rights taken into account in decision-making processes.

CIVIL SOCIETY

Different civil society organizations include titling processes support for Amazonian Indigenous communal lands in their lines of work. One of the oldest is the General Directorate of Agrarian Property Sanitation and Rural Cadaster (DIGESPACR), created in 1982, which works around four lines of action: (1) physical and legal sanitation, (2) community organizational strengthening, (3) sustainable economic activities, and (4) support for the participatory ANP (protected natural areas) management. As indicated by its executive director, since 1994, CEDIA has supported the titling of 500 native communities in Loreto.

With the financial support of the Rainforest Trust, it is currently executing the “final impulse for the protection of Indigenous territories of the Peruvian Amazon” project (from July 2018 to June 2022), which seeks to close the still-existing territorial gaps of Indigenous peoples with a work strategy that involves Indigenous organizations in coordinated work with regional governments (through the Office of Indigenous Affairs). They intend to support the titling of 190 Loreto and Ucayali native communities. In addition to titling, the project includes territory expansions and boundaries rectification.

Another organization with recognized work concerning Amazon territorial issues is the Institute for the Common Good (IBC), created in 1998. The IBC develops projects related to land use and planning, governance for the care of common goods, environmental conservation, sustainable development, respect for the rights and culture of Indigenous and non-Indigenous populations, as well as scientific and local knowledge.

In line with land use planning, the IBC has supported 100 native communities toward obtaining their titles, of which 98 percent have achieved georeferencing. Indeed, in the words of the person responsible for this line of work (Awajun Indigenous), the IBC considers the following a matter of special concern: the lack of information on titled native communities and Indigenous settlements that are yet to be registered and/or titled in areas where the georeferencing of the Information System on Native Communities (SICNA) has not yet been carried out²³.

IBC officials highlighted the successes were the result of a strategy of prioritizing the signing of specific agreements with Indigenous organizations, both at the federal and grassroots levels. He stressed that the only way to obtain good results is by involving the community population and its representatives.

²³ The IBC webpage states that the SICNA is a georeferenced database that contains geographic and tabular information on native communities, the use of which promotes land-use planning and the defense of the rights of Indigenous peoples, allowing the titling of native communities and the protection of Indigenous peoples in voluntary isolation. They note that the SICNA was created to make up for the lack of land registry maps and precise information on native communities in the Peruvian Amazon. They add: “SICNA becomes more important and necessary to the extent that the Peruvian state does not give sufficient importance and speed to the native communities’ titling, while the expansion of agricultural, forestry, oil and mining activities in areas continues to advance where land titling has not yet been concluded.”

USAID/ PERU PROJECTS

USAID/Peru supports some projects aimed at protecting Indigenous people's rights and resources, although none of these interventions is specifically aimed at supporting the titling of Indigenous communal territories. However, the following interventions deserve to be emphasized.

The Forest Alliance, implemented by the Association for Research and Development (AIDER) seeks to improve the quality of life of 350 families of the Ucayali Conibo and Cacataibo Indigenous Peoples, as well as the conservation of Amazon forests and their biodiversity. Although titling is not a line of work for AIDER, according to testimonies from project representatives they work with seven titled native communities, under the understanding that the property title gives native communities the legal certainty necessary for sustainability of the activities implemented by the project.

Pro-Bosque, implemented through Tetra Tech ARD (also has funding from the Norwegian Agency for Development Cooperation - NORAD), is carried out in Loreto, Madre de Dios, and Ucayali. It seeks to contribute to strengthening the forestry sector, including a legal certainty component, providing technical assistance and support for georeferencing and updating the titles of titled communities, but with overlapping problems with forests and lands occupied by settlers. As mentioned above, the overlap with PPF and settlers are critical issues²⁴.

The Multiannual Operational Plan for Institutional Strengthening of DEVIDA - PORI is a budgetary support to the National Commission for Development and Life without Drugs (DEVIDA). Within the PORI framework in 2014 and 2015, activities aimed at promoting the titling of native Amazonian communities were supported, through transfers to the Regional Government of San Martín.

It should be noted that DEVIDA, with resources from the Comprehensive and Sustainable Alternative Development Budget Program (PIRDAIS), developed activities to support titling until 2018. This activity is still maintained in the PIRDAIS, but it is not possible to identify the budgetary implementation in the last years. In Ucayali, support for community titling was carried out through the Regional Directorate of Agriculture until 2015, one of the factors was the failure to meet physical and financial goals and redirected financing to other items. Currently, there is a legal process with the Regional Directorate of Agriculture.

²⁴ The informant referred to the case of the Caimito community with a title from 1975 and extension from 1993 to over 6,800 hectares. In 2015, a group of Mennonite settlers bought 500 hectares from the supposed owners, which included 73 hectares considered in the titled community area. These lands were divided and titled into 14 individual properties by the Ucayali Regional Agrarian Directorate in the name of the Mennonite settlers. With the support of the georeferencing provided by the project, the community has been able to determine the part of its territory that was illegitimately granted to the settlers and has initiated a usurpation lawsuit.

SUCCESSFUL AND UNSUCCESSFUL CASES IN LAND TITLING

SUCCESSFUL CASE

MD Saweto Perú²⁵ (Dedicated Specific Mechanism for Indigenous Peoples) is a shared work experience between AIDSEP and CONAP, the regional governments, the World Bank, and the WWF, the organization that administered and provided technical assistance to the project. The project concluded in 2020 after five years of implementation, supporting titling for 58 native communities (38 of them registered) and starting the titling process in 109 communities.

“What was new for Indigenous organizations was the opportunity to improve their capacities and strategies to negotiate with the National Government and Regional Governments and undertake a leadership and executing role in a project, including management lessons” (AIDSEP et al., 2021: 19). This project allowed regional authorities and officials and Indigenous organizations to verify on the ground the bottlenecks that arose in the titling process. The main ones are (1) the absence of a real interest from regional governments in promoting this agenda, (2) scattered and bureaucratic legislation, (3) the lack of State resources to implement the necessary field logistics for titling processes, (4) permanent turnover of public officials, (5) the field officials’ lack of capacity to navigate the regulations and procedures established for titling.

The identification of bottlenecks allowed for the preparation of solution proposals by both Indigenous organizations. Suggestions include (1) the establishment of agreements and alliances with regional governments, (2) the simplification of titling processes, (3) financing Indigenous organizations’ field logistics work in support of the work of the Regional Agrarian Directorates, and (4) the capacity building with field officials by MIDAGRI.

The implementation of the project also made it possible to estimate the real cost of the recognition process of a native community, which was 3,000 dollars (which includes field logistics costs, cost of brigades, and personnel to be hired), and the duration of the recognition process, which was 12 months on average. Likewise, it was possible to calculate the cost of the titling process: 12,000 dollars, which includes expense items similar to those of the recognition process, and estimate a duration of the titling process, between 36 and 48 months.

²⁵ The name of the project is a tribute to four Asháninka leaders who were assassinated in 2014 in their community, Alto Tamaya Saweto, in Ucayali, for denouncing illegal timber trafficking in their territories.

FAILURE CASE

Public Investment Project Cadastre, Titling and Registry of Rural Lands in Peru, Third Stage – PTRT3

In almost all testimonies collected, from representatives of Indigenous organizations, civil society, State officials, and representatives of cooperation organizations, a constant has been found: severe criticism of the PTRT3, both for its poor results as well as the strategy with which it was implemented.

The objective of the project was the formalization of rural property in the Jungle and targeted areas of the Highlands through three components: (1) cadastral survey and titling and registration of rural lands, (2) development of the technological platform to streamline cadastre, titling, and registration services, and (3) strengthening of institutional capacity for rural land titling and of the policy framework. This project was financed within the framework of an external debt operation between the Government of Peru and the Inter-American Development Bank (IDB), through a loan agreement signed in February 2015, for a period of five years, although the project ended in June of this year.

After more than five years, the concrete results of the PTRT3 are the registration of 6,234 individual rural property titles, nine native community titles and one peasant community title. Regarding native Amazon communities, the goal was 260 communities; only 3.4 percent of the proposal was fulfilled.

The cause of these results seems to be the intervention strategy adopted, through companies hired to carry out the procedure, in “lots” defined by the project. Once the bidding was carried out, most of the awarded companies were foreign, which were unaware of the complexity of land ownership in Peruvian society. They were therefore forced to hire national companies and organizations, thus lengthening the setup process prior to actual action.

Additionally, the PTRT3 did not find support from regional governments for its implementation, since the latter felt marginalized from a responsibility that, they assumed, should correspond to them within the framework of their regulatory functions. Furthermore, project implementers failed to establish coordination relationships with Indigenous organizations, adding yet another obstacle to their chances of success.

In short, the failure of PTRT3 means a loss of about 120 million soles for the State and, at the same time, the loss of an opportunity to design and validate a strategy that involves the main actors in the titling process of the Amazonian Indigenous population: Indigenous organizations and regional and local governments responsible for titling their territories.

CONCLUSIONS

1. There are different terms to refer to Amazonian Indigenous populations. Thus, although most of the regulations and statistical information related to the titling of their lands refer to “native communities,” the Ministry of Culture uses the term “Indigenous or native peoples” in accordance with international regulations and conventions. Many Amazonian Indigenous organizations claim their right to be considered “peoples” and not native communities.
2. The titling of lands of native communities is a procedure that recognizes a pre-existing right, given that these populations have inhabited their territories since ancient times. These rights are recognized by international standards, ratified by Peru, which consider the right to territories as part of human rights, since they are the basis for the exercise of other rights such as economic and administrative rights.
3. Peruvian regulations on land titling for native communities have a community and not a peoples’ perspective, as proposed by international standards and Indigenous organizations, which weakens the unity of the peoples, their organizations and their ability to defend themselves against legal or illegal deforestation (which affects climate change), illegal economies, invasions, among others.
4. The approach to legal security of Indigenous territories goes beyond titling itself. It implies the protection and safeguarding of these territories, as well as access to basic health and education services; aspects in which the State, at its different levels, has a key responsibility.
5. The country is characterized by a multiplicity of legal norms at different levels related to the titling process, many of which are outdated, unclear, and complex. This prevents or makes the titling process long, expensive, and cumbersome. Other norms related to the promotion of public and private investment (hydrocarbons, mining, forestry, and environment) cause legal insecurity for native communities since they become inhabitants with land with assignment of use.
6. The creation of the General Directorate of Agrarian Property Sanitation (DIGESPAR) and the issuance of guidelines on community physical and legal sanitation to guide the implementation of the regional governments’ functions are important developments of the Ministry of Agriculture and Irrigation (MIDAGRI) in the exercise of its stewardship in terms of recognition and titling of peasant and native communities. However, as it is a recently created institution, it shows incipient efforts of its stewardship concerning coordination, advice and capacity building for officials of the Regional Directorates of Agriculture, as well as for information management.
7. The regional governments, responsible for this process at the departmental level, have not achieved uniform progress in the titling process. This is due to various factors ranging from the lack of political will expressed in the meager budget allocated to this task, as well as the lack of a qualified professional team and even the existence of practices contrary to regulations and legality in the assignment of territories, to the detriment of the native communities.
8. In recent years, important developments have been made in the process of recognizing the legal status and land titling of the native communities of the Amazon, but there is still a gap of around 30 percent of native communities without title to their lands, and a similar percentage have not been able to register their titles with the Public Registry Office.
9. There is a great heterogeneity in the native Amazon communities, not only in relation to their formalization situation, but also with regards to their relations with other forms of production and commercialization, their contact with illegal economies, their development possibilities according to the quality of the lands in which they are located and the political commitment of their regional authorities.

10. The presence of illicit activities in Indigenous territories, such as drug trafficking, illegal logging, illegal mining, and land trafficking, constitutes a serious risk for the survival of Indigenous peoples. The murder of Indigenous leaders defending their territories has been denounced, mainly, by the alternative digital press, due to the indifference of public opinion and the State's inaction.
11. A significant number of existing native communities—with or without title—face conflicts due to overlapping of their territories with other communities, invasion or ill-gotten possession, logging, oil, mining, and illegal mining companies. These overlapping problems halt titling procedures.
12. There is lack of guidelines to establish standards and technical criteria to solve controversies in cases of communal land overlapping with forestry, mining and oil concessions or protected natural areas.
13. Organizations representing Indigenous populations have land titling as a priority item on their work agenda. AIDSESEP was created as an institutional support for affiliated organizations in the face of threats focused on the territorial spaces of Indigenous populations.
14. Some of the non-governmental organizations that work in the Amazon play an important role in providing technical support for titling; the key to the success of their interventions is the involvement of native communities and their representative organizations.

RECOMMENDATIONS FOR USAID

These recommendations, derived from the conclusions of the study, are aimed at supporting the Ministry of Agriculture and Irrigation (in its capacity as governing body) and the regional governments of the Amazon (directly responsible for titling) to make titling processes and procedures for native communities more efficient and effective, ensuring that they conform to international instruments on collective rights, such as ILO Convention 169.

The realization of these recommendations supposes the establishment of specific agreements either with MIDAGRI, with regional governments, or with Indigenous organizations, as well as the preparation and/or adaptation of projects with the support of economic and technical resources from USAID.

- I. With the General Directorate of Agrarian Property Sanitation and Rural Cadastre (DIGESPACR) of the Ministry of Agriculture and Irrigation (MIDAGRI):
 - a. Review the norms that regulate the titling of native communities to update them in accordance with the current Constitution, clarify, and simplify them. The Amazonian regional governments and the two national Indigenous organizations (AIDSESEP and CONAP) must also participate in this process.
 - b. Formulate a national public policy for the recognition and titling of native communities, with specific objectives and goals at the level of each of the Amazon regions and with an intercultural approach.
 - c. Prepare technical documents that provide standards and guidelines for the resolution of disputes in cases of overlapping of communal lands with forestry, mining, and oil concessions or protected natural areas, based on successful experiences in countries with similar problems.
 - d. Update the national rural cadastre, based on the cadastre of the regional governments.
 - e. Update territory georeferencing of the native communities, based on the information provided by the regional governments.

- f. Develop a monitoring system for the titling of native communities interconnected with the Regional Agrarian Directorates.
- 2. With the Regional Agrarian Directorates (DRA) of the regional governments:
 - a. Prepare specific studies that identify the main “bottlenecks” at the regional level, which help design the most appropriate strategies to cover the titling gaps of existing native communities. These studies must yield regional roadmaps.
 - b. Design and implement a permanent plan to strengthen the capacities of the personnel working for Regional Agrarian Directorates in regulatory matters related to recognition and titling, interculturality (language, relationship with native communities, worldview of Indigenous territory), among other aspects.
 - c. Update the regional cadastre of native communities, as well as their georeferencing, using the most appropriate and up-to-date technologies and methods (hardware, software, use of satellites, specialized personnel).
 - d. Design monitoring systems for the titling of native communities.
- 3. With Indigenous organizations (AIDSESEP and CONAP):
 - a. Design and implement a permanent training and updating system in current regulations on the recognition and titling of native communities, aimed at national and regional Indigenous leaders.
 - b. Design a national and international positioning strategy for the collective rights of Indigenous peoples, including the protection of environmental defenders, in the face of threats and aggression from illicit economies.
 - c. Disseminate among the native communities the regulations regarding their rights over their territories in alliance with non-governmental organizations specialized in the matter.
 - d. Participate proactively in the debate on the issue of native communities titling, through the identification of bottlenecks and the formulation of regulatory proposals to be channeled through Congress, DIGESPACR, and the regional governments.

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APPENDICES

ANNEX A: ABBREVIATIONS AND ACRONYMS

AIDSEP	Interethnic Association for the Development of the Peruvian Rainforest
ANP	Natural Protected Area
BPP	Permanent Production Forest
COFOPRI	Agency for Formalization of Informal Property
CONAP	Confederation of Amazonian Nationalities
DL	Legislative Decree
DEVIDA	National Commission for Development and Life without Drugs
DIGESPACR	General Directorate of Agrarian Property Sanitation and Rural Cadastre
DRA	Regional Agrarian Directorate
IBC	The Common Good Institute
INEI	National Institute of Informatics
MIDAGRI	Ministry of Agrarian Development and Irrigation
MINCUL	Ministry of Culture
MINAM	Ministry of the Environment
MINEM	Ministry of Energy and Mines
NGO	Non-Governmental Organization
ILO	International Labor Organization
ONAMIAP	National Organization of Andean and Amazonian Indigenous Women of Peru
PETT	Special Project for Land Titling and Rural Cadastre
PTRT3	Project for Cadastre, Titling and Registry of Rural Lands in Peru - Third Stage
PIACI	Indigenous Peoples in Isolation or Initial Contact
REDD+	Reducing Emissions from Deforestation and Forest Degradation
RM	Ministerial Resolution
SERFOR	National Forest and Wildlife Service
SICNA	Information System on Native Communities of the Peruvian Amazon
SUNARP	National Superintendence of Public Registries
USAID	United States Agency for International Development

ANNEX B: AMAZONIAN INDIGENOUS POPULATION

Indigenous and peasant population, 1993, 2007, and 2017

THEME	CENSUS 1993	CENSUS 2007	CENSUS 2017
Total population of Peru	22'639,443	28'220,589	31'327,385
Amazonian Indigenous population in communities (% of total population)	227,960 (1,0%)	332,975 (1,2%)	418,364 (1,3%)
Mother tongue (communities and cities): population aged 5 and over that speaks an Amazonian Indigenous language (% of the total)	132,174 (0,7%)	223,194 (0,9%)	210,017 (0,8%)
Mother tongue (communities and cities): total population aged 5 and over that speaks an Indigenous language (Andean or Amazonian)	3'750,492 (19.6%)	3'919,314 (15.9%)	4'390,088 (16.4%)
No. of Amazonian Indigenous peoples	48	51	44
No. of Indigenous languages	No data	No data	40 Amazonian (and 4 Andean)
No. of "native communities"	1,458	1,786	2,703

Source: INEI. National Population Censuses 1993, 2007, and 2017. Taken from Calderón 2021: "Bajo lupa: los resultados del III Censo de Comunidades Nativas 2017".

ANNEX C: INTERNATIONAL AND NATIONAL LEGAL REGULATIONS

International norms on communal property applicable to Indigenous populations

Date	Norm	Content
1989 1995 (date of ratification by the Peruvian State)	ILO Indigenous and Tribal Peoples Convention C169	Chapter II refers to the land. Articles 13 to 19 state: <ul style="list-style-type: none"> - That governments should respect the special importance of lands and territories for the cultures and spiritual values of the peoples concerned (Article 13). - Recognizing the interested peoples' right to property and possession over the lands they traditionally occupy (Article 14) - The natural resources existing on their lands. This right includes the right of peoples to participate in the use, administration and conservation of said resources (Article 15). - Not to be moved from the lands they occupy. If this occurs exceptionally, it must be done with their consent, given freely and with full knowledge of the facts (Article 16). - Respecting the transfer modalities of the rights over the land between the members of the interested peoples established by said peoples (Article 17). - That the national law provide appropriate sanctions against any unauthorized intrusion into the lands of the peoples concerned or any unauthorized use by persons outside of them (Article 18). - The national agrarian programs must guarantee the peoples concerned conditions equivalent to those enjoyed by other sectors of the population, such as the allocation of additional lands to said peoples when the lands they have are insufficient for providing the essentials of a normal existence or to face their possible increase in numbers; the granting of the necessary means for the development of the lands that said peoples already possess (Article 19).
2007	United Nations Declaration on the Rights of Indigenous Peoples	Regarding land rights, it states: <ul style="list-style-type: none"> - Maintaining and strengthening the relationship with their lands, territories and resources that they have traditionally used (Article 25). - The ownership and possession of the lands and territories that they have traditionally occupied, as well as the right to possess, use, develop and control the lands, territories and resources that they originally possess (Article 26). - Respecting Indigenous forms of organization, laws, traditions, customs and land tenure systems that Indigenous peoples have over their lands, territories and natural resources (Article 27). - Reparation, through restitution or compensation, for the confiscation, seizure, occupation, use or damage caused by third parties to their lands, territories and resources (Article 28).

Source: Adapted from the Ombudsman's Office (2018)
Own preparation

Current national legal framework on communal ownership of Indigenous lands

Date	Norm	Content
1978	Decree Act 22175 - Act of Native Communities and Agrarian Development of the Forest and Forest Rim.	It regulates the procedure for the recognition of the property right over the lands of native communities and the identification of lands suitable for forestry that are assigned to the native communities for use.

Date	Norm	Content
1979	Executive Order 003-79-AA. Regulation of the Act of Native Communities and Agrarian Development of the Forest and Forest Rim.	It states the procedures for the recognition, demarcation, classification and use of land.
1979	Regulations of Executive Order 003-79-AA	It establishes that the State guarantees the integrity of the territorial property of the native communities, and for this purpose, draws up the corresponding cadastre and grants them property titles.
1991	Legislative Decree 653. Act for the Promotion of Investments in the Agrarian Sector.	It specifies and determines the award of rural land to any natural or legal entity, for consideration, through the execution of a purchase-sale contract with title retention until the full payment of the agreed price. These contracts state the main obligation to comply with agricultural work, cultivation or grazing.
1992	Decree Act 25891. Transfer of the functions and activities included in the General Act of Peasant Communities and in the Act of Native Communities and Agrarian Development of the Forest and Forest Rim a Regions.	Official recognition of the legal status of native communities is carried out by the Regional Agrarian Directorates and the Lima-Callao Departmental Agrarian Unit.
1993	Political Constitution of 1993	Unlike the 1979 Constitution, it stripped the communal territories of their characteristics of inalienability, indefeasibility and absolute imprescriptibility that not only guaranteed the property rights of the communities, but also the integrity of their ancestral territories. The purpose was that the lands of the communities enter the market aggressively. It provides special protection to peasant and Indigenous communities. It recognizes their legal existence, their autonomy in their organization, in communal work and in the use and free disposal of their lands, as well as in economic and administrative matters. In addition, it provides for the imprescriptible nature of communal lands and respect for the cultural identity of these communities. Article 88 establishes that the State preferentially supports agricultural development and guarantees the right to own land, privately, communally or in any other associative form. It adds that the Act can set the limits and the extension of the land according to the peculiarities of each zone.
1995	Act 26505. Act on private investment in the development of economic activities in the lands of the national territory and in peasant and native communities.	They provide security to agricultural owners, regulating a very particular form of land abandonment, restricting the possibilities of expropriation and establishing the mining easement in the event of the start of exploration and exploitation activities. Through its regulations, it provides security to agricultural owners, restricting the possibilities of expropriation and establishing the mining easement in the event of the start of exploration and exploitation activities.
1996	Executive Order 017-96-AG. Regulation of article 7 of Act 26505, referring to easements on land for mining or hydrocarbon activities.	It establishes that the use of land for mining or hydrocarbon activities, as well as for the transportation of hydrocarbons and minerals through pipelines, requires prior agreement with the owner of the land or completion of the easement procedure.
1997	Act 26834, June 30, 1997. Natural Protected Areas Act.	
1997	Executive Order 011-97-AG. Regulations of Act 26505, referring to private investment in the development of economic activities in the lands of the national territory and in peasant and native communities	The State guarantees the integrity of the territorial property of the Native Communities. Ownership of the lands of the Native Communities is imprescriptible. It provides that MINAGRI, through the PETT, prepares the cadastre of the native communities and grants them the property title.
2001	Executive Order 038-2001-AG. Regulations of the Protected Areas Act.	

Date	Norm	Content
2002	Act 27867. Organic Act of Regional Governments.	
2005	Intendancy Resolution 019-2005-INRENA-IANP. Special Regime for the Administration of Communal Reserves.	
2009	Executive Order 017-2009-AG. Land Classification Regulations due to their Higher Use Capability.	
2009	Ministerial Resolution 0811-2009-AG. Approving the list of administrative procedures under the responsibility of the Regional Agricultural Directorates derived from the specific function of paragraph 'n' of article 51 of the Regional Governments Organic Act.	
2010	Executive Order 013-2010-AG. Regulations for the Execution of land studies.	
2011	Act 29763. Forest and Wildlife Act.	
2015	Executive Order 018-2015-MINAGRI. Regulations for Forest Management.	
2011	Act 29785, August 31, 2011. Act on the Right to Prior Consultation for Indigenous or Native Peoples.	
2013	SUNARP Resolution 097-2013-SUNARP/SN. Approving Regulations for Land Registry Entries of SUNARP.	
2013	SUNARP Resolution 122-2013-SUNARP/SN. Approving Directive 005-2013, Directive that regulates the Registration of acts and rights of Native Communities.	
2013	Act 30048, which amends the Legislative Decree that approves the Act of Organization and Functions of MINAGRI	It establishes as a specific function and exclusive competence of said ministry to dictate the norms and technical guidelines in physical-legal sanitation matters and formalization of agrarian property, which includes the lands of peasant and native communities.
2014	Ministerial Resolution 0547-2014. Specifying that the demarcation and titling of native communities under the responsibility of the Regional Governments, provided for in Decree Act 22175 and its Regulations, approved by EO 003-79-AA, may not be suspended due to overlapping with areas of the Permanent Production Forests – BPP.	
2015	Executive Order 016-2015-MINAGRI. Single Text of Administrative Procedures (TUPA) of the Ministry of Agriculture and Irrigation.	
2015	Executive Order 018-2015-MINAGRI. Regulations for Forest Management.	
2015	Executive Order 021-2015. Regulations for Forest and Wildlife Management in Native and Peasant Communities.	
2016	Ministerial Resolution 0435-2016-MINAGRI. Approving the “Guidelines for the execution of the Administrative Recognition and Registration Procedure of the Legal Status of Native Communities”.	

Date	Norm	Content
2016	Ministerial Resolution 0589-2016-MINAGRI. Amendment of the Guidelines for the execution of the Administrative Recognition and Registration Procedure of the Legal Status of Native Communities and Appendices.	
2017	Ministerial Resolution 194-2017-MINAGRI. Execution of the agroecological evaluation process of the lands of the native communities and the classification for their higher use capability at the Group level for titling purposes.	It approves the guidelines for the agroecological evaluation process and the stages. It establishes that such evaluation is the responsibility of the Regional Governments' specialists.
2017	Ministerial Resolution 0370-2017-MINAGRI. Guidelines for Georeferencing the Territorial Demarcation Plan of Titled Native Communities.	
2018	Ministerial Resolution 0007-2018-MINAGRI. Methodological guide to verify compliance with the regulations on the physical-legal sanitation of agrarian property.	
2018	Executive Order 002-2018-MINAGRI. Order that exonerates Regional Governments from paying fees and any other processing right to various entities of the Executive Power concerning the function described in paragraph 'n' of article 51 of Act 27867, Regional Governments Organization Act.	
2018	Ministerial Resolution 0362-2018-MINAGRI. Creation of the Cadastral System for Peasant and Native Communities – SIC Communities.	
2018	Ministerial Resolution 0368-2018-MINAGRI. Approving the guidelines for the execution of the resizing procedure for permanent production forests.	
2018	Legislative Decree 1452. Recent amendment to Act 27444, General Administrative Procedure Act.	
2019	Ministerial Resolution 443-2019-MINAGRI. Approving the Guidelines on Demarcation and Titling for native communities.	

Source: Adapted from the Ombudsman's Office (2018), Baldovino (2016), Hallazi (2022) and Quispe (2021).
Own preparation

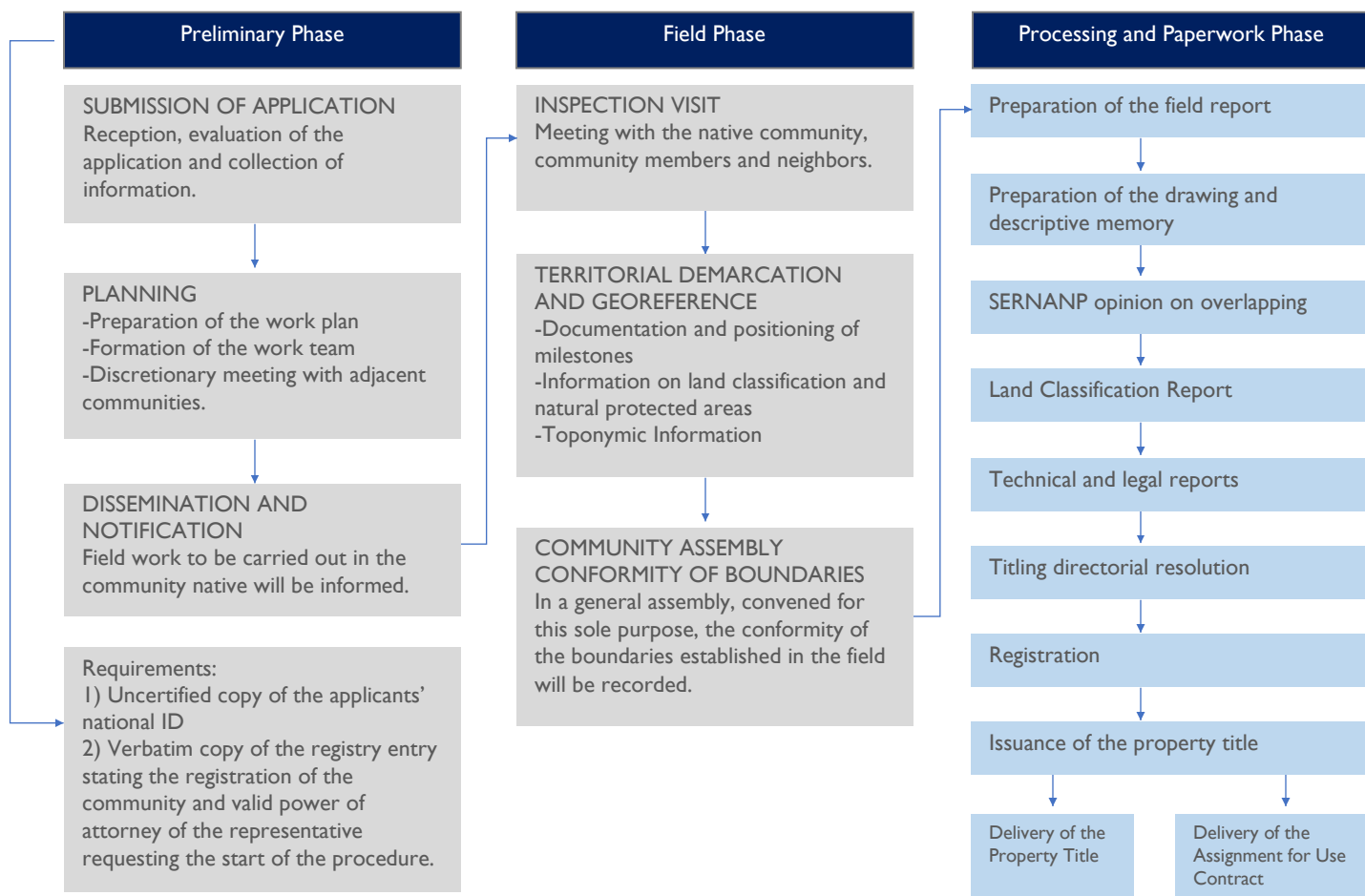
National legal framework with possible impact on the right to communal property

Date	Norm	Content
2014	Act 30230. Act that establishes tax measures, simplification of procedures and permits for the promotion and revitalization of investment in the country.	In its third title, it establishes essential procedures to facilitate the legal physical sanitation of properties linked to investment projects.
2016	Legislative Decree 125. Legislative decree that amends Legislative Decree 1224, Framework Act for the promotion of private investment through public-private partnerships and asset projects.	Introducing twelve amendments to the Act that regulates Public-Private Associations (PPA), adding to the Agency for the Promotion of Private Investment (PROINVERSIÓN) the function of land sanitation and real estate expropriation for investment projects through the creation of the Special Project for Access to Land for Prioritized Investment Projects (APIP). In addition to legal insecurity,

Date	Norm	Content
		it generates a conflict of powers with other levels of government and State bodies, whose mandate is to sanitize lands, whether they belong to communities, farmers, small property owners or public properties.
2017	Legislative Decree 1330.	Amending and allowing flexible deadlines, procedures, requirements and requirements of Legislative Decree 1192, Framework Act on Acquisitions and Expropriations for Infrastructure Projects
2017	Legislative Decree 1333. Legislative decree for the simplification of access to land for prioritized investment projects.	The creation of the Special Project for Access to Land for Prioritized Investment Projects (APIP) is established with powers for the legal physical sanitation of public, private and communal lands.
2017	Legislative Decree 1320. Amending the General Mining Act whose single revised text was approved by Executive Order 014-92-EM.	Amending the General Mining Act in relation to expiration and payment or penalty that must be met by mining concessionaires due to lack of production. The new norm extends the validity of the concessions for 30 years, instead of 15. It allows maintaining a concession even without using it. This extension poses a greater threat to the territories of the peasant communities, taking into account that mining concessions are overlapping over 35% of their total lands.
2018	Act 30723	Act that declares the construction of highways in border areas and the maintenance of highways in the department of Ucayali to be a priority and of national interest. It allows the activation of specific administrative processes, aimed at the authorization of road infrastructure, through expropriation procedures, the transfer of native communities, the lack of protection of Natural Protected Areas (ANP), which mainly endanger the PIACI in that Amazon region.

Source: Adapted from the Ombudsman's Office (2018), Baldovino (2016) and Quispe (2021).
Own preparation

ANNEX D: FLOWCHART OF THE LAND TITLING PROCESS OF NATIVE COMMUNITIES



Source: Baldovino, S. (2016)

ANNEX E: TIMELINE OF NATIVE COMMUNITIES TITLING EVOLUTION

Number of Native Communities with Land Titles per Year and Government Period

Government Period	Native Communities (CCNN)	Average (CCNN/year)	Titled Land Extension (hectare)	Percentage (hectare) per Government
Juan Velasco (1974–1975)	137	137	406,864	2.5
Francisco Morales (1976-1980)	199	50	920,665	5.7
Fernando Belaúnde (1981-1985)	177	44	1'184,786	7.4
Alan García (1986–1990)	95	24	514,693	3.2
Alberto Fujimori (1991-2000)	734	82	7'004,014	43.6
Valentín Paniagua (2001)	2	2	25,475	0.2
Alejandro Toledo (2002-2006)	118	30	728,727	4.5
Alán García (2007–2011)	37	9	211,457	1.3
Ollanta Humala (2012–2016)	200	50	2'301,998	14.3
PPK, Vizcarra & Sagasti (2016-2021)	244	61	2'752,833	17.2
Total (1974-6/2021)	1,943		16'051,514	100.0%

Source: Chirif (2021)

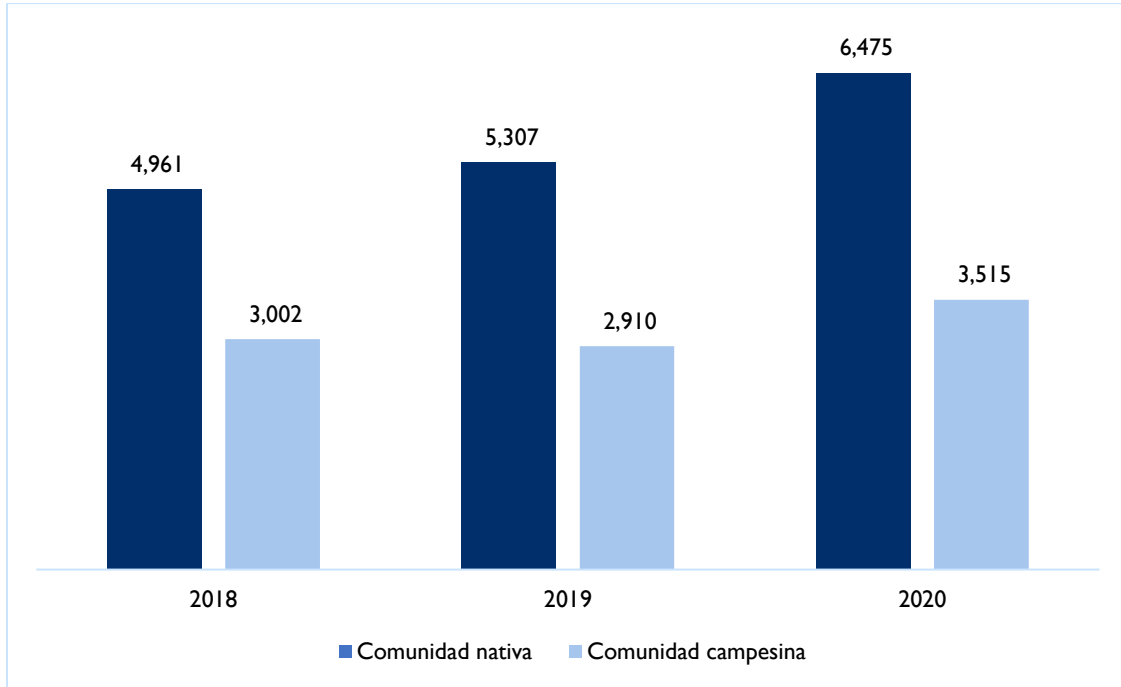
ANNEX F: TITLING STATUS OF NATIVE COMMUNITIES AND FINAL REGISTRATION IN SUNARP

Status	MIDAGRI (2017)	Regional Governments (2017)	SUNARP
Recognized (a)	2,090	2,129	2,018
Titled (b)	1,447	1,498	1,309
Pending Title	643	631	709
Gap (c)/(a)	31%	30%	35%

Source: Ombudsman Office (2018)
Self-elaboration

ANNEX G: COCA CROPS IN NATIVE AND PEASANT COMMUNITIES' LANDS

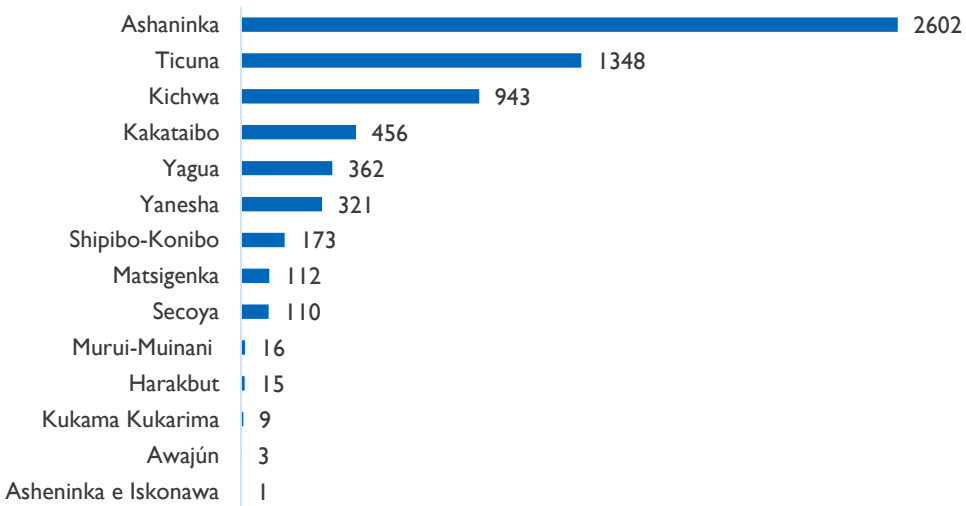
Extension of Coca Crops in Native and Peasant Community Lands, 2020 (number of hectares)



Source: DEVIDA (2021).

ANNEX H: COCA CROPS IN INDIGENOUS PEOPLES LANDS

Extension of Coca Crops in Indigenous Peoples Lands, 2020 (number of hectares)



Source: DEVIDA (2021).

ANNEX I: LAND CONFLICTS DURING TITLING PROCESS

Identified conflicts of Native Communities during processes of recognition and titling as reported by regional governments, 2017 (percentage)



Source: Defensoría del Pueblo, 2018

ANNEX J: NATIVE COMMUNITIES AND TYPE OF CONFLICTS

Native Communities and type of conflicts, 2017 (number)

Department	Total		People or organizations that have Land Related Conflicts with Native Communities								
	# Communities	%	Other native or communities	Individuals	People from Communities	Logging firms	Oil firms	Mining firms	Informal Miners	Other	NK
TOTAL	808	100%	362	221	190	113	59	40	13	25	22
Loreto	319	39%	173	55	69	52	47	11	3	10	10
Madre de Dios	155	19%	69	46	26	19	10	1	2	10	5
Ucayali	141	17%	64	44	21	18	2	2	1	6	5
Cajamarca	99	12%	50	8	26	2	2	18	4	2	4
Junín	61	8%	17	29	19	7	0	0	1	2	1
Ayacucho	31	4%	11	10	5	6	1	0	0	1	0
San Martín	31	4%	9	13	6	2	2	0	0	5	1
Cusco	30	4%	13	12	7	6	4	1	0	0	1
Huánuco	27	3%	19	3	7	2	1	0	0	0	0
Pasco	6	1%	2	4	3	1	0	0	1	0	0
Amazonas	0	0%	0	0	0	0	0	0	0	0	0

Note: The total number of communities with conflicts is not equal to the number of conflicts, because each community can have more than one conflict

^{1/} Includes private firms and borders conflicts with other Departments.

Source: INEI - III Censo de Comunidades Indígenas 2017: III Censo de Comunidades Nativas y I Censo de Comunidades Campesinas.

ANNEX K: STUDY TEAM

STUDY TEAM

Armando Medina Ibañez, team leader

Elena Ramos Tenorio, researcher

Helena Díaz Aparicio, junior researcher

John Marín Quispe, junior researcher

Susana Guevara, Evaluation and Inclusion Specialist, USAID MELS Project, technical supervision

QUALIFICATIONS AND EXPERIENCE OF THE EVALUATION TEAM

Armando Medina Ibañez, social anthropologist, doctor of humanities, master's degree in administration and social management. He has 20 years of experience in socio-anthropological research in Andean and Amazonian communities. University professor at the School of Anthropology of the Federico Villarreal National University. He has experience in issues related to interculturality, human rights and territoriality.

Elena Ramos Tenorio, Sociologist specializing in population and development, employment and gender with master's studies in social management, governance and political management. Specialist in design, management, systematization and evaluation of development policies, programs and projects. She has held positions of responsibility in the State and international cooperation organizations. She has extensive experience as a professor and is the author of numerous articles and publications on employment and social policy issues. She is currently an independent consultant.

Helena Díaz Aparicio, Bachelor in Anthropology. She has experience in the design and development of social projects and research on environment, entrepreneurship, health and vulnerable population issues. She has been part of multidisciplinary teams where she applied qualitative and quantitative tools.

John Marín Quispe, Senior anthropology student. He has collaborative work experience with native organizations and communities of the Peruvian Amazon. He has participated in the collection of information applying qualitative and quantitative tools on issues related to sustainable development, environment, traditional medicine and the rights of the Indigenous peoples of the Amazon.

Susana Guevara, technical supervision. Sociologist, master's degree in evaluation of public policies and social management. She has more than 25 years of experience in the design of programs and projects, development of monitoring and evaluation systems, design and implementation of baselines, process and impact evaluations, and applying quantitative and qualitative methods. She has experience in health, human rights, childhood, gender and vulnerable populations' issues.