



# **3<sup>RD</sup> REGIONAL REPORT ON HUMAN RIGHTS VIOLATIONS IN THE PAN-AMAZON**

**WEAVING LIFE AND HOPE IN BRAZIL, ECUADOR, PERU, COLOMBIA, BOLIVIA,  
VENEZUELA AND THE TRIPLE FRONTIER (PERU, COLOMBIA AND BRAZIL)**





**REPAM**

RED ECLESIAL PANAMAZÓNICA

*f fuente de vida en el corazón de la Iglesia*



**AÑOS**



Photo: Wikipedia: Pedro França/MinC

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In memory of **Carlos David Noteno Ajón.**

“Without land and water, there is no life.  
Caring for the earth as our body”

The information contained in this report is the responsibility of its respective authors.



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# Presentation

The Pan-Amazonian Ecclesial Network (REPAM) celebrates its 10th anniversary in 2024. In this way, we present the III Regional Report on Human Rights Violations in the Pan-Amazon, in which we weave the resistance and struggle of the participants in preparing the content of this document.

It is worth mentioning that REPAM, since its creation, has been going through complementary processes and a surprising and unprecedented relationship with Pope Francis in the care of our Common Home. It is important to understand that the two complement each other. They both have a kind of mutually enriching relationship. The plan to found this Network began in Puyo, Ecuador, in 2013, four months after the election of Pope Francis, when he visited Latin America for the first time, at the Youth Meeting, in Rio de Janeiro. At the end of the meeting, the Pope called the Celam bishops to a meeting and told them something very important: **“The test for the Church in Latin America, from now on, will be what the Church contributes to defending the Amazon, which is threatened.”** This contribution implies taking risks, doing something new and being a “brave” Church.

Also that year, people representing various countries and territories came together due to the need to have a different presence in the territory, a new way of being and doing Church. This different path could be through networking, making links, connections not only between the personnel of the missionary Church, but a network deeply rooted in the problems of the territory. With this dream, REPAM was founded in 2014 as a source of life in the heart of the Church. Since REPAM, in these ten years, we have witnessed groans and cries due to the subjugation to which both this region and its people have been subjected, and which demand that we take a different course in our way of acting, consuming and producing. We have never mistreated, injured, torn apart and polluted our common home and excluded people in the name of development as in this decade.

The technocratic paradigm and its logic of infinite and unlimited growth are putting lives at risk in this region. With the exploration and use of natural resources, traditional populations were excluded. Nature continues to be devoured and attacked more and more; territories have been plundered, waters have been treated as commercial commodities by a certain business sector, while communities are deprived of access to drinking water, to the point that, in some places, rivers have dried up, been diverted from their course and polluted. In the words of Pope Francis, these national and international companies are committing **“injustice and crime.”**

Indigenous people are the root of the continent's oldest population; African Americans are the other root uprooted from Africa to be slaves there; peasants, riverside dwellers and other communities, like the first, settled in the Amazon in search of better living conditions. Together, they worked together to care for and live sustainably.

“...the relationship with the land is not just a matter of possession and production, but a material and spiritual element that they must fully enjoy, including to preserve their cultural heritage and pass it on to future generations.” “The guarantee of Indigenous peoples' right to community property must take into account that the land is closely related to their traditions and oral expressions, their customs and languages, their arts and rituals, their knowledge and uses related to nature, their culinary arts, customary law, their clothing, philosophy and values.”

The integral vision of land, territory and natural resources does not allow for the separation of human beings and nature. The world has to learn from the Amazonians, from their way of relating to the environment, remembering that we have a social debt with them, with the poorest, who continue to feed the development of the richest countries at the expense of their present and future.

The Pan-Amazon is multi-ethnic, multi-cultural and multi-religious. Despite the wealth of this territory, resources and all development programs are causing its depredation. The dispute over the occupation of territory is leaving many populations landless.

Victims of a perverse development model, they are denied access to the triad of sacred rights constituted by the so-called “three Ts: terra, teto e trabalho (land, shelter and work),” says Pope Francis.

Currently, some Indigenous communities are outside their pieces of land because they have been invaded and degraded, or they do not have enough land to grow their crops. These events generate serious attacks on their identity and survival, since economic and cultural globalization puts their very existence as different peoples at risk.

We suffer from the inhumane situation in which the vast majority of Amazonian people live. The lack of land titles, deforestation, droughts, heatwaves, water contamination, forced evictions of the Tsimane people, waterways, hydroelectric power plants, illegal mining,



which are included in this Report, affect at their root the belonging to the society in which these peoples live: “because we are no longer below, on the suburbs or without power, we are outside. The excluded are not just ‘exploited’, but ‘surplus’ and ‘disposable’.”

In this new social context, where the Amazon has become a dangerous, violent and complex region, in which, in the last 10 years, 1733 land and environmental defenders have been murdered, for defending the forest, water, fauna, land and territory. The passion for justice defines us when acting in these dramatic circumstances of life. In this approach of choosing between paths that lead to life or paths that lead to death, REPAM, based on its lights and shadows, taking into account difficult times, both due to harassment and persecution, as well as weaknesses, yearns to continue its close collaboration and direct support for all communities that inhabit and protect this Pan-Amazonian region, as the Indigenous peoples themselves asked the Church at the Amazon Synod, held in Rome in 2019.

Since its founding, REPAM has sought to articulate and work in the 9 countries that make up the Amazon biome: Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname, Venezuela and French Guiana as overseas territories. We seek to guarantee social, cultural and solidarity rights, especially for the poorest and most vulnerable. Therefore, from the Human Rights and International Advocacy Center, we promote specialized schools for the “promotion, defense and applicability of Human Rights in the Pan-Amazon,” which are the result of listening to those who ask for presence, training and alternatives for real changes.

Also as a Church, through this Network, we have a clear option “for the defense of life, the land and the original cultures of the Amazon. This would involve accompanying Amazonian peoples in registering, systematizing and disseminating data and information

about their territories and their legal situation. We want to prioritize advocacy and monitoring to achieve land demarcation, especially that of PIACI or PIAV.” Therefore, we have worked over the years on this THIRD REPORT, in which comrades from Peru, Venezuela, Bolivia, Ecuador, Brazil, Colombia, the Triple Frontier of Peru, Colombia and Brazil, and the representation of the Women’s Center have participated.

The dramatic situations recorded in this report correspond to the call that “the defense and promotion of human rights is not only a political duty or a social task, but also, and above all, a demand of faith.” In this challenge of the climate crisis, where there are not two separate crises, but a single and complex social and environmental crisis, REPAM is called to be a defender of justice and truth, to educate in individual and political virtues, promoting integral ecology not only as another path, but as the only option that the Church has, responding to its duty as the prophetic dimension of the Church: denounce evil in favor of the poor and in defense of the truth.

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# CHAPTER 01





## 1.1. Violation of Human Rights in the Pan-Amazon

In a billion years of history, the evolution of the Amazon's geodiversity has given us one of the most bio- and socio-diverse ecosystems on the planet, made up of varied soils, mineral deposits, oil and gas reserves and freshwater aquifers.

This region, in addition to containing one of the largest aquifers in the world, spread across the channels of the Amazon and Solimões rivers, also forms the Pan-Amazonian region, which unites Venezuela, Colombia, Ecuador, Peru, Brazil, Suriname, Guyana, French Guiana and Bolivia. Of the 8 billion inhabitants that live on this planet<sup>1</sup>, 34 million people, 380 Indigenous peoples, 140 peoples in voluntary isolation<sup>2</sup> live and depend directly on this region, which is vital for the other inhabitants of the planet.

In recent years, we have been living in times of great challenges and contradictions in the 21st century. Climate change is the biggest crisis of our century and is expressed through rising temperatures and water stress, despite the Paris Agreement of 2015 and the pacts to combat climate change, which sought to keep warming "well below" two degrees Celsius. The actions so far have been just patches; we continue to increase the temperature so that it remains at 1.5 degrees. The World Bank has warned that if no action is taken, by 2050 more than 140 million people in sub-Saharan Africa, Latin America and South Asia will be forced to migrate within their regions.

You do not have to wait until 2050 to witness these predictions. Global warming is tangible and its consequences are occurring catastrophically in some regions of the Amazon.

Eleven cases from 6 countries and the Triple Frontier region (Peru, Colombia and Brazil) are documented in this third report. Cases that convey to us the harsh reality that the technocratic paradigm is leaving behind: unlimited growth and exploration by not considering the person, people and the environment.

"The jungle burns", "historic drought", "death by heatwave", are some of the headlines in the media of Amazonian countries such as Peru, Bolivia, Brazil and Colombia, about the latest heatwaves of 2023, the fires and droughts that have killed thousands of animals in recent months, displacing and leaving many towns and cities isolated.



<sup>1</sup> <https://www.un.org/es/global-issues/population#:~:text=D%C3%ADa%20de%20los%208000%20million>

<sup>2</sup> <https://www.oas.org/es/cidh/informes/pdfs/Panamazonia2019.pdf>



The Pan-Amazon and its inhabitants are being exterminated by mercantilist theft. We live in continuous violation of fundamental rights. Every day there are reports of murders, unexplained deaths, crimes and threats. In previous reports on Human Rights Violation published by REPAM, in which testimonies and data were collected on exploitation and looting, demonstrations of violence and the entire regulatory package aimed at accelerating the economy, the situation of the people has not changed. On the contrary, the trampling of rights has become a government policy.

For human development and survival, one of the vital resources is undoubtedly water, which is increasingly in demand, while its accessibility is limited by pollution and scarcity due to water stress. There is talk of decarbonizing the economy and a fair energy transition as a way of reversing the effects of climate change. Once again the Amazon is under the spotlight. This year, some countries in this region are experiencing serious problems with droughts, heatwaves and fires. With these problems, for example, it would not be possible to extract the lithium considered the master key to this transition, as a lot of water is needed to extract it. In such a complex scenario of dispute over water, we believe that the priority is not to move towards other energies without first guaranteeing basic rights, such as title to ancestral territories, prior, free and informed consultation, health, education, water, etc.

In this third report, we have collected the testimonies and narratives of the Indigenous, peasant and quilombola communities that show a polycrisis, a sign of entry into the era of not only ecological but also systemic collapse.

It reveals that human rights violations are perpetuated in a context in which the legal and illegal, formal and informal mining industry is developing; hydroelectric power plants, hydrocarbons, regional interconnection roads; agroindustry, agricultural monocultures and forestry concessions.

Despite policies to reactivate the economy, communities continue to live in the traditional way, facing pressures that, by all means and with all resources, expand and monstrously feed on each other.

The Indigenous communities have no electricity or drinking water; they make the most of sunlight, use firewood to make fires and cook their food. The forest is, at the same time, the sacred place and the pantry.

Based on information we received from the territory, we are seriously concerned about the situation of Indigenous communities in voluntary isolation. These are communities that have left their territories, despite, until recently, having remained in voluntary isolation, as is the case of the “Mashcopiro”, in Madre de Dios (Peru). They were forced to migrate to other areas in search of food due to pressure from the concessions. These events led to clashes between these Indigenous

peoples and the concessionaires. These efforts to annihilate the Amazon violate/disrespect Indigenous peoples’ right to non-contact with these annihilation projects.

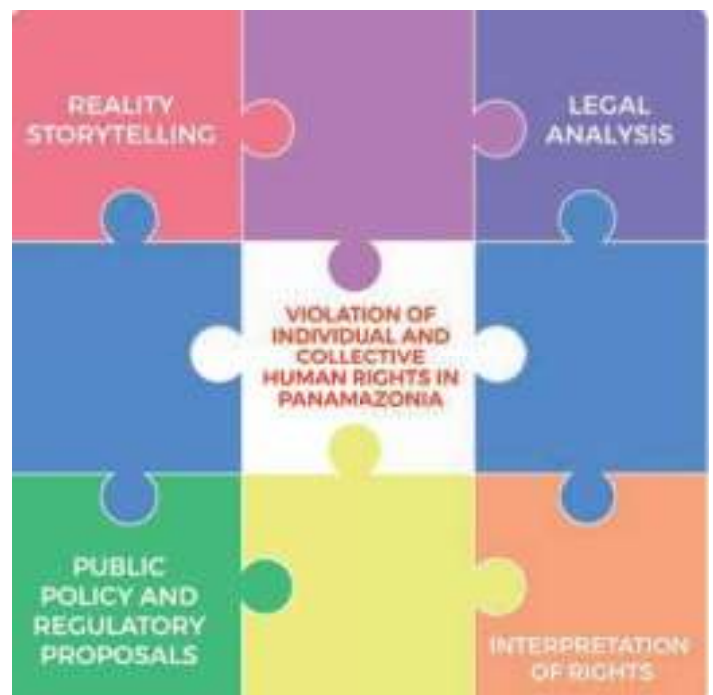
This report also includes acts of violence against environmental defenders. Leaders report concrete cases, situations in which they are stigmatized, harassed, criminalized and threatened with death.

It took hundreds of millions of years for this region to develop the varied and rich soils and ecosystems that we enjoy. The peoples have been able to preserve and teach us what we know in this century as the Pan-Amazon. Humanity is degrading these unique ecosystems at an accelerated pace without giving them enough time to recover. The attacks on nature have direct consequences for the lives of Indigenous, peasant, Afro-descendant and riverside communities. We need to act, to look for ways to get through this “as humanely as possible.”

## 1.2. The report methodology

The report was drawn up with the comrades who took part in the third School for the Training, Defense and Enforcement of Human Rights in 2022, in the city of Manaus.

The methodology is the same as that used since the first reports. We seek for people to be protagonists of change and, within the training process, to become empowered and capable of seeking sustainable, participatory, inclusive and fair development.





- It is a methodology that starts from them, from the territory. They are the ones who narrate reality, identify the problem, develop the violated right, and vocalize it.

- Political and normative proposals are the visions, plans and dreams of communities. They are born from them, from their experiences, from their customs.

### 1.3. Violation of Human Rights in Indigenous, peasant and Afro-descendant communities

In this Third Regional Report, we have collected 11 realities from Ecuador, Brazil, Peru, Colombia, Venezuela, Bolivia and the Triple Frontier (Peru, Colombia and Brazil).

By documenting the realities, we identified 6 human rights that are repeatedly violated in these 11 realities.

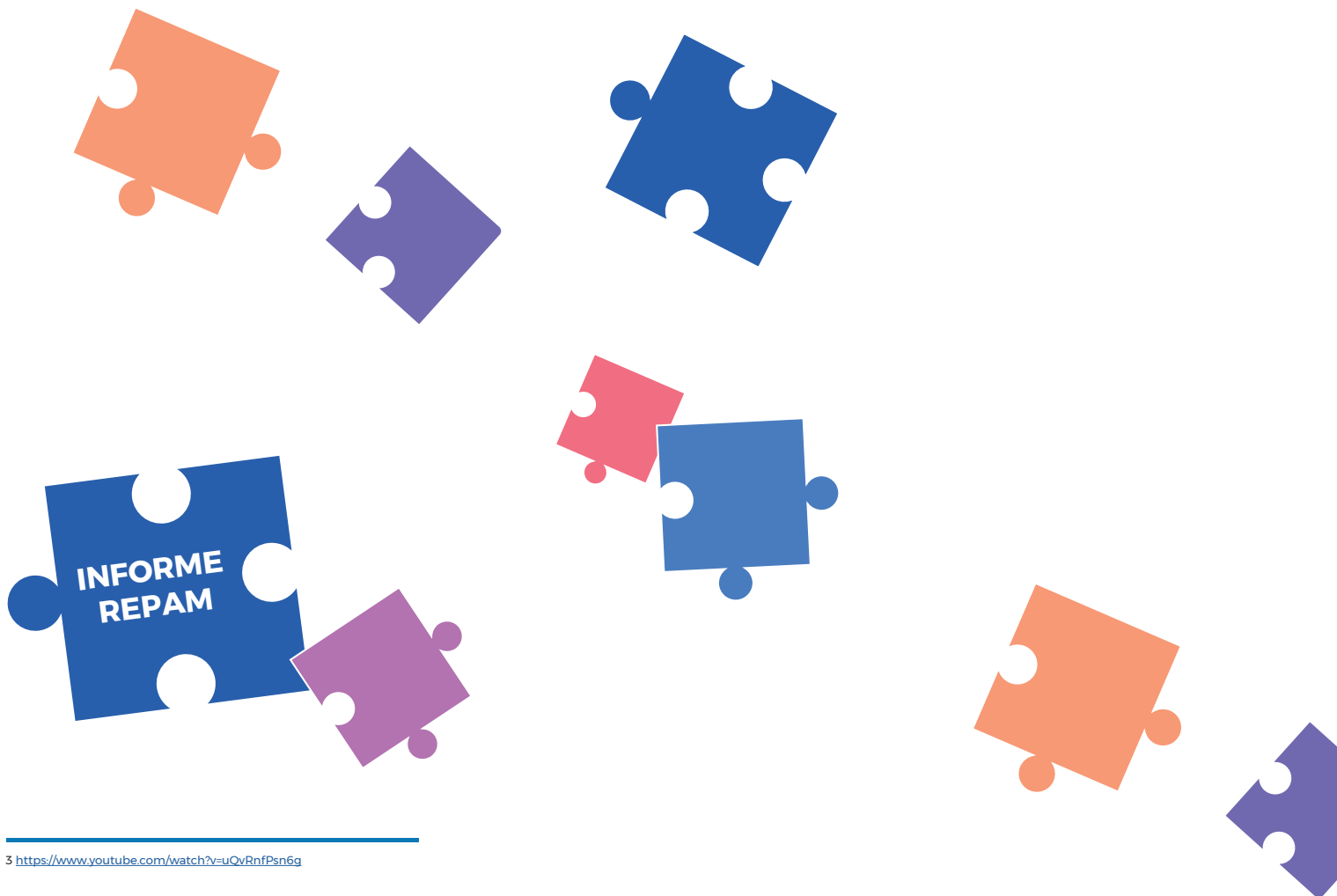
Just like in the Amazon, we are all connected to each other and together we are part of the common home. Under this principle, any action we take, big or small, will have some kind of impact on life because we are all interconnected<sup>3</sup>.

Similarly, under the principle of the interdependence of human rights, there is no hierarchy between human rights, the relationship is horizontal. A set of rights cannot be fully enjoyed without realizing the others. This implies that, although some rights have been developed, within the realities there are many more rights that have been violated, seriously violated.

These rights are:

- Human right to access to territory, land and natural resources
- Human right to a healthy environment
- Right to food
- Right to health
- Right to education
- Right to sexual freedom

Identifying these rights allows us to place them at the center of all our actions, demanding that they be incorporated into all development policies, even if this means sailing in the opposite direction to the rivers. It also gives us an overview of the critical situation of human rights in this region and the possible ways forward to defend them.



<sup>3</sup> <https://www.youtube.com/watch?v=uQvRnfPsn6g>



# CHAPTER 02



## 2.1 Right to collective property, pieces of land, territories and natural resources

Around 350 Indigenous peoples<sup>4</sup>, including those in voluntary isolation and initial contact, are considered distinct and highly vulnerable peoples. Each with its own culture, identity, history, social and political organization.

The colonization process threatened Indigenous peoples not only in terms of their physical and cultural survival, but also because of the current growth model, the throwaway culture and the policies of cultural assimilation over the centuries. These events are causing drastic and profound changes in the lives, culture and social, political and economic institutions of these peoples. In a very concrete way, they are being deprived of access to rights over their pieces of land, territories and natural resources.

In the context of the right to self-determination of Indigenous and tribal peoples, this right means having the possibility of remaining in their territory with dignity and respect, having control, management and administration of the ancestral territory. This implies that “the recovery, recognition, demarcation and registration of pieces of land mean essential rights for the cultural survival and maintenance of the integrity of the community.” Not as the states want, which aim to recognize territories “in the image and likeness of municipalities, which is a colonial order”<sup>8</sup>.

The evictions, the recognition of fragmented territories, the administrative obstacles to their recognition as a people, the lack of prior, free and informed consultations, in practice, reflect the non-recognition

of a single territorial space that has belonged to them since time immemorial. The lack of access to land and natural resources leads to situations of misery and malnutrition, since they cannot use the natural resources they need for their subsistence, nor can they carry out their traditional activities of cultivation, hunting, fishing, gathering seasonal fruit and going to the forest to find medicines for their own healing.

The Inter-American Court considers that “as a result of custom, ownership of the land should be sufficient for Indigenous communities that do not have actual title to the land to obtain official recognition of such ownership and the consequent registration<sup>9</sup>.”

The ancestral occupation of the possession also allows them to recover the pieces of land they have lost. This is the case of the genocidal Temporal Framework thesis or the trial of the legal thesis of the “deadline”<sup>10</sup> which is being debated in Brazil. According to analysts, this legal trap, promoted by a large agribusiness sector, was aimed at legalizing the theft of large tracts of Indigenous territory<sup>11</sup>. In other words, in order to be able to demarcate their pieces of land, Indigenous peoples would have to prove that they were on their pieces of land before October 5, 1988, the year in which the Federal Constitution was promulgated. Territories occupied after that date will be considered illegal. If the STF (Supreme Federal Court) had not rejected this argument, Indigenous peoples would have been dispossessed of their pieces of land; isolated peoples could even be annihilated.

Bartolomé Clavero comments:

[...] they are Indigenous because they have ancestral ties to the pieces of land on which they live, or on which they would like to live, in a much deeper way than other sectors of the population.

4 <https://www.oas.org/es/cidh/informes/pdfs/Panamazonia2019.pdf>

5 [https://www.vatican.va/content/francesco/es/encyclicals/documents/papa-francesco\\_20150524\\_enciclica-laudato-si.html](https://www.vatican.va/content/francesco/es/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html)

6 Suape Social and Environmental Space Forum and Isla de Mercés Quilombola Association, Response to the IACHR Questionnaire for the Thematic Report on the Right to Self-Determination of Indigenous and Tribal Peoples (2021)

7 <https://www.oas.org/es/cidh/indigenas/docs/pdf/tierras-ancestrales.esp.pdf>

8 Meeting with OPIAC and Fundación Gaia on the Colombian Amazon, held on April 19, 2021.

9 For the Inter-American Court, “possession is not a requirement that conditions the existence of the right to recover Indigenous pieces of land” [Inter-American Court of H.R. Case of Sawhoyamaxa Indigenous Community v. Paraguay, Merits, Reparations and Costs. Judgment of March 29, 2006. Series C No. 146, No. 128]

10 <https://amazonwatch.org/es/news/2023/0918-brazils-indigenous-lands-at-stake-marco-temporals-potential-boon-for-mining-titans>

11 <https://www.survival.es/noticias/13737#:~:text=El%20marco%20temporal%20des%20un,y%20miles%20de%20ind%C3%ADgenas%20quaran%C3%ADdes>



This report also discusses the other way in which territorial insecurity is amplified. This is the content of Bolivia's Law 741, which allows logging as a cultivation technique with deforestation and the burning of trees. The aim is to take possession of areas occupied by traditional communities, convert them into public pieces of land and obtain title to them. According to the Fundação Tierra, there are more than 1,000 requests for settlements on public land from intercultural groups, which have political weight in the current Bolivian government<sup>12</sup>. One example is the situation of 17 Tsimanes families, who cultivated a couple of hectares with plantations of bananas, sugar cane and other products for their own consumption, who were displaced due to uncontrolled burning<sup>13</sup>; many families evicted due to the land conflict.

On December 14, 2023, the Peruvian Congress approved a bill that weakens the current Forestry Law. The proposal would legalize the change of unauthorized use of land for agricultural purposes, generating a perverse incentive for the improper granting of property titles and possession certificates<sup>14</sup>. According to this law (before it was amended), it is forbidden to change the use of land for agricultural purposes that are part of the forest and wildlife heritage. Many regions have problems with illegal deforestation and certificates of illegal possession of land unsuitable for agriculture. With this amendment, another legal door is opened to continue promoting the occupation and depredation of highly vulnerable and fragile areas.

In this part of the Pan-Amazon, depending on the case, the various development projects overlap to a large extent with ancestral territories and go against the form of development that the communities dream of and propose.

The existence and identity of a people, community or its members do not depend on registration or any other form of state recognition. It is the form developed by the Inter-American System. The recognition of ownership and the way communities manage their resources should not be conditional on a data source created by public agents.

On this matter, Victoria Taulí argues: "the territorial and property rights of Indigenous peoples are of a sui generis nature (...) These collective rights exist independently of state property titles"<sup>15</sup>.

International law is evolving on these matters. They are recognized in different international instruments of a universal and regional nature and even in the internal regulations of each of the countries that make up the Pan-Amazon region. In the case of the Inter-American Human Rights System, we have:



Photo: Disclosure/Chapman University

<sup>12</sup> <https://radiofelicidad.com.bo/articulo/interculturales-tienen-mas-de-1.000-pedidos-de-ingreso-a-tierras-fiscales.php>

<sup>13</sup> <https://guardiana.com.bo/iniciativas/humo-y-chaqueos-acorralan-a-tsimanes-de-la-comunidad-palmira/>

<sup>14</sup> <https://www.servindi.org/actualidad-noticias/11/07/2022/congreso-aprueba-propuesta-que-debilitaria-ley-forestal>

<sup>15</sup> United Nations Human Rights Council, Report of the Special Rapporteur on the rights of Indigenous peoples, 2016, para. 16.



Photo: Los T'simane sin territorio - Youtube Fundacion Solon

- The American Declaration of the Rights and Duties of Man
- The American Convention on Human Rights
- The American Declaration on the Rights of Indigenous People

In the universal instruments we find:

- The Universal Declaration of Human Rights of 1948
- The International Covenants on Human Rights of 1966
- The 1965 International Conventional on the Elimination of All Forms of Racial Discrimination
- The 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide
- The 1989 Convention on the Rights of the Child
- The United Nations Declaration on Indigenous Peoples

Of all this set of standards, the most important treaty instrument known, applied and used by Indigenous peoples is ILO Convention 169, due to its binding nature, adopted by the General Conference of the International Labor Organization on June 27, 1989.

The Inter-American Court of Human Rights<sup>16</sup> has consolidated, in relation to the property of Indigenous communities:

1) The traditional possession of Indigenous peoples over their pieces of land has equivalent effects to the title deed granted by the State;

2) Traditional possession gives Indigenous people the right to demand official recognition of ownership and registration;

3) The state must delimit, demarcate and grant collective land titles to members of Indigenous communities;

4) Members of Indigenous peoples who, for reasons beyond their control, have left or lost possession of their traditional pieces of land retain the right of ownership over them, even in the absence of legal title, except when the pieces of land have been legitimately transferred to third parties in good faith; and

5) Members of Indigenous peoples who have involuntarily lost possession of their pieces of land and these have been legitimately transferred to innocent third parties have the right to recover them or to obtain other pieces of land of equal size and quality<sup>17</sup>.

As can be seen, there is clarity about the recognition of the rights deriving from the right to self-determination, both at international level and within states through the ratification of international treaties. The truth is that Indigenous and tribal peoples face major obstacles in practice. The territories of these peoples continue to fuel the development of the richest countries at the cost of their present and the embargo of an uncertain future. The land in this region is rich and slightly contaminated, but access to property and the resources to live in dignity is blocked by a structurally perverse system<sup>18</sup>. of commercial relations. The pieces of land where Indigenous peoples pass through and where they have been recognized by a formal title are the best preserved ecosystems, the ones that have been deforested the least, thus constituting the last bastions against climate change.

<sup>16</sup> <https://www.corteidh.or.cr/>

<sup>17</sup> Inter-American Court of Human Rights, Case of the Xákmok Kásek Indigenous Community v. Paraguay, Fund. Reparations and Costs. Judgment of August 24, 2010. Series C, No. 214, para. 109.

<sup>18</sup> [https://www.vatican.va/content/francesco/es/encyclicals/documents/papa-francesco\\_20150524\\_enciclica\\_laudato-si.html](https://www.vatican.va/content/francesco/es/encyclicals/documents/papa-francesco_20150524_enciclica_laudato-si.html)



## 2.2. Realities

### 2.2.1 Indigenous peoples of the upper Beni River basin and the Bolivian lowlands

The Mositene, Tsimane, Tacana, Leco, Esse Eja and Uchupiamona Indigenous peoples are inhabitants of the upper Beni River basin. The Tsimane Indigenous communities of the Yacuma Sector of the Bolivian Lowlands are located in the José Ballivián Province of the Beni Department. They are pre-Columbian Indigenous peoples who maintain their ancestral way of life. Despite the passage of time, they maintain their own rules and procedures, their customs, their worldview and ancestral way of life. They are resisting various threats from third parties and current governments, which intend to dispossess them of their ancestral domains and their renewable and non-renewable resources.

The State has always been, and in particular since 1958, aligned with progressive development and without recognizing the rights of Indigenous peoples; benefits companies by promoting extractive policies. In various ways, concessions have been granted to third parties in protected areas and Indigenous territories, which violates their individual and collective rights. In addition, the state has been granting rights and/or titles to third parties without respecting the ancestral existence of Indigenous communities, as is the case with the Tsimane Indigenous communities of the Yacuma Sector, located between the highway that connects the towns of Yucumo and Rurrenabaque.

In recent years, the violation of territorial and environmental rights has been aggravated by the economic policies promoted by the central government of Bolivia. The intention to implement the Chepete and El Bala hydroelectric megaproject, together with the disproportionate growth of illegal gold mining in the north of La Paz and Beni, has systematically violated the fundamental rights of Indigenous peoples, who are at high risk of being dispossessed of their ancestral domains, and having their traditional means of subsistence and habitat destroyed. The impacts on health, the environment and nature resulting from the operations of the miners, especially the cooperative members, which in recent years have generated serious levels of mercury contamination in the rivers, threaten the physical and cultural extermination of countless Indigenous peoples and communities that inhabit the Beni river basin and the Bolivian Amazon in general.



Photo: tsimane.org





Photo: Robert Wallace / Wildlife Conservation Society (WCS).





Bolivia has become one of the largest importers of mercury<sup>19</sup> regionally and globally, with more than 200 tons of the toxic metal entering the country each year, causing a serious mining pollution problem. The Bolivian government's actions to combat this problem have been nil and unsatisfactory; for this reason, the affected Indigenous communities have seen the urgent need to turn to NGOs and universities for technical and scientific studies to be carried out in order to gain a more in-depth understanding of the degree of contamination affecting Indigenous communities, fish, water and soil in the areas and zones surrounding mining operations.

The results of studies carried out on Indigenous peoples and communities in the north of La Paz and in Beni to determine the degree of contamination with heavy metals revealed alarming data that worried the media, citizens and regional (OAS) and global (UN) human rights organizations.

A study by the International Network for the Elimination of Persistent Organic Pollutants - POPs (IPEN) adds that Esse Ejja Indigenous women, from the Eyiyuquibo community, on the Beni River, have high levels of mercury poisoning (7.5 ppm) due to the consumption

of contaminated fish. The director of CEDIB (Bolivia's Documentation and Information Center), Oscar Campanini, explains that the health impacts of mercury are not immediately visible and that the consequences manifest themselves over the years. There are fears in the communities that the levels of mercury contamination will continue to rise, potentially reaching dramatic levels like those experienced in Minamata Bay, Japan. "We do not want to be the 'South American Minamata'," say some Indigenous voices calling for urgent help from the authorities and international organizations in the field of human rights.



Photo:: Río Beni por Haakon S. Krohn

<sup>19</sup> <https://elpais.com/america-futura/2023-05-02/el-dilema-del-mercurio-el-metal-que-da-de-comer-y-envenena-a-la-amazonia-boliviana.html>

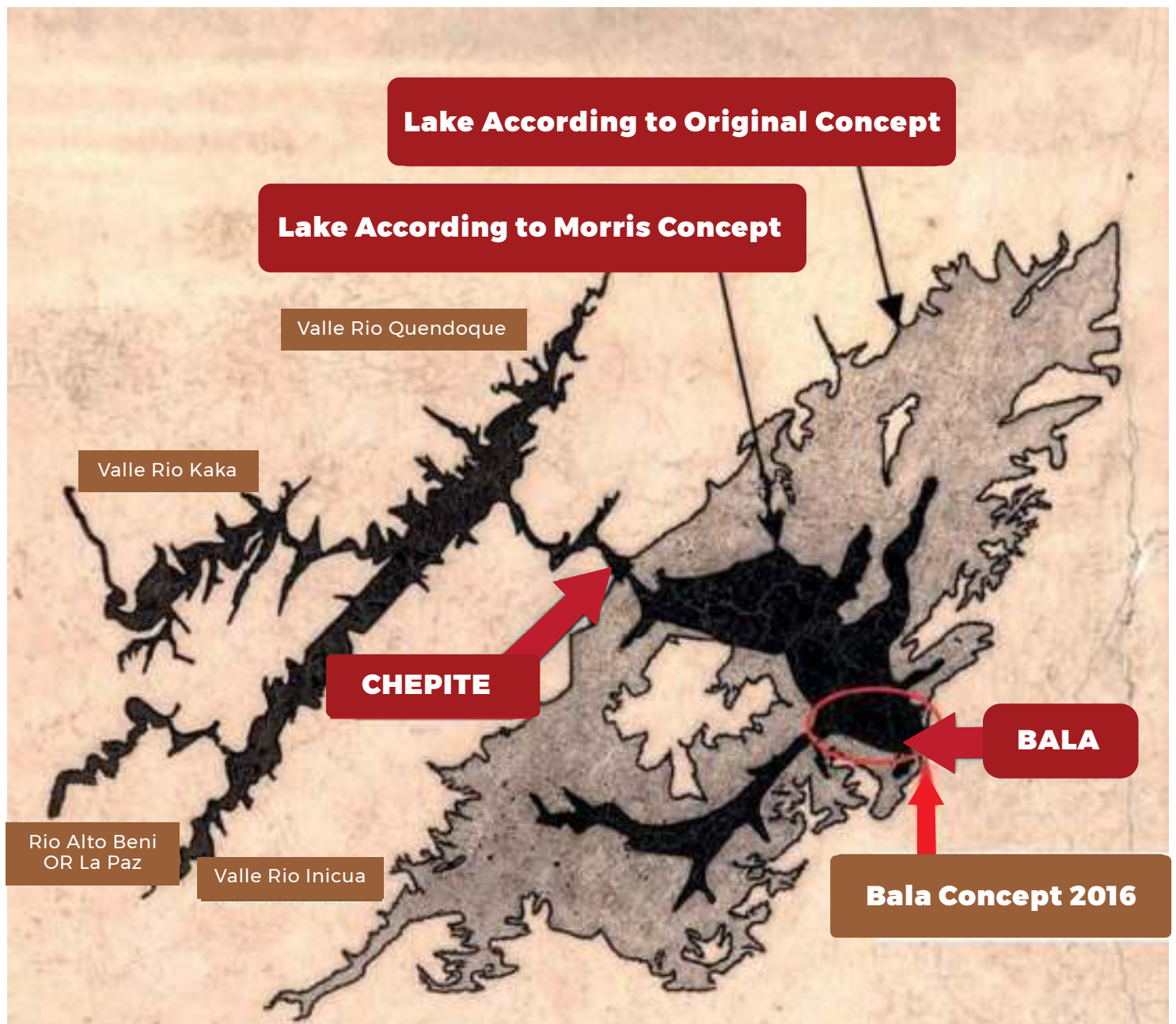
# Cases of Violation of the Territorial and Environmental Rights of Indigenous Peoples and Communities in the Upper Beni River Basin

- The Chepete and El Bala hydroelectric megaprojects in the Beni River basin and the advance of illegal gold mining in Indigenous Territories and Protected Areas (Madidi and Pilon Lajas).
- Subjugation and plundering of the ancestral territories of the Tsimane Indigenous communities of the Yacuma Sector in the Department of Beni.

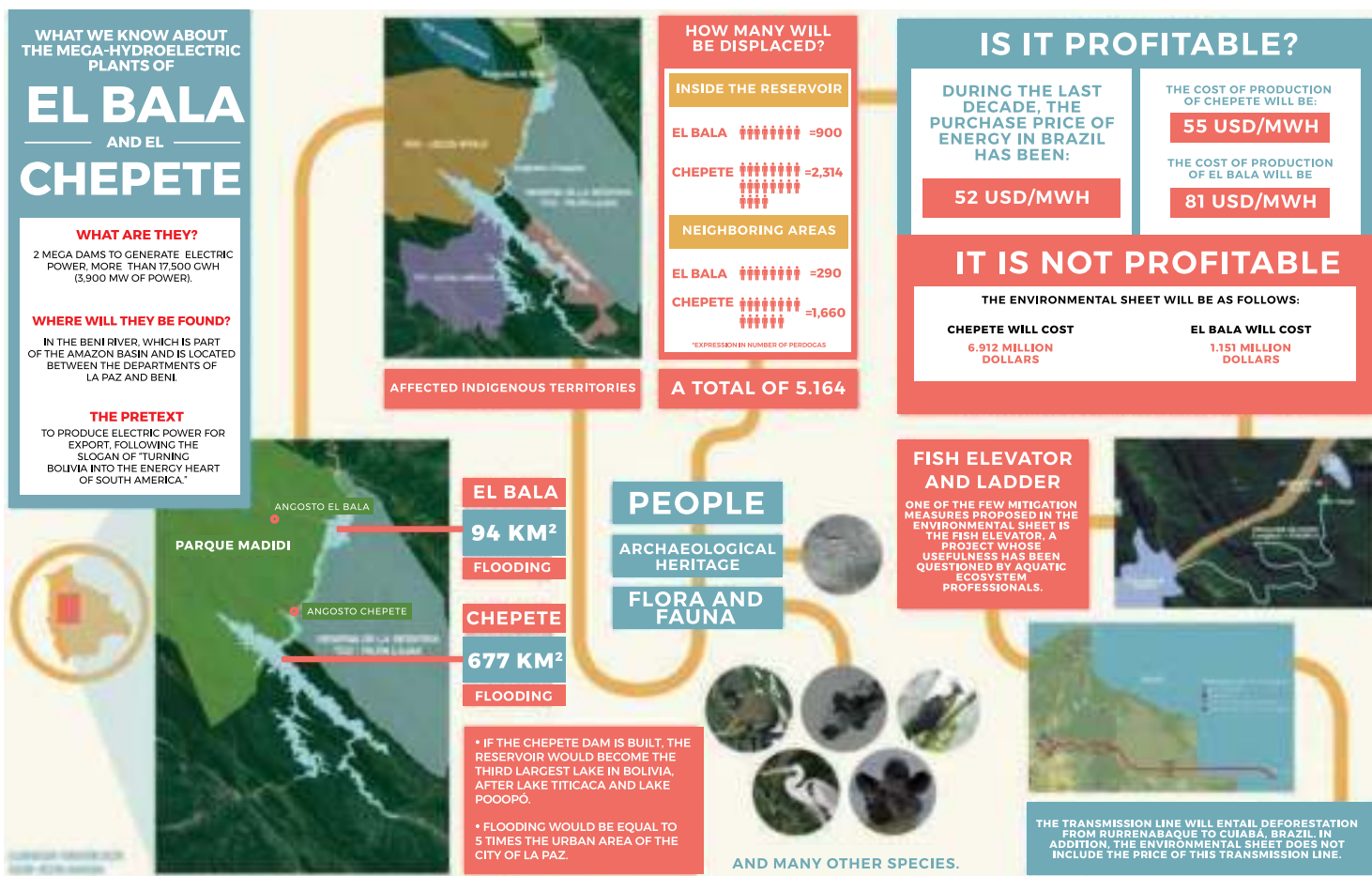
# Context of the Chepete and El Bala mega-hydroelectric power plants

Since 1958, several governments have tried to implement the Chepete and El Bala project in the Beni river basin. During the administration of Mayor Luis Alberto Valle, an attempt was made to carry out the project. Social mobilization and local and international media coverage of the impacts prevented these intentions from becoming a reality.

In 2007, after Evo Morales came to power, Supreme Decree 2837 declared the El Bala Hydroelectric Project strategic for the country's development. In June 2015, the central government signed a contract with the Italian company Geodata to carry out the Identification Study. In July 2016, it extended the contract with the same company to carry out the Final Technical Project Study (EDTP).



Source: Map of the reservoirs designed by Greg Morris. Daniel Robison, 2016.

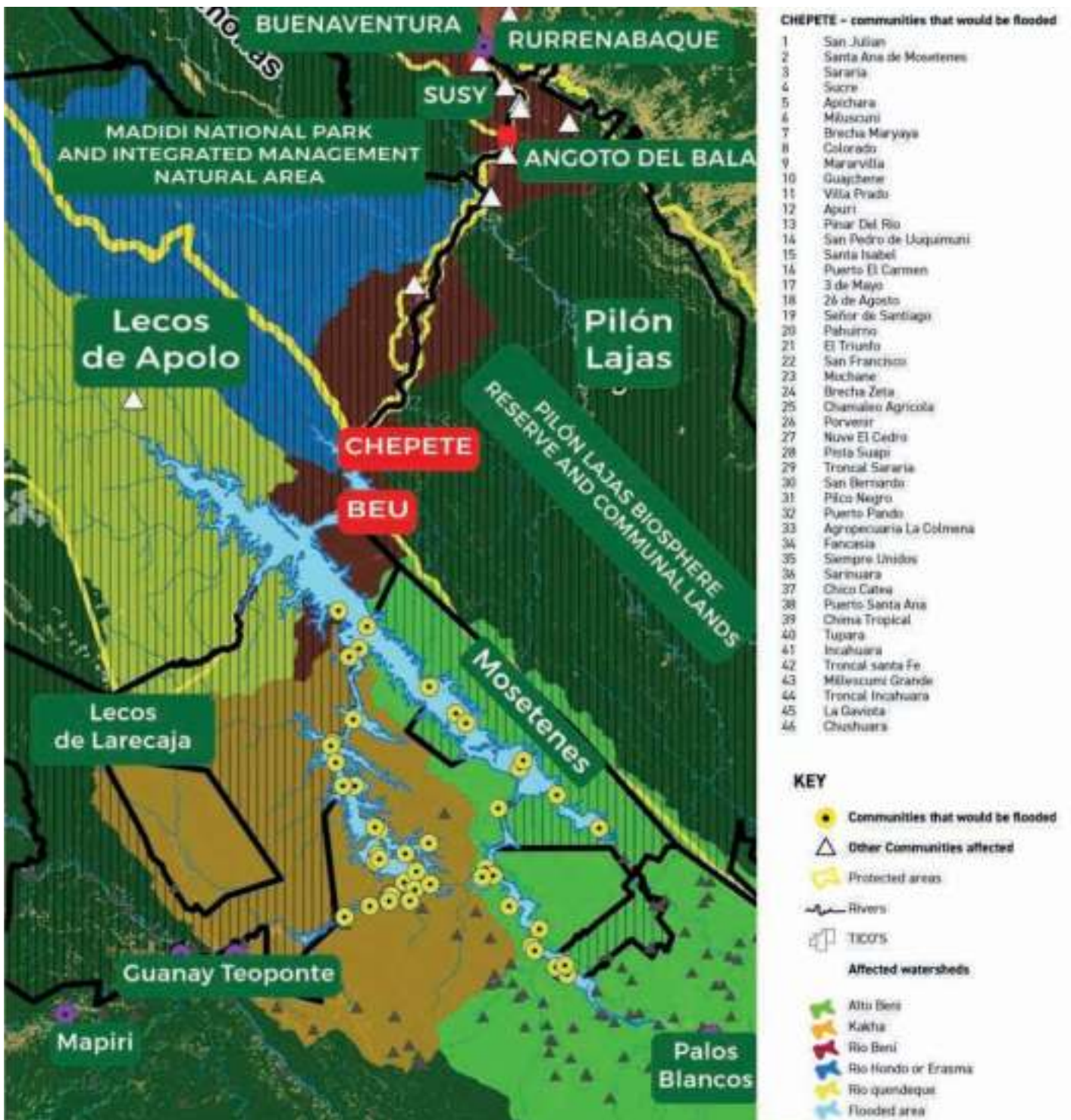


Source: Fundación Solón, 2018.



The arbitrariness and lack of consultation with the Indigenous peoples who live in the area led to a series of mobilizations and peaceful protests, such as the installation of a vigil in the Strait of El Bala, which lasted 12 days and forced the company Geodata and its subsidiary Servicons to leave the area. After this heroic action by Indigenous communities, led by the Inter-Community of Indigenous Communities of the Beni, Tuichi and Quiquibey rivers, the central government divided the communities' struggle and resistance, reaching agreements to support basic needs. As a result, Geodata and the government re-entered the area.

This was backed up by the signing of an institutional cooperation agreement between the Central de Pueblos Indígenas de La Paz (CPILAP) and the Electrification Company (ENDE), to begin studying the final design of the El Bala and El Chepete hydroelectric power plants, in the north of the Department of La Paz and the western part of Beni. At the time, the Indigenous representative, Jhonson Jiménez, said that CPILAP brings together ten peoples, including the Leco, Tacana, Tsimane, Araona, Mosekene and Toromona, who agreed with the study. The president of Ende-Corporación, Eduardo Paz, said that the structure of the Indigenous peoples had been respected in the "El Bala" study, and that once it was completed, the financing and markets would be managed in such a way as to turn Bolivia into the energy center of South America<sup>20</sup>.



Source: Daniel Robinson, 2017.

<sup>20</sup> <https://www.aetn.gob.bo/docfly/app/webroot/uploads/Bolivia%20busca%20ser%20el%20centro%20energ%C3%A9tico%20de%20Sudam%C3%A9rica-nramirez-2022-05-08-a.pdf>



Photo: Tadeu Rocha

Faced with the government campaign of recruitment, division, discredit and minimization of the protest, the main action of the communities led by the Inter-Community of Indigenous Communities of the Beni, Tuichi and Quiquibey rivers, was to take the fight to the urban centers and capitals of cities such as La Paz, Cochabamba and Santa Cruz, where the problem was publicized through different actions and strategies.

In 2018, Indigenous leader Ruth Alipaz Cuqui<sup>21</sup>, took the case to the Permanent Forum on Indigenous Issues promoted by the United Nations, which urged the Bolivian state to comply with prior, free and informed consultation.

Since then, violations of Indigenous rights have become recurrent. In many cases, they were covered up by the Indigenous representatives themselves, who allowed themselves to be subjugated by the government. In August 2021, ENDE and CPILAP signed a new agreement, without the knowledge of the Indigenous peoples and communities, in which the government was authorized to carry out complementary studies and begin construction of the hydroelectric power plants. This situation forced the affected communities to find a new strategy of struggle and resistance. For this reason, an inter-institutional commission was formed and went to Chepete, where the ENDE Corani company was carrying out work without the consent of the grassroots communities. The inter-institutional commission managed to expel the companies from the territory for the second time.

Bolivia's energy policy plans to build a series of megadams throughout the country, without considering the destruction of rivers, flooding territories and expelling entire peoples. In addition, there is the risk of destroying protected areas as iconic and biodiverse as **Madidi National Park**.



**We live in constant uncertainty, pressure and harassment. We are not aware of anything. They do not say anything. We are not aware of where they are going to take us.**



*Valentín Luna - Tacana Indigenous community of San Miguel de El Bala.*

<sup>21</sup> <https://www.iccaconsortium.org/es/2018/04/24/indigenas-de-bolivia-denuncian-ante-la-onu-que-megaproyectos-amenazan-su-existencia-2/>



Photo: Los T'simane sin territorio - Youtube Fundacion Solon



Photo: Istock Images - ToniFlap



Photo: Alex Villca/MCI-RBTQ.

## Context of the Advance of Illegal Mining in Indigenous Territories and Conservation Units

The central government has promoted the vertiginous growth of illegal gold mining, which originated with the approval of Law 535, through mining invasions in Indigenous territories and conservation units.

A study published by the International Pollutant Elimination Network (**IPEN**) in 2020 revealed that women in the village of **Esse Ejja** have an average of **7.5 ppm** of methylmercury in their bodies. A recent study by **CEDIB** and the **University of Cartagena** in **Colombia** found that other Amazonian peoples also have this problem. The Tacana, Tsimane, Mosekene and Uchupiamona peoples also have similar levels of poisoning by this toxic metal.

During and after the Covid-19 pandemic, the **advance of mining** took on very violent connotations, such as the use of firearms<sup>22</sup>, dynamites, rockets and stones, resulting in 15 people being injured by firearms, and 18 people arrested in the community of **Chushuara - Apolo Municipality**, on March 27, 2022.

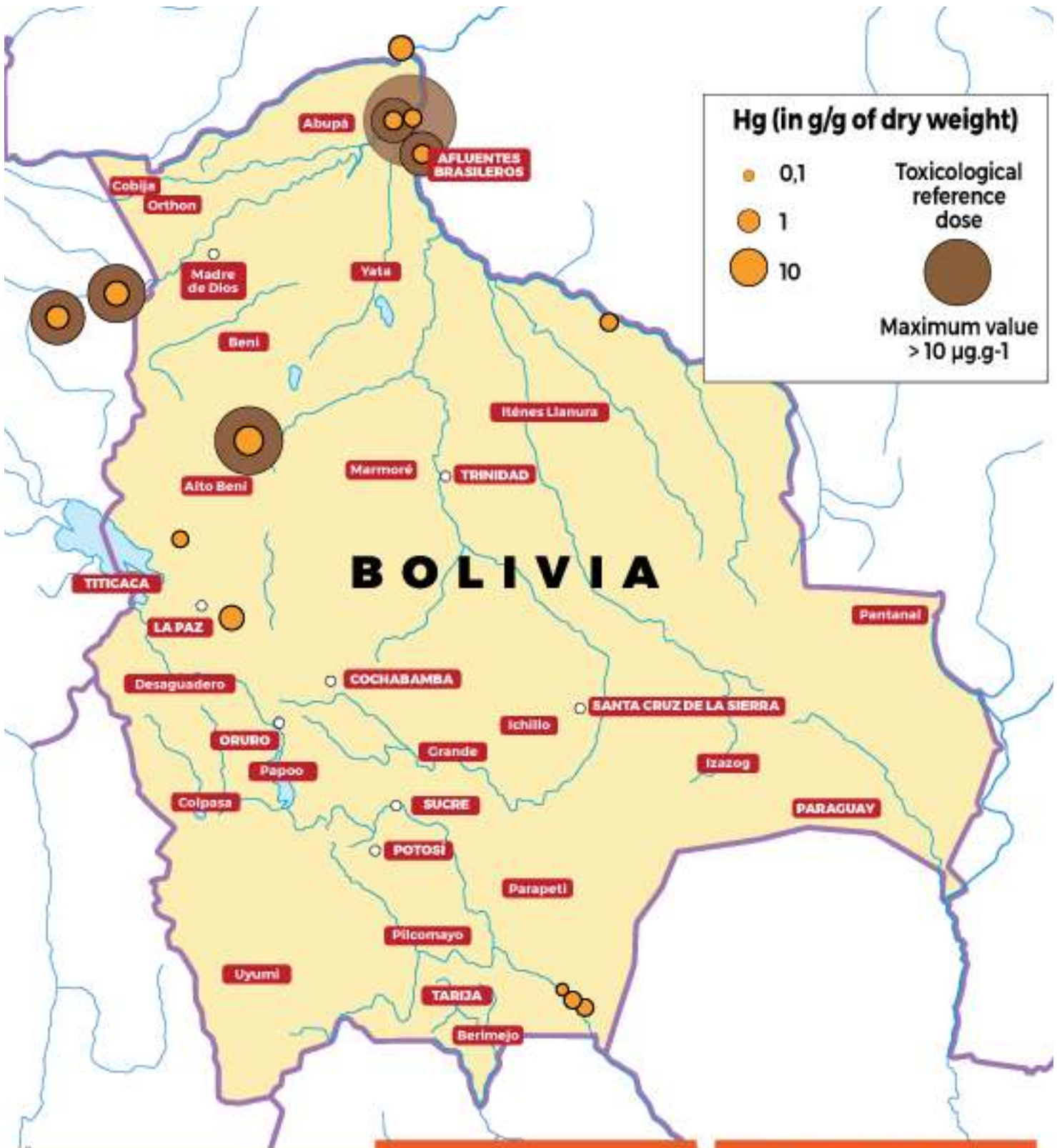
Among those arrested were Indigenous brothers of Tacana-Esse Ejja origin, who were held for more than six months in San Pedro prison in La Paz. In addition,



Photo: Minas Yapacana, Fritz Sanchez

<sup>22</sup> <https://www.noticiasfides.com/nacional/sociedad/denuncian-que-interculturales-mineros-atacaron-a-balazos-a-comunarios-de-chushuara-en-apolo-414534>





**MAP OF MERCURY LEVELS  
IN HAIR OF RIVERINE  
HUMAN POPULATIONS**

Source: CEDIB, on behalf of the  
Ministry of Foreign Affairs and the  
Ministry of Environment and Water, 2014

In Bolivia, up to  
**228,9**  
tons of mercury in primary  
and secondary sources

The mining sector  
accounts for  
**70%**  
of mercury emissions  
to the environment

Source: CEDIB, 2014.



Miguel Supa, a 58-year-old Indigenous man, was accused of being part of the intercultural gunmen. However, Supa is also an Indigenous person from the Tacana territory, descended from another Esse Ejja nation. He arrived in Chushuara six months earlier to work as a day laborer, but was unlucky enough to find himself in the wrong place.

A deplorable situation that has crossed borders and reached the ears of the UN special rapporteurs, such as Mr. Marcos Orellana and Mr. José Francisco Calí Tzay, who sent a **letter of denunciation to the Bolivian state**<sup>23</sup>, demanding transparency in the face of the serious impact on health, the environment and nature that gold mining is causing in the Amazon region of Bolivia.

The situation of illegal gold mining in protected areas and Indigenous territories continues to worsen. Proof of this is that two Madidi Park rangers are facing an unjustified lawsuit for defending nature, a trial conducted by the mining cooperatives of the Municipality of Apollo.

## Dispossession of territories of Tsimane Indigenous communities in the Yacuma Sector

The Tsimane Indigenous people have existed since pre-colonial times and are scattered across an area that stretches from the last foothills of the Andes to the edge of the savannahs in the Bolivian Amazon. It comprises the Provinces of Moxos, Ballivián and Yacuma in the Department of Beni and the Provinces of Sud Yungas and Ixiamas in the Department of La Paz. The Tsimane people belong to an isolated linguistic family, along with their Mosekene neighbors, with whom there is a certain linguistic kinship.



Photo: Shane Macfarlan



Photo: Wikipedia, por Erland Nordenskiöld



<sup>23</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26680>



The Tsimane people maintain a dynamic social organization of small communities<sup>24</sup> of 6 or 7 families, usually consanguineous, with constant flow and spatial mobility<sup>25</sup>, having jobs and residences in very distant places. These people live by hunting, fishing, gathering, using non-timber forest resources (jatata) and farming, in a subsistence economy. They are not part of the mercantile economy and market relations. But the use of external products, food and tools, clothing and medicines, means that they have to depend on and mediate with other socio-economic groups, who tend to cheat them in commercial relations, exploit them in labor relations and dispossess them of their territorial spaces. In cases of conflict, the families involved often withdraw and look for other places to live, everything becoming increasingly difficult in a context of growing pressure on the territory. According to the 2012 population and housing census, the Tsimane people have a population of 14,902 people, spread over a large territory.

Since the march for “Territory and Dignity” in 1990, five Indigenous territories have been recognized. Three of them are home to the majority of Tsimani communities: (i) Isiboro Indigenous Territory and National Park - Secure (TIPNIS); (ii) Multi-ethnic Indigenous Territory (TIM); (iii) Chimán Indigenous Territory (TICH); later, in 1992, the (iv) Pilón Lajas Indigenous Territory and



Photo: ACaldwellHooper, [esciencecommons.blogspot](http://esciencecommons.blogspot)

24 Montaña, 1992 p. 27 como se citó en informe alternativo al CERD, 2021.

25 Nordenskiöld, 2001 p.155 como se citó en informe alternativo al CERD, 2021.



Biosphere Reserve was recognized (D.S. 23110, of April 9, 1992). The recognition and titling of these Indigenous territories has allowed for a degree of legal certainty and protection of these spaces as habitat.

However, the 14 Tsimane communities that are located between the Chimán Indigenous Land (TICH) and the Pilón-Lajas Biosphere Reserve and Indigenous Land, in an area called the “Yacuma Sector,” are the ones that have no recognition of rights over the pieces of land they have occupied since pre-colonial times. In 2020, there were 202 families in the Yacuma Sector communities, distributed in 13 Tsimane communities and one mixed community.

These communities are not seen by the state as ancestral communities because of their way of life in the forest and their constant displacement in the

territory. They are not perceived as citizens, since they do not bear an identity card, do not speak Spanish and are not aware of lawsuits and legal procedures. Due to this lack of knowledge, they hosted people who, over time, became “owners” of their families and subjected them to a kind of slavery with control over them. These companies have cleared their forests, polluted their rivers and acquired legal settlements recognized by INRA. Over time, as they felt subjugated, they took the initiative to defend their territory and, little by little, the reality and violation of their rights became visible. Every time they sue, they are sued, their houses are burned down, the women are at permanent risk of rape, violent pregnancy, abandonment, violence, etc.

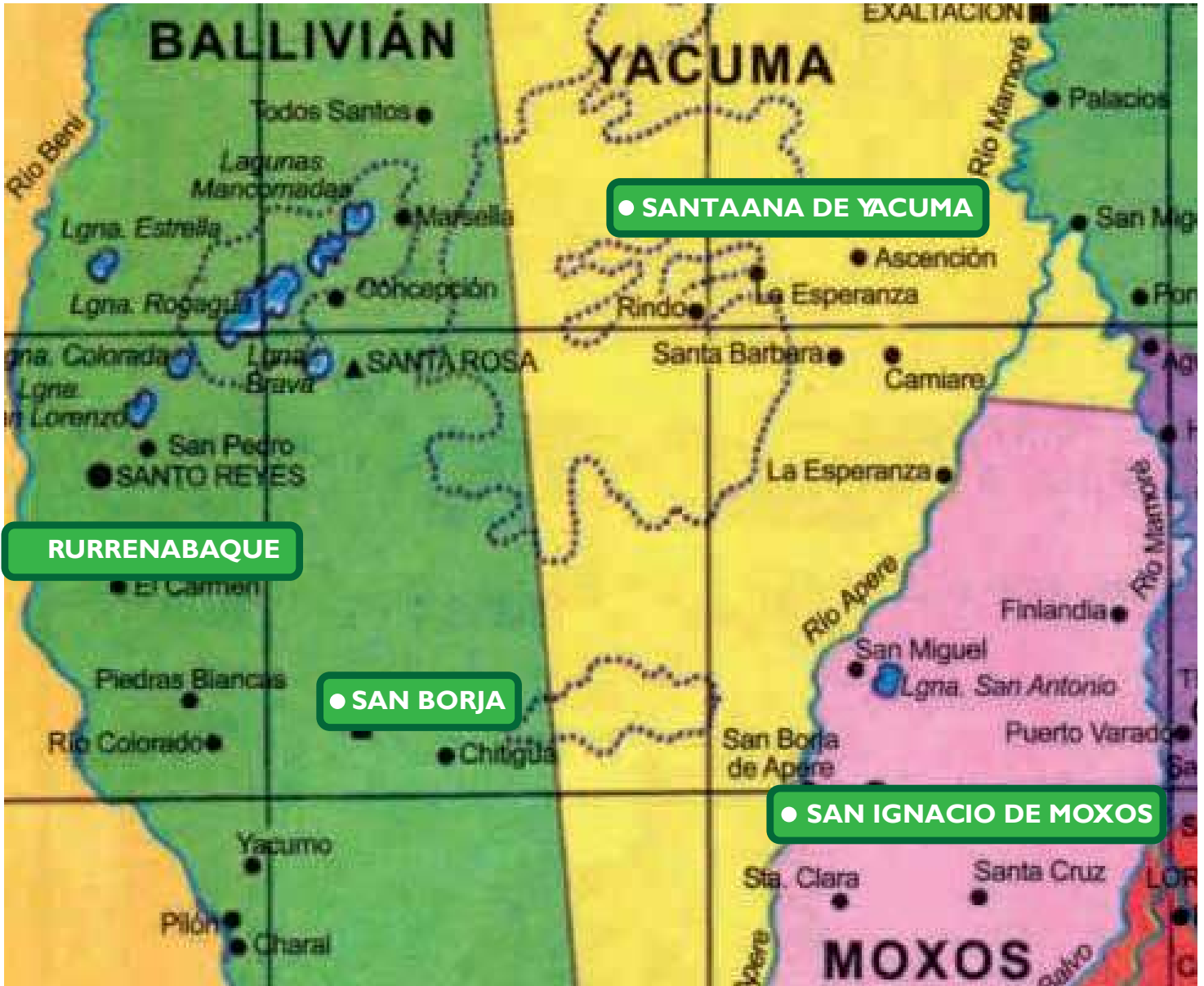


Photo: ceb.bo

“ We were always from there, from Flor de Mapajo, but they took away our territories. We were from that place. Our grandparents, great-great-grandparents, did not know how to sign, read or write, but they (intercultural), since they already know how to draw up papers and documents, easily tell us that we do not have any documents and they also threaten us. One of my uncles was told: you are going to leave anyway. If you do not leave, we are going to kill you now and that is what we were afraid of, so we left crying too. We are being crushed, sometimes as if we were something worthless. We are human too. They keep taking us away like trash, we do not want that. This is what happened in our Flor de Mapajo community, which today is called Primavera

*Nilda Canare Isa, Flor de Mapajo community.*





Source: Adaptation of the Map of Bolivia to show the Tsimane territory, 2022



Photo: Youtube: Los Tsimane sin territorio, Fundacion Solon



# Rights violated by the Chepete and El Bala hydroelectric megaproject in the Beni River basin - Bolivia

- Right to prior, free and informed consultation
- Right to information
- Right to live in a healthy and balanced environment
- Right to exist freely
- Right to protection of their sacred sites, among others.

## Interrelation of violated rights

The communities consider that the state and companies have systematically violated their right to prior, free and informed consultation, their right to information, to live in a healthy environment, to exist freely, to protect their sacred sites, among others.



In several public and private meetings, Indigenous leaders and representatives have denounced a series of violations of their fundamental rights by the government, mainly due to the imposition of extractive megaprojects, which are carried out in the name of “development”: mining, hydrocarbons, agribusiness and large infrastructures, such as hydroelectric power plants and highways, which overlap their territories



Photo: fundacionsolon.org/2019



Photo: Alex Villca

causing a series of conflicts and violence, especially when it comes to mining operations within their territories and protected areas.

Extractive activities and the construction of large infrastructures violate their rights, as they invade their ancestral territories and even protected areas (Madidi and Pilón Lajas), repeatedly violating their right to be consulted, as mandated by the Constitution in Article 30 and international standards such as ILO Convention 169; but also their right to life; their right to information and participation.

The Chepete and El Bala hydroelectric megaprojects are to be located precisely on the sacred sites of the Indigenous peoples. Both the El Bala Strait and the Chepete Canyon are sacred sites where the peoples held their ceremonies asking Mother Earth for protection and wisdom in order to continue living in their territories. These places can be classified as archaeological sites, as there are symbols carved into the stones that have not yet been described or catalogued by state institutions.

“ Just by existing, we already have value, we have rights, but the government comes to blackmail us, disqualify us, discriminate against us, incriminate us ”

*Indigenous Uchupiamona, Ruth Alipaz.*

“ These fundamental rights, such as the right to life, are being denied to us as Indigenous peoples, but also as individuals. ”

*Alex Villca, an Indigenous Uchupiamona who leads CONTIOCAP.*



## Rights violated by the spread of illegal mining in Indigenous territories and conservation units

- Right to Life
- Right to health
- Right to food
- Right to traditional knowledge and wisdom, traditional medicine, languages, rituals and symbols
- Right to live in a healthy environment, with adequate management and use of ecosystems.

## Interrelation of violated rights

Mining Law 535 of 2014 was enacted to favor mining actors, especially cooperative members. This is contrary to the precepts of the Bolivian Constitution and violates the fundamental rights of Indigenous peoples and nature.

Since its enactment, the number of mining cooperatives in our country has proliferated and become more widespread, especially in the north of the Department of La Paz. The municipalities of Mapiri, Guanay and Teoponte have become the epicenter of illegal gold mining, as since 2016 dredges and mining screens have been rapidly installed along the Kaka River and its tributaries, showing the presence of Chinese and Colombian citizens.



Photo: news.ucsb.edu



Source: Gladis Elena Montesinos Sollo, 2021.





Press investigations have revealed that at least 85% of mining activity in the area is illegal and controlled by big foreign capital.

The ambition for gold was placed above the political constitution of the state itself. This activity, the way it is carried out, violates the rights to life, health and food. In particular, it violates article 30, item II, paragraph 9, which recognizes the right of Indigenous peoples “to have their traditional knowledge and know-how, their traditional medicine, their languages, their rituals and their symbols and clothing valued, respected and promoted”. And paragraph 10: “Living in a healthy environment, with proper management and use of ecosystems.”

Mining deprives them of the essentials for life, such as their territory, their rivers, their forests, their soil, their food, and poisons current generations of men, women and children with mercury. They are being condemned to a silent disappearance. Mining - legal or illegal - impoverishes Indigenous communities socially, culturally, morally, spiritually and materially, separating





them from their families, turning them into beggars in their own territory as they are colonized with offers of quick wealth, even at the cost of their own lives. Lately, they have been forced to become miners to protect their territory and induce their self-destruction. It is the State abdicating its responsibilities.

## Violated rights of the Tsimane Indigenous people in the Yacuma sector

- Right to life, freedom and security of people
- Right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment
- Right to equality
- Right to individual and collective property

## Interrelation of violated rights

The right to life and freedom of the communities in the Yacuma sector has been repeatedly violated with the aim of dispossessing and expelling them from their ancestral territory. These actions are manifested through violent acts such as the burning of houses, subjugation to slave-like labor, invasions by loggers who raze the forest and the deprivation of their culturally appropriate food extracted from the forest.

Access to basic services such as health, education and others is not regularly considered by state authorities, which violates the right to equality.

After a process of sanitation that was poorly carried out by the state agencies and complaints that were made, the situation has worsened because logging and burning, carried out to expand the agricultural frontier, are depriving the Indigenous peoples of their traditional means of subsistence and are being affected by fires that have caused environmental disaster.

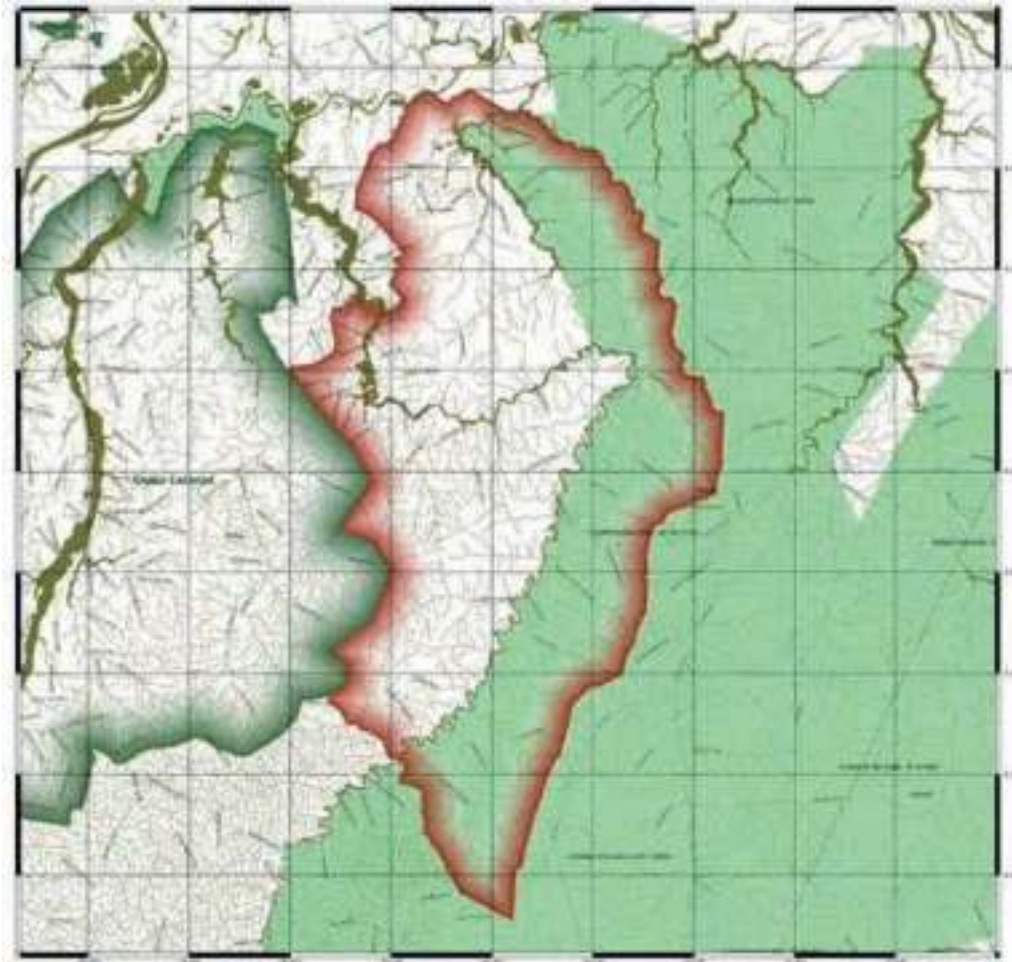
## Proposals and conclusions

1. Consider, within the development and investment policy, the technical and scientific analysis carried out by UMSA (Universidad Mayor de San Andrés), in which it was recommended not to continue with the Chepete and El Bala hydroelectric project, in the Beni river basin and in Indigenous territories, due to its high risks for the life and economy of the country and Mother Earth. As a safeguard, the state should provide basic services in the region.
2. Termination of contracts that cause damage and annulment of dangerous mining concessions, especially those granted in Indigenous territories and conservation units, always putting the rights to life, health and the environment first, and seeking to promote other viable options for productive activity in the region.
3. The state must urgently implement technical, legal and environmental mechanisms to control and supervise mining activities, in order to guarantee Mother Earth's rights to life, diversity, water, clean air, balance, restoration and living free from contamination, in accordance with Law 071 on Mother Earth's Rights and Law 300, Mother Earth's Framework and Integral Development for Good Living.
4. Implement effective security measures to guarantee the life and liberty of the Indigenous communities in the Yacuma sector. This could include the presence of police or security forces to prevent acts of violence and guarantee the integrity of communities
5. Establish as a state policy the recognition of territorial rights and their technical and economic implementation.
6. Review and strengthen legal mechanisms to recognize and protect the territorial rights of Indigenous communities. This means applying and respecting the laws that prohibit illegal expropriation and expulsion from ancestral pieces of land.
7. The state must strengthen legal controls and sanctions against illegal logging. This would include measures to prevent illegal activity by logging companies and guarantee environmental sustainability, respecting the forest as a source of livelihood for Indigenous communities.
8. The state must implement policies and actions to eradicate the forced labor to which Indigenous communities are subjected. This can include strict supervision and regulation of labor practices in the affected areas.
9. Implement measures to guarantee equal access for Indigenous communities to essential services such as health, education and other basic services. This could include building the necessary infrastructure and implementing specific programs to meet the needs of each community.
10. The sanitation processes implemented by state agencies must be improved to ensure that they are effective and fair. This could involve the significant participation of Indigenous communities in these processes.
11. The state must implement sustainable development models that respect and protect the rights of Indigenous communities, avoiding practices that threaten their livelihoods and the environment.
12. The state must promote dialogue between the parties involved, including Indigenous communities, settlers, companies and state authorities, in order to find consensual solutions that respect the rights of all parties.

## 2.2.2 Maraguá Indigenous People (Brazil)

The name of the Maraguá people comes from the union of two words: Mara (meaning maza) and guá (people), making them the People of the Maza. The Maraguá people live in the state of Amazonas, in the region of the municipalities of Nova Olinda do Norte, Maués, Borba, and in the urban areas of other municipalities such as Manaus and Parintins.

The Maraguá estimate that their people have approximately 5,000 inhabitants, trusting that their "lost" relatives can return to their ancestral land (Soares, 2017), located in the areas of the Guarynamã (Abacaxis), Curupira and Paraconi rivers. The area is claimed by the Indigenous people as the Maraguá Indigenous Land and covers around 990,000 hectares.



Source: Indigenous Missionary Council - CIMI, 2016.

### Indigenous Peoples:

Maraguá

### Indigenous Population:

350

### Municipality(ies):t

Nova Olinda do Norte  
Maués  
Borba

### Area:

989.779 ha

### Perimeter:

538,3km

### KEY

- Rivers, Igarapés and Lakes
- Indigenous Lands Without Demarcation
- Demarcated Indigenous Lands
- Conservation Units
- ▲ Villages

### Maraguá Villages

#### ID NAME

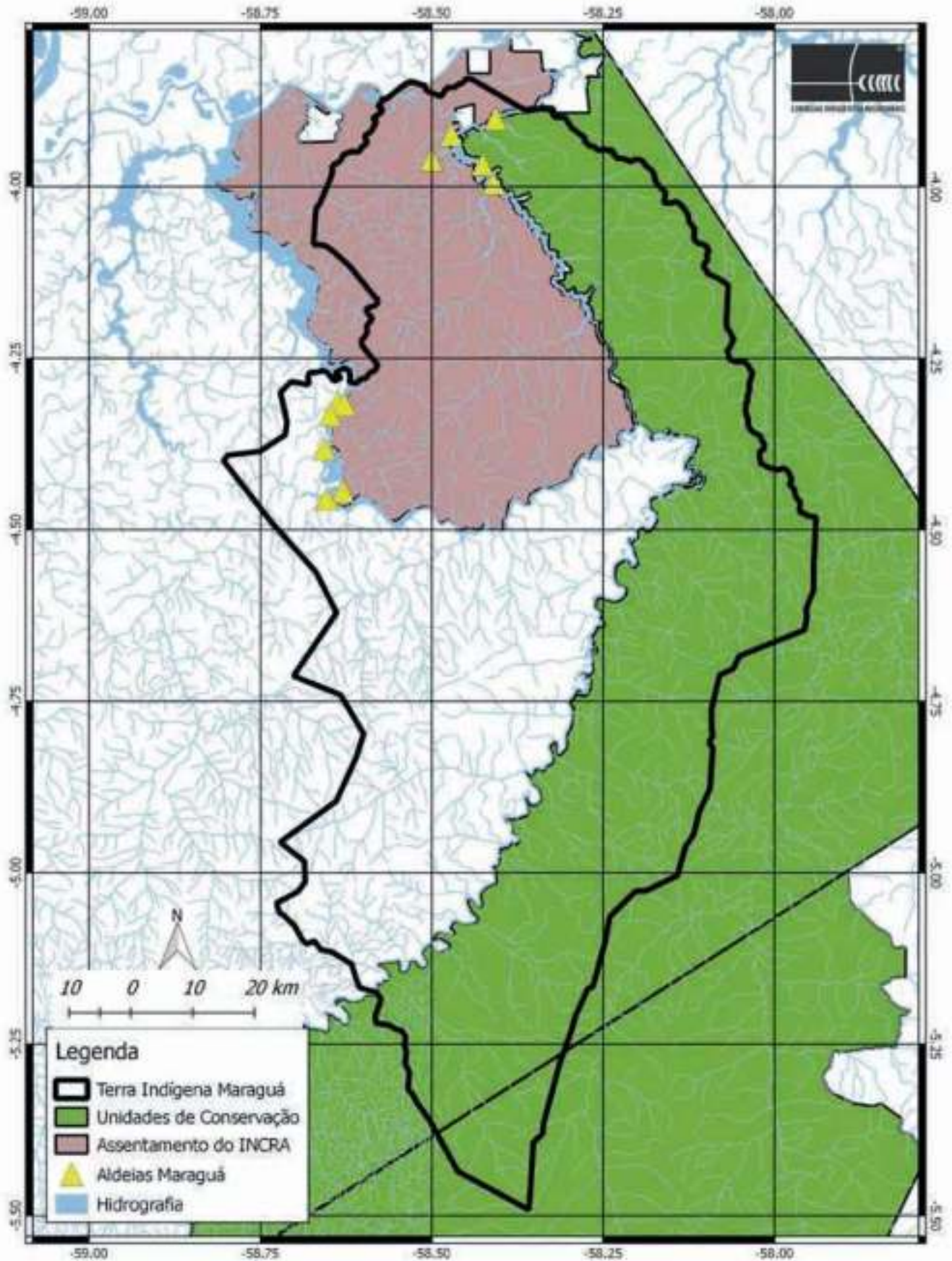
12	Fortaleza	5	Tupanawa
14	Kayawé	6	Kâwera
13	São Tomé	7	Kâwera
1	São José	8	Kâwera
2	São José	10	Cacoal
3	Santa Tereza	11	Miriti
4	Terra Preta		

10 0 10 20 30 40km





# Sobreposições na TI Maraguá



Source: Indigenous Missionary Council - CIMI, 2016.



So far, the administrative demarcation process has not begun and is only in the qualification phase. The IL is located mainly in the municipality of Nova Olinda do Norte, in the Madeira River delta, in the state of Amazonas, Brazil. To the west, it borders the Coata-Laranjal Indigenous Land of the Munduruku people; to the far north, with the Paranã do Urariá; to the east, with the Pacoval River; to the south, comprising the Travessão creek, totaling approximately 990,000 hectares (Soares, 2017).

Within this land, there are two waterways where the villages are located. The first is the Abacaxis/Guarinamã river (where the Terra Preta, Santa Terezinha, Tupãnawá/Pilão/Monawá, Kãwera, São José and the incipient village of Ilha do Tucumã are located) and the second is the Paracuni river (counted as a single village according to the SESAI census). Finally, there is a jungle path that connects the two roads (Soares, 2017).

The Maraguá are divided into eight clans, each represented by an animal and corresponding to a family: Aripunãguá (wasp), Çukuyêguá (anaconda), Piraguáguá (dolphin), Tawatóguá (falcon), Yaguaretêguá (jaguar), Pirakêguá (electric eel), Lontra (otter) and Mitú (curassow) (Yamã, 2014). Maraguá society has a general tuxawa; a deputy general tuxawa; a tuxawa for each village; and a malyli, shaman. All positions are hereditary and for life, with their rights, powers and functions (Cintrão, 2012).

The Maraguá language is linked to the Aruak linguistic family. With the exodus of the people and the long coexistence with the Saterê, the Maraguá language was greatly influenced by Tupi and Nheengatu, to the point where the contemporary Maraguá language can best be described as a Tupi language with Aruak words.

Collectively, the Maraguá people practice various rituals (rites of passage for young people, the panema ritual to expel the hunter's bad luck, the wedding ritual, etc.). The most important of these is called the pira-pukeka (roast fish festival), which is held annually. In it, the Maraguá people gather in the same place to carry out different activities: "clan parade, archery, traditional dance, log racing, swimming, piãguá fight (Indigenous body grappling between clans) and football" (Cintrão, 2012, p. 81). The festival also serves as a people's assembly, where they can discuss issues that affect the people, such as the struggle for the demarcation of their pieces of land.

Today, the Maraguá people live mainly from hunting, fishing, flour production and the extraction of natural resources such as copaiba oil and Brazil nuts. These activities are exclusively for their subsistence<sup>26</sup>. Many families receive the "Bolsa Família" social benefit, through which the federal government transfers income to families in situations of social vulnerability. There are also some Maraguá who are civil servants, working as teachers, Indigenous health agents, river pilots, earning a salary of up to R\$ 1,500 at most.



Source: J. Rosha, CIMI Norte 1, 2018.

26 Only for subsistence due to the lack of a vessel to transport the production.



# Story

The story of the Maraguá creation begins when the god Monãg sends his son Wasiry to take care of a tree located in the Kãwera village area and forbids him to touch it during his absence. Disobeying Monãg, Wasiry climbs the tree and plucks eight leaves and a fruit. When the leaves are plucked, a drop falls to the ground, the earth shakes and an animal appears, corresponding to one of the eight animals of the clan. As for the drop of fruit, when it falls to the ground, it gives birth to the first Maraguá woman. When Monãg returns, he discovers that Wasiry has not followed his orders and expels him from the place. Wasiry and his Maraguá wife went to the Igarapé Carecão, where they created the first Maraguá village. There, the eight animals of the clan fight each other to mate with the first Maraguá woman. They all succeed, giving rise to the first members of each of the eight clans (Soares, 2017).

Before colonization, there were three peoples in the Abacaxis/Guarynamã river region, considered ancestral territory by the Maraguá: the Wakaxi, who occupied the mouth of the Guarinamã River; the Torã, who occupied the middle course of the river; and the Maraguá, who occupied the headlands. Before the arrival of the colonizers, the Maraguá people lived peacefully by fishing, hunting, gathering, rituals, making pottery and producing medicines through their shamans.

Between 1835 and 1840, the Cabanagem revolt took place in the region of the Province of Grão-Pará, where the states of Amazonas, Pará, Amapá, Rondônia and Tocantins are located today. It is estimated that the uprising caused the deaths of more than 30,000 inhabitants of the region and is described by the Maraguá as an unprecedented catastrophe (Soares, 2017). Men were murdered and enslaved; women were taken away and enslaved; and young children were separated from their mothers and left to die on an island. Today, this place is known as the Isle of Angels.

The revolt marked the exodus of the Maraguá from their ancestral land, leading them to disperse to different places. Some migrated to the Tapajós River, seeking refuge with the Saterê-Mauê in Marekuã (at the headwaters of the Andirá), while others arrived in the Parintins region. Other groups have chosen to remain on the Abacaxis River, heading upstream (the Maraguá believe that one or more of these groups may remain isolated in this region). Another part, in turn, migrated west until they reached the Canumã River and, eventually, some moved to the Paracuni River, forming the community that still exists today (Soares, 2017).

The group that took refuge with the Saterê-Mauê established friendly relations with the members of this ethnic group. Over time, both peoples increased their population and the Saterê proposed uniting them to form a single people. The Maraguá leaders, however, did not accept, due to cultural differences and the existence of a traditional Maraguá territory.

The Maraguá left the Saterê territory and went in search of their own. On this journey, they arrived at Lake Mamuru, on the border between the states of Amazonas and Pará, where they settled and stayed for several years, forming a large community and cultivating large plantations. The fields were built collectively and, in the end, each family had one, while a larger field was for the whole community, storing the harvest for family needs or for new couples, until they had time to cultivate their own fields.

The tranquility was interrupted by the arrival of the white people. They introduced themselves as people and asked if the Indigenous people were animals, because their names referred to the animals that designated each clan. Along with the whites came a priest called Evaristo Reis, who gave his surname to the Tuxawa and changed the Indigenous people's surnames, eliminating the reference to the animal/clan, forcing them to use surnames like Reis, Pinheiro, Glória, Carvalho, Freire, Seixas, Matos.

The priest also sought to strengthen his friendship with the Indigenous people, seeing the good land they lived on. After some time living together, the priest began planting sugar cane in the territory, proposing to use Indigenous labor to carry out his project. Many of the people, however, did not want to do this work and fled the risk of slavery; another part stayed, because they thought it was a good offer, and ended up being subjected to slavery.

Those who escaped made their way to the Terra Negra do Limão, where they stayed for several years. After a while, they had to flee again due to the approach of non-Indigenous people, who were killing the Indigenous people who refused to submit to slave labor. However, some of the Maraguá remained.

At this time, the Indigenous people began to come into contact with the priests, who introduced themselves by offering prayers. After a while, the landowners lured the communities with gifts and "friendly talks" and, before they knew it, they were already enslaved and unable to

<sup>27</sup>In short, it was a revolt led mainly by the poor, black and Indigenous population, which was then appropriated by the local elite. Its aim was to improve the social and economic conditions of the population, as well as to dispute political power in the region.



Cabanagem revolt - illustrative image

return. In the case of the Maraguá Indigenous people, they were forbidden to identify themselves, to speak their language and to practice their traditions and customs. If they did not comply with the rules imposed by the shed boss, they were threatened with death. Despite this, the history of the Maraguá people continued to be passed on to their children.

In this way, the Maraguá people became increasingly dispersed in search of their ancestral territory. They reached Parintins, Paraconi, Novo Horizonte, Itacoatiara, Manaus and even the Curupira River. The last river looked a lot like their ancestral territory, but the people felt that it was not, because there were not many mountains there, unlike their traditional territory.

It was on the Curupira River that the great shaman and prophet Manuel da Paz was born, a very strong Maraguá leader who left the region at the age of 18 in search of his people's ancestral territory. After rowing for 30 days, Manuel arrived in Maruim, according to Dona Mercedes (82 years old in 2023). She said that the shaman and prophet arrived saying that he was looking for his ancestral territory, indicating that it was located on that river. He asked if they knew of a large lake with an island in the middle, to which Ms. Mercedes' uncle indicated that they did, mentioning that the lake was not far away. Manuel slept in Maruim and went to the site in the morning, where he was certain that it was the ancestral territory of the Maraguá people.



Source: Lily Calderón, 2022.

Dona Mercedes says that, according to the story told, the main village of the Maraguá people was located on an elevated part. Every afternoon, when everything was quiet, there was a sound like the tapping of a pestle. When Manuel arrived there, he planted and built a small church. The sound of the pestle can still be heard today, although less frequently. Nowadays it is possible to find the remains of the villages around the lake, with the presence of ceramics and graphics.

After finding his ancestral territory, Manuel returned to the Curupira River to look for his relatives, but many were already used to where they were and decided to stay there. However, five families chose to go with Manuel da Paz to the Guarynamã/ Abacaxis river: aunt Tereza's family (of Tuxawa Joarez); the shaman Mr. Pereira, Tía Jovina; the family of José Carlos (el Torrado, a relative of Tuxawa Mukawa); the matriarch Dona Floripe and, later, the family of Amadeu (father of Tuxawa Geral Jair). This meant that the Maraguá people remained dispersed and separated by families for years.





Throughout his life, the shaman and prophet Manuel da Paz suffered intense discrimination from non-Indigenous people and was the victim of severe and violent police repression. Because of his healing work among Indigenous and riverside populations, Manuel was accused of witchcraft by non-Indigenous people on several occasions. On one occasion, police chief João Cabo, known for persecuting shamans in the region, took shaman Manuel da Paz from the village of Tupãnawa to the city where he attacked him. From then on, several torture sessions by the police followed. The shaman already knew when the police were coming, and on those occasions he advised his relatives not to resist, because he knew that this was his destiny, and he let the police take him.

Before the last torture, in the 1960s, the shaman spoke to his relatives, warning them that the police would beat him badly and that he would not resist. Manuel warned his brother, Messias Bermiro's father (Waçúpyraguá), that after his death, another part of the people would come to the region, at which time the Maraguá would reorganize and create a great force as an Indigenous people, and they should not leave the river until these people arrived.

In 1998, Father Christopher arrived in the region and went to the Guarynamã/Abacaxis river to work with the family of Tuxawa Mukawa. One day, the priest met Ozias Yaguarê Yamã (teacher and instructor) in the municipality of Nova Olinda do Norte/AM, who took him to the Curupira River. When he arrived, Father Christopher observed that everyone was related and supported the Maraguá people in establishing relations between the communities of the Curupira, Guarynamã/Abacaxis and Novo Horizonte rivers.

As a result, the Maraguá people reorganized themselves through the figure of a general Tuxawa. According to the Maraguá rules of succession, Amadeu, who was born in Lake Mamuru, was to take over the position, but due to his advanced age, Jair, his son, took over the role, keeping Amadeu as a sort of advisor. Amadeus was known for his kindness and his knowledge of nature; he had a great understanding of the appropriate times for each crop. By observing the weather, he knew what the month would be like, whether there would be a lot of rain or a lot of sunshine. He passed this knowledge on to his children discreetly.

With the recognition of the people, defined leaders and a well-established organization, several families of the Maraguá people returned to the Guarynamã/Abacaxis river, holding the first Maraguá assembly in 2001 in Novo Horizonte, on the Paranã do Urariá river.

This return was not easy. The territory had been dominated by non-Indigenous people, mainly due to drug trafficking, which had already claimed many victims<sup>28</sup>. The non-Indigenous people only recognized the Munduruku as the traditional peoples of the region and tried to prevent the Maraguá from returning by burning their houses and destroying their crops. Despite this, the Maraguá people continued to organize and fight for the recognition of their people and their ancestral territory.

In 2007, the Maraguá realized that fish and other animals in the forest were disappearing due to predatory activities such as hunting, fishing and deforestation, partly due to the lack of monitoring by municipal, state and federal authorities. That same year, INCRA began pressuring the territory to divide up the land. To do this,



<sup>28</sup> One of the victims was the Indigenous woman Elena Miranda da Silva and her 6-year-old daughter Gabrielle Miranda Belizário, who were brutally and cruelly murdered in 2005. Elena left behind Moisés Miranda, her son, who had to leave his village in 2022 because his house was shot at by drug traffickers operating in the region. Neither Elena nor any of her family members were involved in trafficking. Another case occurred in 2020, when Josinei, the son of Tuxawa Messias and Dona Geiza, was stabbed to death at his parents' home in the village of Twpanawa. Later, Tuxawa Juárez da Silva Reis had two sons murdered.



they sent officials to intimidate the Indigenous people, which led the Maraguá to go to FUNAI to demand inspection of the region. Also in 2007, the request for demarcation of the Maraguá Pajy Indigenous Land was registered with FUNAI, a procedure that has still not been formally initiated to date<sup>29</sup>.

**Invasions have increased greatly in recent years and with them diseases due to illegal mining, which operates at the headwaters of our land. We are asking for help, we have to rescue our people, our fauna and our flora. We have a region rich in lakes, fish, forests, animals and many minerals such as gold, cassiterite, pebbles, sand and diamonds. To protect this territory, we have suffered many threats, and it is not easy to keep it safe,**

*Jair Seixas Reis, general Tuxawa of the Maraguá people.*

After two years of self-protection, the Indigenous people realized that nature had recovered very quickly. Fish became abundant again, as did game and the fruits of the forest and swamp, which were previously not found. Despite the success of their self-control, the Maraguá people have never ceased to demand public oversight, but always without success. FUNAI argued that the actions were unfeasible since the land had not been demarcated.

From 2018 onwards, conflicts with fishing entrepreneurs intensified when they learned of the river's recovery. In order to resolve the conflict, the Maraguá people reached an agreement with

a fishing company to regularize the activity and earn some income, but this led to conflicts with the riverside communities.

Faced with the conflict, the Federal Public Prosecutor's Office (MPF) intervened and, in 2019, a provisional agreement was signed between the Indigenous Maraguá people and the riverside dwellers, allowing one boat for each party. This motivated the riverside dwellers to support the protection of the territory and monitoring activities, which continued until the outbreak of the Covid-19 pandemic and what became known as the "Abacaxis Massacre."

<sup>29</sup>The progress of the Maraguá's claim for the demarcation of their ancestral territory will be detailed later in this report.



# The Abacaxis Massacre

# The Abacaxis Massacre

The Abacaxis River region has suffered for many years from police violence, invasions and the spread of drug trafficking. On July 25, 2020, the situation got completely out of hand.

Residents reported that, on July 25, 2020, a group of tourists, including Saulo Moysés Rezende Costa, then executive secretary of the Amazon Social Promotion Fund, invaded territories of Indigenous and traditional communities, located in the region of the Abacaxis and Marimari rivers, in the municipalities of Nova Olinda do Norte and Borba (AM), to go sport fishing on a boat called Arafat in the midst of the Covid-19 pandemic. At the time, they did not have the relevant license granted by the environmental agencies or the authorization of the communities, exposing the local residents to serious danger.

The boat stopped at the riverside community of Terra Preta, opposite the Maraguá village of the same name. Dialogue was not possible, there was a conflict and they say the executive secretary was shot in the shoulder.

It is believed that, in light of this, the secretary used his institutional relations to call in an operation by the Special Operations Command (COE) and the Military Police's Environmental Battalion, under the pretext of dismantling a criminal organization operating in the region.

On August 3, 2020, riverside dwellers and Indigenous people were surprised by the return of the Arafat boat, this time with around 10 plainclothes police officers, their faces covered and heavy weapons pointed at the communities. Seeing the men go up to the Terra Preta community, local non-Indigenous drug traffickers set up an ambush, resulting in the death of military police officer Márcio Carlos de Souza and sergeant Manoel Wagner Silva Souza, and leaving two wounded.

On the morning of the following day, August 4, 2020, the governor of Amazonas, Wilson Lima, declared at a press conference that the state would give “a strong response to what happened.” He also stressed that “there is no more meaningful response than to punish these people and curb these criminal activities that have been operating for some time in the state of Amazonas” (Civil Defense, 2020). On the same day, 50 military police were sent to the region and carried out a real extermination operation.



Photo: Guilherme Cavalli



Photo: Disclosure/Anera



After a series of complaints of human rights violations made by members of Indigenous and traditional communities, the Federal Public Prosecutor's Office (MPF) and the Federal Public Defender's Office (DPU) filed a lawsuit and the Federal Court ordered the immediate suspension of the police operation.

The operation, ordered by the Amazonas Secretary of Public Security, Lourismar Bonates, and led by the general commander of the Amazonas Military Police, Ayrton Norte, resulted in the deaths of two Munduruku Indigenous People (Josivan Moraes Lopes and Josimar Moraes Lopes) and four riverside dwellers (Anderson Barbosa Monteiro, Vanderlânia de Souza Araújo, Matheus Cristiano Araújo and Eligelson de Souza da Silva). Additionally, two people are still missing and there are several reports of torture, threats and illegal detentions. For several days, men, women, young people and even children and the elderly from riverside communities, Munduruku, Maraguá were tortured and treated with great violence.

Several residents (Indigenous and riverside) said that no one was allowed to leave. The Military Police had warned that anyone seen going down or up the river would be considered suspicious and killed.

**“ The conflict brought many losses and serious consequences for us, Maraguá people. They killed our shamans, burned our villages, contaminated our water with the corpses found near our villages. They stole many things from us, tortured our elderly and children, and those who were not physically tortured, suffered and continue to suffer psychological pressure. ”**

*Jair Seixas Reis, general tuxawa of the Maraguá people.*

**“ There were moments of despair at the way the Military Police acted in the area, which had serious consequences. My father, José Pereira, even died because he could not go to the city to get medical attention. ”**

*Rosildo, tuxawa of the Kāwera village.*

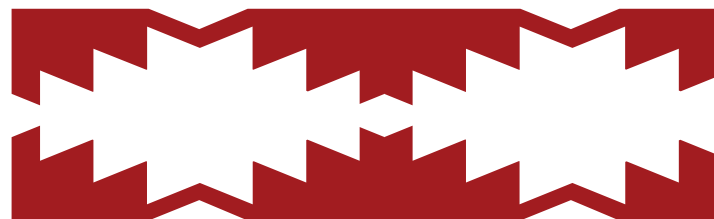




Photo: Cimi Regional Norte I

After the Federal Court ordered the withdrawal of the Military Police from the region, the Federal Police and the National Force stepped in to investigate the human rights violations committed and to protect the Indigenous and riverside population. This “protection” only lasted a few months, leaving the Indigenous and riverine people once again at the mercy of invaders, traffickers and a possible return of the Military Police. During the conflict, the installation of a mobile Federal Police base in the region was promised and, in 2022, a court order was issued for its implementation, but it never materialized.

Two years after the massacre, Jair Seixas Reis presented the case at the 49th session of the UN Human Rights Council in 2022. At the time, the Tuxaua leader denounced the continuing invasions of the territory, accompanied by threats and the failure to install the promised Federal Police base. Finally, he asked for the UN’s help to protect the Maraguá people and nature<sup>30</sup>.

Three years after the incident, two suspects have been indicted: the then secretary of Amazonas Public Security, Colonel Louismar Bonates, and the commander of the operation and general commander of the Amazonas Military Police, Ayrton Norte (Collective for the Peoples of Abacaxis, 2023).

On May 17, 2023, the Collective for the Peoples of Abacaxi published an open letter entitled “Massacre do Abacaxis: uma operação de extermínio” (Collective for the Peoples of Abacaxi, 2023), signed by several organizations, including the Coordination of Indigenous Organizations of the Brazilian Amazon (Coiab), the National Pastoral Land Commission (CPT) and the Indigenous Missionary Council (Cimi), calling for the identification and prosecution of those involved in the massacre.

<sup>30</sup> The speech can be read in full at the following link: <https://cimi.org.br/2022/03/tuxaua-maragua-cdh49-onu>





# Situation of the Maraguá Pajy Indigenous Land

Given this scenario, the demarcation of the Maraguá Pajy Indigenous Land (IL), claimed by the Maraguá Indigenous People, is becoming urgent.

In order to demarcate Indigenous land in Brazil, it is necessary to follow the procedure set out in Decree 1775/1996. The Brazilian Foundation for Indigenous Peoples (FUNAI), the official Indigenous body responsible for protecting and promoting the rights of Indigenous peoples in the country, is responsible for initiating and guiding the demarcation procedure, which consists of nine phases.

According to the Decree, the procedure begins when the president of FUNAI publishes a Resolution establishing the formation of a Technical Group (TG) to carry out anthropological, ethnohistorical, sociological, legal, cartographic and environmental studies (field and documentary) and a territorial survey, with the aim of identifying and delimiting the Indigenous land.

In practice, before creating a Technical Group (TG), FUNAI carries out preliminary work to “qualify” the claim, although there is no provision in the Decree for this stage. It is precisely in this “qualification” stage that the Maraguá Pajy IL claim finds itself, without any progress since 2007.

Initially, the demand for the demarcation of this IL was registered in Funai’s Land Affairs Directorate system under number 473, in 2007, under the name “Maraguá-Mawé.” Later, in 2010, the Funai Regional Coordination responsible for the region requested efforts to “investigate the possibility of creating a TG to begin the process of identifying, demarcating and ratifying the Indigenous Land,” by means of Memorandum 182/DIT/CR/MAO (Cimi, 2022).

In the following year, 2011, in a note dated November 7, it is recorded that the land is considered by FUNAI to be “awaiting qualification.” That same year, the indigenist organization sent officials to visit the Maraguá area, which resulted in the preparation of the “Descriptive Report of the Trip to the Abacaxis River, Nova Olinda do Norte/AM.” In 2014, in Official Letter 581/PRES, FUNAI stated that the Maraguá land “is under qualification” (CIMI, 2022).

Since then, there has been no record of any formal action to qualify or identify the Maraguá Pajy Indigenous Land, nor any judicialization of the demarcation procedure (Cimi, 2022).

The demarcation of their pieces of land would solve many, if not all, of the Maraguá’s problems. Without it, public agencies such as FUNAI and IBAMA refuse to monitor the area, which has led to the advance of invasions by loggers, predatory fishermen, land grabbers, tourists and miners, causing irreparable damage to nature (Soares, 2017).



When I was 12, I saw and experienced many good things, which I miss. There was peace on the Guarymanã River. My uncles and I would go to parties, dance and have fun all night. There were no fights, no murders, no perversity; everyone respected each other. I miss that. There was plenty, nobody had any trouble getting food; they ate all kinds of fish and game. The jaguar was an animal that abounded (...)

When the invasions began, the animals and fish disappeared, many jaguars were killed to sell their skins...; a lot of boats with refrigerators would enter the river, and then peace was taken away, because with the invasions came drugs, drink, bad men, people who entered with one sole purpose, which was to destroy.



*Dona Mercedes, n Indigenous woman from the Maraguá people, 82 years old (2023).*



Photo: Guilherme Cavalli





We have lost control of our territory and we do not know how to resolve this. We are waiting for answers, but nothing that has been promised has been fulfilled. Several tourist boats operate in our region despite the fact that the MPF has closed the river to any kind of activity, and yet the invasions continue. Tourism entrepreneurs stop in our villages to try to bribe us. The Federal Police promised to set up a mobile base in the Abacaxis River region, but so far this promise has not materialized. It would undoubtedly be very good to have a mobile base in the region, not only for the people, but also for our forest. Today, more than ever, we need this base to be installed on our territory, and only then will we feel safe.

In 2022, a kind of sludge appeared that covered the entire river, killing many fish and making many people sick with diarrhea, vomiting, malaria, etc. There are currently three mines operating in the Carauri stream, which is at the headwaters of the Abacaxis River. Several illegal accesses have already been found within our territory, possibly belonging to land grabbers who want to sell part of our territory. We see that we are forgotten by the government. Tourism, which was the cause of the 2020 massacre, today continues to operate without respecting the law within the Guarinamã River and this could cause a new conflict. We are being disrespected and no action is being taken.



*Jair Seixas Reis, General tuxawa of the Maraguá people.*



Photo: Guilherme Cavalli

Another major concern described by Tuxawa Jair Seixas Reis is the persistence of drug trafficking in the region. This scenario makes the Maraguá people fear the outbreak of a new conflict at any moment, which causes them great psychological pressure. According to the Indigenous people, three families left the land and moved to the city due to the violence, threats and intimidation with firearms on the part of the traffickers, who shot several times at various houses, set fire to others, beat up elderly people, stole three outboard motors and destroyed canoes.

Likewise, the presence of usurpers near their pieces of land is a source of great fear for the Maraguá people. The Indigenous people describe that these usurpers have opened trails in the surrounding area, without respecting the buffer zone, and are threatening to enter the IL area.

! ! This whole situation will only be alleviated with the demarcation or installation of the Federal Police mobile base on the Abacaxis River, promised by the Federal Police during the conflict in 2020. ! !

*Jair Seixas Reis, General tuxawa of the Maraguá people.*

## Violated human rights

### Right to the territory: live freely in their own territory

The Maraguá people's right to their territory has been continually violated by the lack of demarcation of the Maraguá Pajé Indigenous Land. Although the formal demarcation claim was made to FUNAI in 2007, the demarcation procedure has not yet begun. The Maraguá are in a state of vulnerability in the face of third-party invasions, which destroy their fauna and flora and have a profound impact on their way of life.

! ! Many rights were violated (in the Abacaxis Massacre), such as the right to come and go, the right to food, the right to drinking water, the right to health, the right to freedom, the right to physical integrity, the right to housing (the town of Mérére was burned down). There have been several robberies in our cities and people have been tortured physically and psychologically; abuse of police power and lack of support from municipal, state and federal authorities, which means that to this day this crime has not been solved. ! !



Photo: Tadeu Rocha

To this day, the lack of accountability for those involved in the massacre and the absence of vigilance on the part of the authorities in the territory have allowed the advance of drug trafficking, gold miners, fishermen, land grabbers and unregulated sport fishing tourists into the Maraguá Pajy Indigenous Land. These activities have left Maraguá in a state of territorial insecurity, violating a series of other rights, such as the right to health, food and a healthy environment.

## Public Policy and Regulatory Proposals

1. Installation of the Federal Police mobile base on the Abacaxis River, promised by the Federal Police in 2020, at the time of the massacre, and ordered by the Federal Court in 2022, to guarantee the protection of the Maraguá Pajy Indigenous Land.
2. The Brazilian Foundation for Indigenous Peoples (FUNAI) must set up a Technical Group to begin the administrative procedure for the demarcation of the Maraguá Pajy Indigenous Land, which was formally requested from the organization in 2007.
3. Repeal or declare unconstitutional article 4 of Law 14701, of October 20, 2023, which establishes the genocidal thesis of the Temporal Framework, conceiving as Indigenous pieces of land only those occupied on the arbitrary date of the promulgation of the Federal Constitution of 1988.
4. Prosecute those responsible for the Abacaxis River massacre, compensate the victims for damages, and establish witness protection mechanisms to encourage citizens to participate without fear.

“ Today, we are suffering the consequences of the criminal actions of the police. We want nothing more than justice and we still need enforcement in our territory. Today, more than ever, I insist that we need strong enforcement within our territory. Incra’s lack of supervision and interest in our pieces of land cause us great concern.

*Jair Seixas Reis, General tuxawa of the Maraguá people.*





## 2.2.3 Yine-Asháninka people, Puerto Nuevo-Madre de Dios community (Peru)

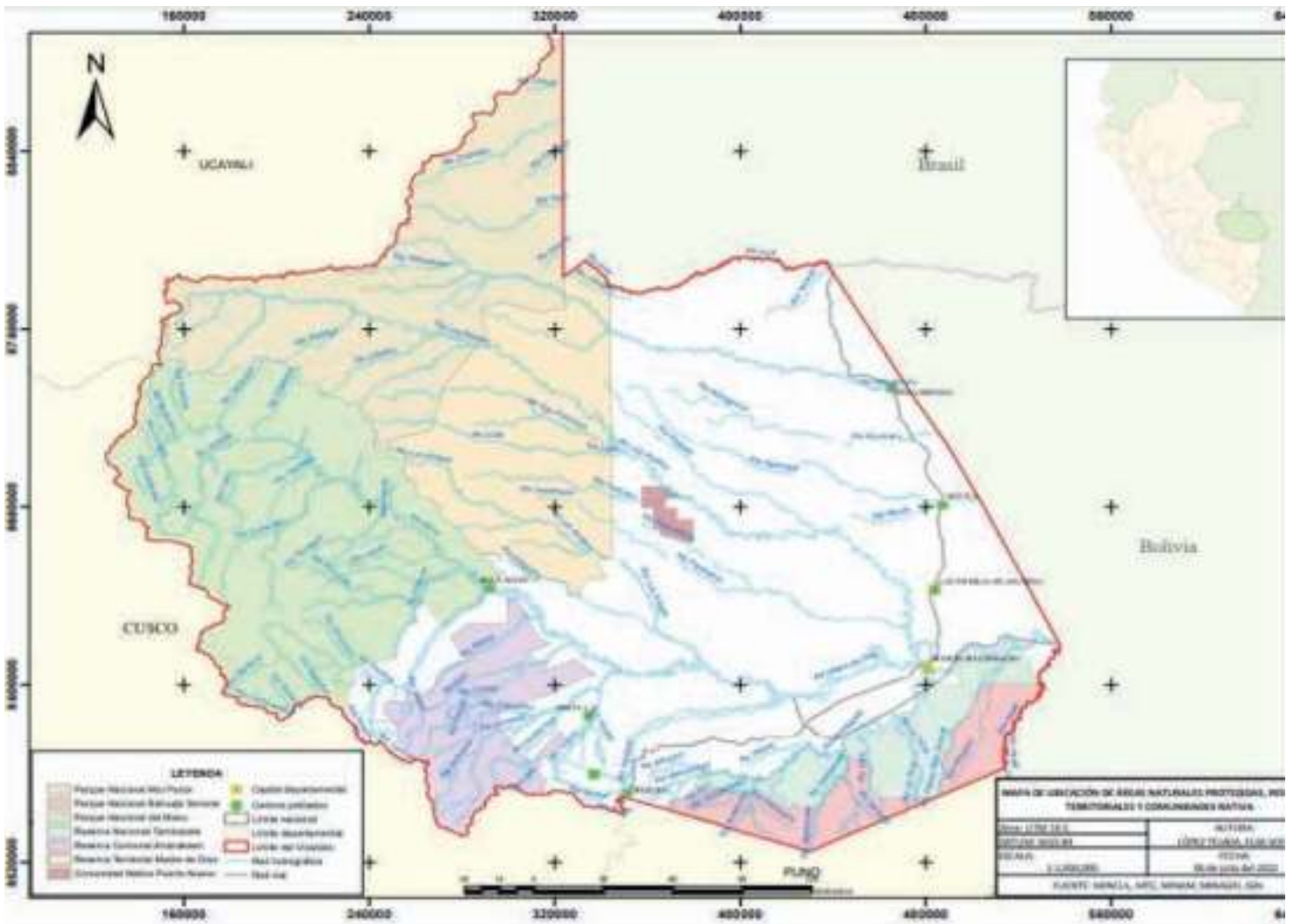
The Yine people are also known as “piro”, a name that has been used by neighboring peoples and other foreigners to distinguish them. The word “Yine” in the Indigenous language translates as “true men”, “human beings” or “people par excellence.”

The Yine people have been described as excellent navigators and traders. The Yine people have had to move in different directions since pre-Hispanic times, establishing contact with numerous Amazonian and Andean peoples.

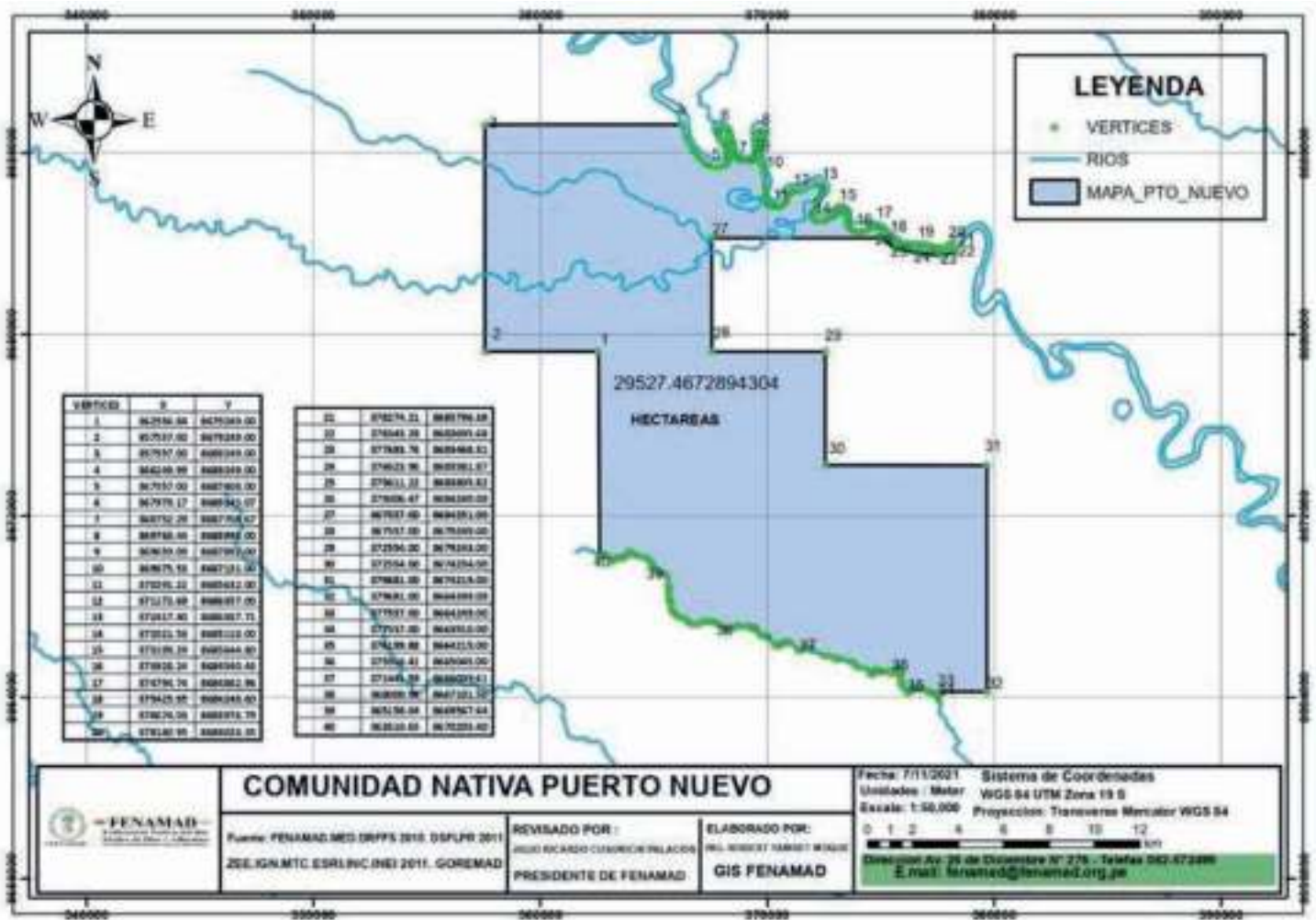
This municipality is mainly located in the Departments of Cusco, Loreto, Madre de Dios and Ucayali. According to the 2017 National Census, a total of 2,821 people self-identified as part of the Yine people across the country; 2,680 people reported speaking the Yine language, which corresponds to 0.05% of all Indigenous languages in the country.

In the jurisdiction of the Apostolic Vicariate of Puerto Maldonado, the “Yine” people occupy the area of the Urubamba River (Cusco), Alto Madre de Dios, Las Piedras, Tahuamanu, forming part of a vast ancestral territory. It is said that the Yine people traded with the Incas various elements such as salt, birds, feathers, honey, waxes and resins in exchange for metal items; so they had to move in different directions, marking out zones that are corridors of constant flow for the mobilization of people.

Since their contact with Spanish-speaking society, four hundred and fifty years ago, the Yine people have seen a way of articulating or establishing contact, being guides for adventurers and missionaries, both Catholic and evangelical.



Source: Location Map of Protected Natural Areas, Territorial Reserves and Native Communities, 2022.



Source: FENAMAD, 2015.

At the time of the rubber industry, the Las Piedras River was already inhabited by the Yine people, who had to return to Ucayali due to the mistreatment and abuse of the rubber tappers.

Currently, the Yine people live in communities organized in the following areas: on the Cushabataya River, a tributary of the lower Ucayali in the Department of Loreto; in the Urubamba, an area located in the Department of Ucayali and in the basin of the Madre de Dios, Las Piedras and Acre rivers.

In 1994, Abel Silvano Sandoval (of Yine father and Asháninka mother), his wife Luzmila Cushichinari Etene (Yine), and their children with their respective partners

headed for the Las Piedras river, passing through the ancestral corridor where the Yine people moved. They walked for 15 days, from Sepahua to the Las Piedras River. According to Abel Silvano, migrating to this area meant using the Las Piedras River as transportation to the Sepahua River, since in Las Piedras the forest is more preserved than in Ucayali, as there was not as much migration from the mountains and the coast, so the forests maintain their natural resources necessary to maintain their way of life. For this reason, the Yine people decided to return to the place where their ancestors had settled.

“The Yine people of Puerto Nuevo have settled in the Department of Madre de Dios, Tambopata Province, on the banks of the Las Piedras River, since 1994 and more permanently since 2000, carrying out our daily activities for a long time”

*The Community.*



The native community of Puerto Nuevo is part of the Yine Indigenous people, belonging to the Cushichinari clan. "Cushichi" in Yine means bird, and "nari" expresses lineage. They are direct descendants of Luzmila Cushichinari Etene and Abel Silvano Sandoval. The community covers an area of 29542.4 hectares and is made up of 24 families. The languages spoken are Spanish, Yine and Asháninka.

The community has been settled in the basin for 20 years, living off subsistence activities such as harvesting chestnuts, fishing and handicrafts. They have their own farms and are starting to implement their nurseries for planting cocoa, cupuaçu and forest species. The community has been protecting the forests from

"illegal" and "legal" activities for around two decades. The "legal" ones are the big logging companies to whom the state has been granting "forest concessions" since 2002 within the area owned by Indigenous communities. In addition to this problem, there is also the threat of drug trafficking. The community has no access to drinking water or electricity.

They have been fighting for their territoriality, for their people, for their families, to prevent the loss of their resources and the overuse generated by deforestation and the loss of ecosystems due to illegal logging. Likewise, it has affected the Indigenous Peoples in Isolation and Initial Contact - PIACI, who have directly confronted the illegal loggers who have been invading



their environment within the Territorial Reserve<sup>31</sup>. These negative encounters have caused the PIACI to go on the defensive with their brothers and sisters of the Yine people (Puerto Nuevo and Monte Salvado), where on more than one occasion the PIACI have been spotted in the summer. During the pandemic, there was a sighting, as a result of which, unfortunately, the Protection Agent at the NPP surveillance checkpoint at Puerto Nuevo lost his life.

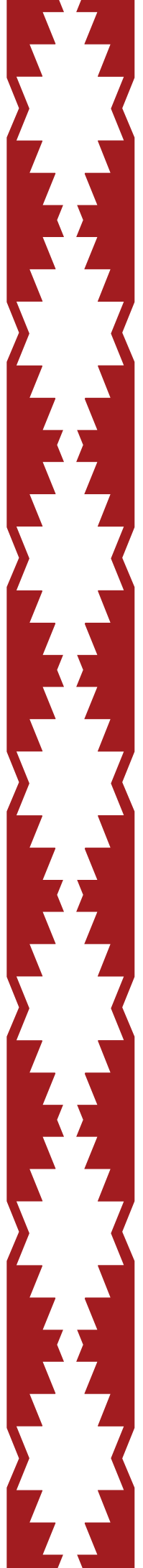


[...] We set up in 2000; but it was only in 2009 that we were recognized as an Indigenous community, and we are still waiting to get our title...  
The Las Piedras river basin is the gateway to the territorial reserves for Indigenous peoples in isolation and to the Alto Purus National Park. In recent years, we have suffered invasions from third parties...



*Ranger López Silvano, current president of the Indigenous community of Puerto Nuevo, a young Indigenous leader.na.*

31 Madre de Dios Territorial Reserve: On April 25, 2002, through Ministerial Resolution W 0427-2002-AG, the Ministry of Agriculture (MINAGRI) ordered the creation of the Madre de Dios Territorial Reserve (RTMDD), with an area of 829,941 hectares, between the provinces of Tahuamanu, Tambopata and Manu, in the department of Madre de Dios. Territorial reserves and Indigenous reserves in Peru are intangible territories delimited by the state in favor of PIACI. As a legal figure, Indigenous reserves are incorporated into the PIACI Law, giving them a higher level of legal protection. This means that: No population settlements may be established other than those of the Indigenous peoples who live there. It is forbidden to carry out any activity other than that of the ancestral uses and customs of the Indigenous inhabitants. No rights will be granted for the use of natural resources, except those carried out for subsistence purposes by the peoples who inhabit them and those that allow their use through methods that do not affect the rights of the PIACI, and provided that the corresponding environmental study allows it.



# The battle of the Yine-Asháninka people for their resources

Approximately 60% of the timber monitored in the country over the last ten years has been illegally extracted through selective logging and timber laundering.

The Las Piedras river basin is the gateway to the territorial reserve for Indigenous peoples in isolation and to the Alto Purus National Park (they are there); supports unprecedented migration.

According to data from the Ministry of the Environment's Geo Bosques portal, the forest cover in our region of Madre de Dios is approximately 90%: almost eight million hectares of forest in "apparently" good condition. Despite these figures, the accumulated loss of Madre de Dios' forests in the three provinces that make it up - Manu, Tambopata and Tahuamanu - has grown considerably in recent years.



Source: REPAM Archive, 2022.





! [...] My community still does not have a title. We remain vigilant to ensure that other rights are not granted. Although we cannot follow up every day, we are behind the institutions so that the titling process continues [...]

[...] It is important for my community to have a health center; that they carry out a mercury analysis, because the fish are contaminated and we consume the fish, it affects our health as adults, children and the elderly [...]"

*Rosita Silvano Cushichinari.*



## Corruption and “the hostiles of the Amazon.”

In August 2020, in the midst of the State of Emergency due to the Covid-19 pandemic, a division of the Peruvian police specializing in highly complex crimes dismantled the actions of a corruption network dedicated to timber trafficking, whose members included officials from the Regional Government of Madre de Dios, the Specialized Prosecutor’s Office for Environmental Affairs (FEMA) and a considerable group of police officers and state officials assigned precisely to forestry control.

The gang, which was immediately dubbed “The Hostiles of the Amazon”, operated along the interoceanic highway by “laundering” illegally harvested timber from farmland and forest concessions in the Los Amigos, Las Piedras and Tahuamanu river basins.

According to the NGO Global Witness, 60% of the timber monitored in Peru over the last ten years has been extracted from prohibited areas through the selective felling of trees with high commercial value and timber laundering.

The sector of the Las Piedras river basin has been affected by illegal activities. The figures show that more than 7,000 hectares of forest have been degraded since 2001.

It is estimated that the timber that continues to be extracted from the Rio Las Piedras sector, in plain sight and patience, are hardwoods that are highly valued today. Among the main species are Shihuahuaco (*Dipteryx odorata*), Tornillo (*Cedrelinga catenaeformis*), Estoraque (*Miroxylom balsamum*), Quinilla (*Manilkara bidentata*).





# GOBIERNO REGIONAL DE MADRE DE DIOS

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"AÑO DEL BICENTENARIO DEL PERÚ: 200 AÑOS DE INDEPENDENCIA"  
"MADRE DE DIOS, CAPITAL DE LA BIODIVERSIDAD DEL PERÚ"

## RESOLUCIÓN EJECUTIVA REGIONAL N° 342 -2021-GOREMAD/GR

Puerto Maldonado,

25 OCT. 2021

### VISTOS:

La Resolución Gerencial Regional N° 783-2021-GOREMAD-GRFFS., de fecha 08 de Julio del 2021, el escrito presentado en fecha 07 de Setiembre del 2021, presentado por Rosita SILVANO CUSHINARI, Representante Legal de la COMUNIDAD NATIVA PUERTO NUEVO, el Oficio N° 2214-2021-GOREMAD-GRFFS., de fecha 14 de Setiembre del 2021, el escrito de fecha 13 de Setiembre del 2021, presentado por XIAHU ZHAO en representación de SKY WOOD SAC., y;

### DEL PROCEDIMIENTO DE NULIDAD DEL ACTO ADMINISTRATIVO.

Que, el Art. IV del Título Preliminar del TUO de la Ley N° 27444 – Ley del Procedimiento Administrativo General dentro de los Principios del Procedimiento Administrativo, reconoce el Principio del Debido Procedimiento Administrativo, por el que; "[...] Los administrados gozan de los derechos y garantías implícitos al debido procedimiento administrativo. Tales derechos y garantías comprenden, de modo enunciativo mas no limitativo, los derechos a ser notificados; a acceder al expediente; a refutar los cargos imputados; a exponer argumentos y a presentar alegatos complementarios; a ofrecer y a producir pruebas; a solicitar el uso de la palabra, cuando corresponda; a obtener una decisión motivada, fundada en derecho, emitida por autoridad competente, y en un plazo razonable; y, a impugnar las decisiones que los afecten [...]"

Que, por norma general, "[...] Todo acto administrativo es válido en tanto su pretendida nulidad no sea declarada por autoridad administrativa o jurisdiccional según corresponda [...]". En ese extremo el Art. 10° del TUO de la Ley N° 27444, establece expresamente los vicios que invalidan la declaración de la Entidad y originan su nulidad de pleno derecho, entre ellos los establecidos en el numeral 1) y 2) referidos a; "[...] son vicios del acto administrativo que causan su nulidad de pleno derecho, los siguientes: (...) 1). La contravención a la Constitución, a las Leyes o a las normas reglamentarias, 2) El defecto u omisión de alguno de los requisitos de validez, [...]"; y dentro de los requisitos de validez señalados por el Art. 3° de la norma acotada tenemos los referidos a;

- 1. Competencia.- Ser emitido por el órgano facultado en razón de la materia, territorio, grado, tiempo o cuantía, a través de la autoridad regularmente nominada al momento del dictado
- 2. Objeto o contenido.- Los actos administrativos deben expresar su respectivo objeto, de tal modo que pueda determinarse inequívocamente sus efectos jurídicos. Su contenido se ajustará a lo dispuesto en el ordenamiento jurídico, debiendo ser lícito, preciso, posible física y jurídicamente, y comprender las cuestiones surgidas de la motivación.
- 3. Finalidad Pública.- Adecuarse a las finalidades de interés público asumidas por las normas que otorgan las facultades al órgano emisor, sin que pueda habilitarse a perseguir mediante el acto, aun encubiertamente, alguna finalidad ses personal de la propia autoridad, a favor de un tercero, u otra finalidad pública distinta a la prevista en la ley. La ausencia de normas que indique los fines de una facultad no genera discrecionalidad.
- 4. Motivación.- El acto administrativo debe estar debidamente motivado en proporción al contenido y conforme al ordenamiento jurídico.
- 5. Procedimiento regular.- Antes de su emisión, el acto debe ser conformado mediante el cumplimiento del procedimiento administrativo previsto para su generación.

Asimismo, para que, un Acto Administrativo devenga en nulo, la norma prevé dos vías posibles;

- A solicitud del propio administrado (Art. 11.1°); por medio de los recursos administrativos previstos en el Título III Capítulo II de la presente Ley, dentro del plazo de quince (15) días de notificado el acto que se desea impugnar, de acuerdo a lo establecido en el numeral 218.1 del Art. 218 del TUO de la Ley N° 27444.
- La propia Administración Pública, DE OFICIO, cuando advierta el vicio incurrido y declare la nulidad del Acto Administrativo (Art. 213° del TUO de la Ley N° 27444);
  - En cualquiera de los casos enumerados en el Art. 10°, aun cuando hayan quedado firmes, siempre que agraven el interés público o lesionen derechos fundamentales.
  - Solo puede ser declarada por el funcionario jerárquico superior al que expidió el acto que se invalida. Si se tratara de un acto emitido por una autoridad que no está sometida a subordinación jerárquica, la nulidad es declarada por resolución del mismo funcionario. Además de declarar la nulidad, la autoridad puede resolver sobre el fondo del asunto de contarse con los elementos suficientes para ello. En este caso, este extremo sólo puede ser objeto de



BICENTENARIO PERÚ 2021



## Territorial conflict and threat to life due to water contamination

In 2000, the community of Puerto Nuevo began the process of gaining title. In 2009, it was only recognized as an “Indigenous community,” but it still did not have title to its ancestral territory, despite repeated requests. In July 2021, and in record time, the company Turbina SAC obtained the concession for 42 thousand hectares in the same area requested by Puerto Nuevo. What is unprecedented is that the community was not notified. In September of the same year (2021), the president of Puerto Nuevo, Rosita Silvano Cushichinari, learned of the existence of Resolution 783-2021/GOREMAD, which granted logging rights to the Chinese company.

Faced with this abuse and evidence of corruption, members of communities coordinated by Indigenous leaders marched to demand the annulment of Resolution 783-2021/GOREMAD and the creation of a Regional Management of Indigenous Peoples.

The company Turbina SAC has as its shareholder the Chinese citizen Xiadong Ji Wu, aka “Fidel”, who is one of the alleged members of the criminal organization called “The Hostiles of the Amazon,” dedicated to illegal logging and timber laundering. The organization was dismantled in 2020 (after an investigation that began

[...] for us, it has been a struggle, and thanks to the marches and strikes we held in front of the Regional Council, we were able to annul the concession given to the foreign company by the former governor, who prioritized foreigners and left the community aside [...]

*Gilbert Zevallos Izurieta, an Indigenous leader of the Yine-Asháninka people, is a member of the Puerto Nuevo board.*



Source: Caritas Madre de Dios Institutional Archive, 2023



Source: Caritas Madre de Dios Institutional Archive, 2023.





in 2017) by the High Complexity Crimes Investigation Division (DIVIAC) of the Peruvian National Police and anti-corruption prosecutors from Madre de Dios. When the concession resolution was granted “expressly,” the irregular processes and corruption among officials were clearly evident. After the marches, meetings with the authorities and pressure from the media at local and national level, the authorities began the administrative procedure of annulment ex officio, achieving the nullity of resolution 783-2021/GOREMAD thanks to all the pressure from the media.

It is worth noting that to reach the community you have to take a three-day trip by “peque-peque” from the city of Puerto Maldonado. The trip to the community alone costs around 4,000 Peruvian soles. The distance, the amount of fuel and its cost, added to food and time is what makes any management expensive. Without being able to afford these costs, causes that would benefit communities are shelved due to lack of follow-up or are not reported.

This community, since it was established, began the process of applying for title and it was precisely in this territory, without carrying out the due process of prior consultation, that the Regional Government of Madre de Dios granted concessions to the Turbina SAC logging company, which allegedly had direct links with the governor of the time<sup>32</sup>, accused of corruption and of being part of “The Hostiles of the Amazon,” favoring forestry concessionaires, specifically the Chinese company to which the concession was given, who were also part of the “criminal organizational network.”



<sup>32</sup> The former governor, Luis Hidalgo Okimura, was removed from office in 2022 as a result of his sentence by the Third Preparatory Investigation Court of Tambopata, which decreed 36 months of preventive detention against the regional governor Luis Guillermo Hidalgo Okimura and others investigated on February 19, 2022, for “The Hostiles of the Amazon” case.



The state itself has put the Indigenous community of Puerto Nuevo at risk and, at the same time, the brothers and sisters of the Indigenous peoples in voluntary isolation, since the communities of Puerto Nuevo and Monte Salvado are “amortization zones” of the Madre de Dios Territorial Reserve. PIACI sightings have always occurred, but the latest encounters have not been peaceful, and this is possibly caused by the presence of illegal and legal loggers.

In addition to this harsh activity, there is the illegal activity of “mining” which directly affects the community’s water sources, contaminates the Las Piedras river and fish with mercury, which directly affects the life of the community, as well as the rest of the settled communities in the Las Piedras river basin, and even more so the PIACI who are inside the territory and only live by collecting fruit, hunting and fishing





## Main threats: territory and resources

The main threats are:

- The impact is due to the high risk posed by illegal loggers, who clear hundreds of hectares of forest. To this end, one solution that could be given would be to call on the Regional Government, the Environmental Prosecutor's Office, the Environmental Police and SERFOR, so that they can carry out operations and dismantle the illegal camps.

- Today, the PIACI population is under threat in our territory. The government has been giving concessions to third parties within the PIACI territory, causing confrontations, and this population is increasingly entering the territory, generating possible confrontations, as has happened before.

- The constant presence of illegal miners within the territory brings with it the deforestation of forests and the contamination of rivers and fish with mercury.

- Contamination with oils, lubricants and fuels from heavy machinery for extractive activities within the territory.

- The opening of roads by legal and illegal loggers has also become a direct threat to the community, facilitating the presence of land invaders.

- Requests for private conservation units by private companies and non-governmental organizations, which could put the communities settled in the basin at risk, since the state seems to favor third parties and not the Indigenous people.

- The Puerto Nuevo community is proposing as a solution to the government that the areas should not be granted without "prior consultation" in the entire sector of the Las Piedras river basin.

- The contamination of fish with mercury. According to the study carried out by SERNANP<sup>33</sup>, the sampling reflects mercury contamination, exceeding the permitted limits despite the fact that the mining activity is not carried out in the community, so direct contamination occurs due to the direct consumption of fish. When analyzing the risks of Hg and MeHg on human health, it was found that the consumption of food such as fish contaminated by Hg mainly causes neurotoxic, immuno-toxic, teratogenic and reproductive system effects, with children being one of the most sensitive population groups; affecting the health of all members of the community.

- Flooding in the rainy season due to climatic variations.

- Possible forest fires, especially in summer; the heatwaves and long droughts of recent years have caused the forests to dry out.

**Faced with these threats, the first ones to be directly affected are:**

- Indigenous population in isolation and initial contact (PIACI), which has a presence in the area, being its ancestral territory

- Families from the Indigenous community of Puerto Nuevo -Yine - Asháninka

- Original communities settled on the banks of the Las Piedras river basin (07<sup>34</sup>)



33 SERNANP: Servicio Nacional de Áreas Naturales Protegidas por el Estado.

34 Communities of the Las Piedras River Basin: Santa Teresita, Boca Paríamanu, Tipishka, La Victoria, Santa Alicia, Puerto Nuevo and Monte Salvado.





Source: Caritas Madre de Dios institutional archive, 2021.

## Rights affected

### • Right to prior consultation

By giving forest concessions to large companies, the right to prior consultation is violated, even more so if the community has been settled for more than two decades and is recognized by resolution, like the “Yine-Asháninka” Indigenous people.

They have been exposed to imminent danger and this right has been violated by facilitating the presence of legal and illegal loggers, affecting their culture, their organization, their ancestral activities and subsistence activities, as well as their coexistence with their natural environment, and they have been threatened.

### • Right to territory: live freely in their own territory

This right refers to the ability of peoples and communities to control and manage their pieces of land, territories and natural resources, and to maintain their culture, identity and ways of life.

For hundreds of years, Indigenous peoples have lived in harmony with the forest and the resources that exist within it. By exploiting them without any control and carrying out activities that pollute, the lives of current and future generations of the community have been put at risk.

### • Right to water

The human right to water is an internationally recognized right and derives from the right to an adequate standard of living.

Indigenous peoples have lived in harmony with their forest for hundreds and thousands of years. The Yine people have a direct relationship with water; they were and are known as the “navigators”; they explored new rivers due to their excellent ability to move along the more flowing rivers, and their main characteristic is to settle on the banks of the basins. This respect for resources and elements is directly related to their physical, spiritual, cultural and economic well-being.

Extractive activities pour lubricants, oils, fuels and mercury into the main water sources that are consumed directly by families, the elderly, women and children, which has serious repercussions on life and health.

[...] first of all, we also need to consult beforehand, because the state comes and does not consult at all; many times foreigners have come to visit us indicating that soon we will have to leave because the State is the owner and they are going to grant plots [...]

The Community.

The right to prior consultation is a fundamental right that allows Indigenous peoples to request a prior consultation process or to include it in an initiative, because they consider that the measure to be approved could affect their collective rights.

### • Right to free self-determination

This right allows peoples to decide their form of government and organize themselves freely, without interference from foreign countries, with the aim of achieving greater social, cultural and economic development.



## • Right to health

Everyone has the right to a standard of living adequate for the health and well-being of themselves and their family, including food, clothing, housing, medical care and necessary social services.

The Yine people have long been known for their ability to navigate. Fish has therefore been an essential element of their diet throughout their history. When water is contaminated with mercury sediment (Hg), fish are also contaminated. The main food in the diet of the members of the Indigenous community of Puerto Nuevo is fish. According to studies, mercury has been found in some people's bodies at higher levels than permitted. Likewise, skin diseases, the most vulnerable of which are children who, day after day, bathe in rivers and streams.

As a result of extractive activities, the right to health of community members has been violated due to the contamination of water by mercury and other substances that extractors pour into it.

## Conclusions and proposals

There is a constant threat of being invaded because they do not have title to their territory. Despite the adversity, the Puerto Nuevo community continues to demand that they be granted ownership of their ancestral territory.

1. The authorities must carry out prior, free and informed consultations before any initiative is developed within the area settled by the community, such as forestry and/or hydrocarbon concessions.

2. Control of the entry of third parties into the territories of Indigenous communities, thus guaranteeing the lives of the members of the original community of Puerto Nuevo and the PIACIs, a population that is extremely vulnerable to diseases such as influenza A and B, parainfluenza, rotavirus, whooping cough, measles, etc.

3. Greater control of selective logging. The National Forestry and Wildlife Service (SERFOR) reported that in 2015 alone, 86.69% of "Shihuahuaco" lumber throughout the country came from Madre de Dios. It is important that SERFOR in Madre de Dios has more logistics and personnel to monitor and control logging.

4. The Regional Roundtable for Forest and Wildlife Control and Surveillance, provided for in the Forestry Law, which includes different public actors such as: The Public Prosecutor's Office, the Peruvian Army, the National Police, SUNAT, ANA, OSINFOR, SERNANP, should prioritize the control zone in the Las Piedras River Basin because it is the logging point.

5. Forest Management should hold informative workshops and, in coordination with FENAMAD (which has been training forest inspection agents to monitor their own territories), train in the Early Warning Procedure Mechanism (PAT, for its acronym in Spanish) for the settled communities in the river basin and Las Piedras.

6. Implementing policies, laws and regulations that guarantee the traceability of all timber marketed, from the sourcing, transportation and sale of each batch of timber, ensuring that the timber marketed comes from legal farms that are committed to and act in favor of the conservation of life.

7. Periodic mercury tests should be carried out on people, especially children and pregnant women, to assess Hg levels that could have serious health effects.

8. Monitoring for dermatological analysis, since the skin is exposed to polluted rivers and streams.

## 2.2.4 Atabapo Municipality, Amazonas State (Venezuela)

### Geographical context of Yapacana Hill

The monumental Yapacana Hill is located in the southwestern sector of the Guiana Shield, in the central-western region of the municipality of Atabapo, Amazonas State, Venezuela, between the Orinoco River to the south and the Ventuari River to the north and the Yagua Channel to the west. This hill was declared a National Park by the government of the time on December 12, 1978. Cerro Yapacana National Park covers 320,000 hectares and is home to various Indigenous peoples, such as the Curripaco, Baniwa, Yeral, Warekena or Owottojja, etc.

Due to its geographical location, this hill is bordered to the north by the confluence of the Ventuari and Orinoco rivers; in the southern sector, with the junction of the Yagua channel with the Orinoco (it passes through the midpoints of the islands of Yagua, Corocoro, Araguato Cárda, Mata de Palma and Gallineta, until it reaches the island of Perro de Agua); in the eastern sector, with Tabacapi Island; and in the western sector, it continues downstream along the course of the Orinoco River (passing through the midpoints of Sinforosa, Totuma and Moya until it reaches Isla Macuruco).

There is currently mining activity in the Cerro Yapacana area. This activity began in 2004 and increased between 2012 and 2014 due to hyperinflation in Venezuela.



## Historical Context of Mining in the State of Amazonas (Venezuela)

More than 30 years ago, mining activity began in the area with the use of mining dredges by groups of prospectors. This activity extended from the Upper Orinoco to the Atabapo and Autana sectors. Illegal mining is currently a very common economic activity, as it is conceived as a means of subsistence for Indigenous peoples in the midst of the national economic crisis.

Since 2016, mining activity has expanded alarmingly due to the implementation of the government's "Orinoco Mining Arc" project, which has affected the states of Bolívar, Delta, Amacuro and part of Amazonas. In these areas, irregular groups such as el Sindicato, Farc, ELN and miners have seized more territory and lured Indigenous people into becoming miners. Faced with this reality, many organizations such as COIAM (Coordinator of Indigenous Organizations of Amazonas),

the Human Rights Office of the Apostolic Vicariate of Puerto Ayacucho, S.O.S Orinoco, MOINADDHH, KUYUNU, KUYUJANI, OIPUS, among others, began to promote the defense of the human rights of Indigenous communities in the face of mining extractivism.

There are factors that have contributed to the expansion of illegal mining. Firstly, the rapid expansion is due to the ease of transportation of diesel from PDVSA (Petróleos de Venezuela S.A.) to the mines. Another important factor is the lack of control and oversight by the state, despite the existence of laws such as the LOPCI (Organic Law on Indigenous Peoples and Communities), the Territorial Demarcation Law, the Organic Law on the Mega Freshwater and Biodiversity Reserve of the Southern Orinoco and the Amazon and the Cultural Heritage Law. Organizations such as FUNDAREDES and Kape Kape have denounced with evidence, both testimonial and documentary, not only the ethnocide of Indigenous peoples, but also the ecological destruction of the Cerro Yapacana National Park.



Source: S.O.S Orinoco, 2022.

The Indigenous peoples found in this explored area are the Arawako and the Uwottojja. According to the last census of Indigenous peoples in 2011, one of the peoples

with the largest population after the Yanomami is the Uwottojja.

<b>No</b>	<b>Indígenas People</b>	<b>Population Quantity</b>
<b>1</b>	Uwottojja	19.293
<b>2</b>	Kurripaco	7.351
<b>3</b>	Piapoco	3.714
<b>4</b>	Warekana	620
<b>5</b>	Baniwa	3.501
<b>6</b>	Yaral	2.130

Census 2011. INE. Amazonas. Venezuela.



## Faces of concern about the impact of extractivism and disappearances in Yapacana:

**Monsignor Jhonny Eduardo Reyes**, as **vicar of Puerto Ayacucho**, after his pastoral visit (mid-January 2023) to the municipalities of Atabapo and Manapiare, sent a report to the Venezuelan Episcopal Conference and the Amazon Synod Commission about the devastation in the area he visited:

I want to share with you part of my Christmas and New Year's experience sailing down the Amazon rivers (Orinoco, Atabapo, Ventuari): what I saw, heard and suffered... It is a story intended to make visible a situation that is as special as it is "abnormal," which has existed for years and has been accepted as something "normal" and which is being justified with arguments typical of populist demagoguery, seeking to justify the unjustifiable, legalize the illegal and defend the indefensible. This is a "special situation" which, in my opinion, requires the intervention and public pronouncement of the civil and military authorities, at the risk of losing popularity among the actors in this situation [...].



Lawyer **José Mejías**, a **Baniwa** Indian, tireless social activist and coordinator of FUNDAREDES AMAZONAS, has experienced first-hand the consequences of extractivism, realizing that his people are in precarious health and education conditions. For this reason, he trains civil society to know their rights so that they are not violated by irregular groups in the Zone. He also denounced the difficult situation that Cerro Yapacana is going through and even filed a report on the disappearance of Denny Carrasquel, a young woman from Puerto Ayacucho and mother of a baby girl, who sold motorcycles near Cerro Yapacana and was the victim of undue tax collection by the ELN. For refusing to make the payments, she has been missing since April 29, 2023 and so far there has been no news of her whereabouts. The Mejías Coordination, together with other organizations such as FUNDAHULLAN and FE Y ALEGRÍA, continue to denounce and demand information on the whereabouts of this young woman.



There is a second disappearance in the area: Baniwa Indigenous leader Wilberto Camico, from the Macuruco community, who disappeared in mid-December 2022. He was last seen with a member of the FARC dissidents.



**Denaida Alvarez Arana**, from the **Uwottüja people**, which means “people of the jungle”, a law student, said:

! **My life before the arrival of mining was very peaceful, I shared it with all the inhabitants of my community, I lived in peace with everyone, there was no reason or cause to be in conflict with my people. But with the arrival not only of the mining industry, but also of external groups, what is happening today began to happen: many of our brothers moved to the areas where they work extracting these minerals, creating a problem that gradually divided us into two groups: some of us who want to preserve not only Mother Nature, but also our sense of belonging, our language, way of life, etc. and to be peaceful when it comes to solving problems that, year after year, have identified us as a people of dialogue, for those of us who still believe in and preserve all the principles that our grandparents gave us, is a gift with which we sustain ourselves. But they live this unstable life offered by mining; speak and act as if they were blindfolded. When they went into that life, they lost everything. For them, what our mother earth offers is no longer valuable.**



She also comments that, with the arrival of mining, her community was affected by the division: “Because of extractivist activity, there has been a fragmentation within our people in which hatred, resentment, envy; many anti-values are practiced today. The harmony that used to exist is gone and trusting blindly as before is also something that has been lost. The vast majority of our people today are our enemies, not because we decided they would be, that is just the way they are; on the contrary, all this happened because they decided it would be like this. They see us as the enemy because we want to preserve our nature, because we do not let them destroy our home and so we put limits on their actions.”



Photo: Alvaro Jaime



## Human rights violations in Atabapo

“Article 119. The State shall recognize the existence of Indigenous peoples and communities, their social, political and economic organization, their cultures, uses and customs, languages and religions, as well as their habitat and original rights over the pieces of land they occupy ancestrally and traditionally and which are necessary to develop and guarantee their ways of life. It will be up to the National Executive, with the participation of the Indigenous peoples, to demarcate and guarantee the right to collective ownership of their pieces of land, which will be inalienable, imprescriptible, unseizable and non-transferable in accordance with the provisions of this Constitution and the law,” **Constitution of the Bolivarian Republic of Venezuela of 1999.**

This article is related to the defense of the constitutional right to defend Indigenous territory. Some leaders like Virgilio Arana and Sabino Romero gave their lives to defend this right. For this reason, the Venezuelan state owes a historic debt to the Indigenous peoples.

At the beginning of this year (2023), acts of violence began to appear on the part of the CEOFANB (Strategic Operational Center of the Bolivarian National Armed Forces), through Operation Autana, in charge of evicting illegal miners (Creoles and Indigenous).

### Right to territory

Since the increase in mining activity in the Atabapo, the Indigenous population has been forced to leave their territories, a situation known as “The Indigenous Exodus.” According to the study carried out by the Amazon Scientific Research Group (GRIAM), in 2023 extractive activity increased by 5,000% and expanded into the municipalities of Maroa, where mining rafts were discovered, which were denounced by the municipal authority, Mr. Florizel Guerrero. In Manapiare, where small mines were discovered, they were also denounced by the Yekuana people. The other municipality affected by this activity is Alto Orinoco, where the Yanomami people have been denouncing mining activities as responsible for affecting their wellbeing, their rivers and the effects on children.

It is worth noting that these peoples do not have territorial titles as established by the Organic Law on Indigenous Peoples and Communities (LOPCI) and the Territorial Demarcation Law.

### Indigenous right to health

The Indigenous right to health has been affected by the situation of the Yapacana in the municipality of Atabapo. As a result of this situation, the prospectors and several Indigenous people from the town set up checkpoints throughout the territory to collect vaccines from any boat that passed through the Atabapo River. As a result, many social aid boats carrying food and medicine did not reach their destination, which affected the people living in different villages.



## **Right to food**

Food is affected by the exploitation of the land by large machines and the contamination of water. The Indigenous peoples of the Atabapo areas are unable to grow their own food and have to look for informal paid work, moving to Puerto Colombia to be able to buy their food with Colombian pesos.

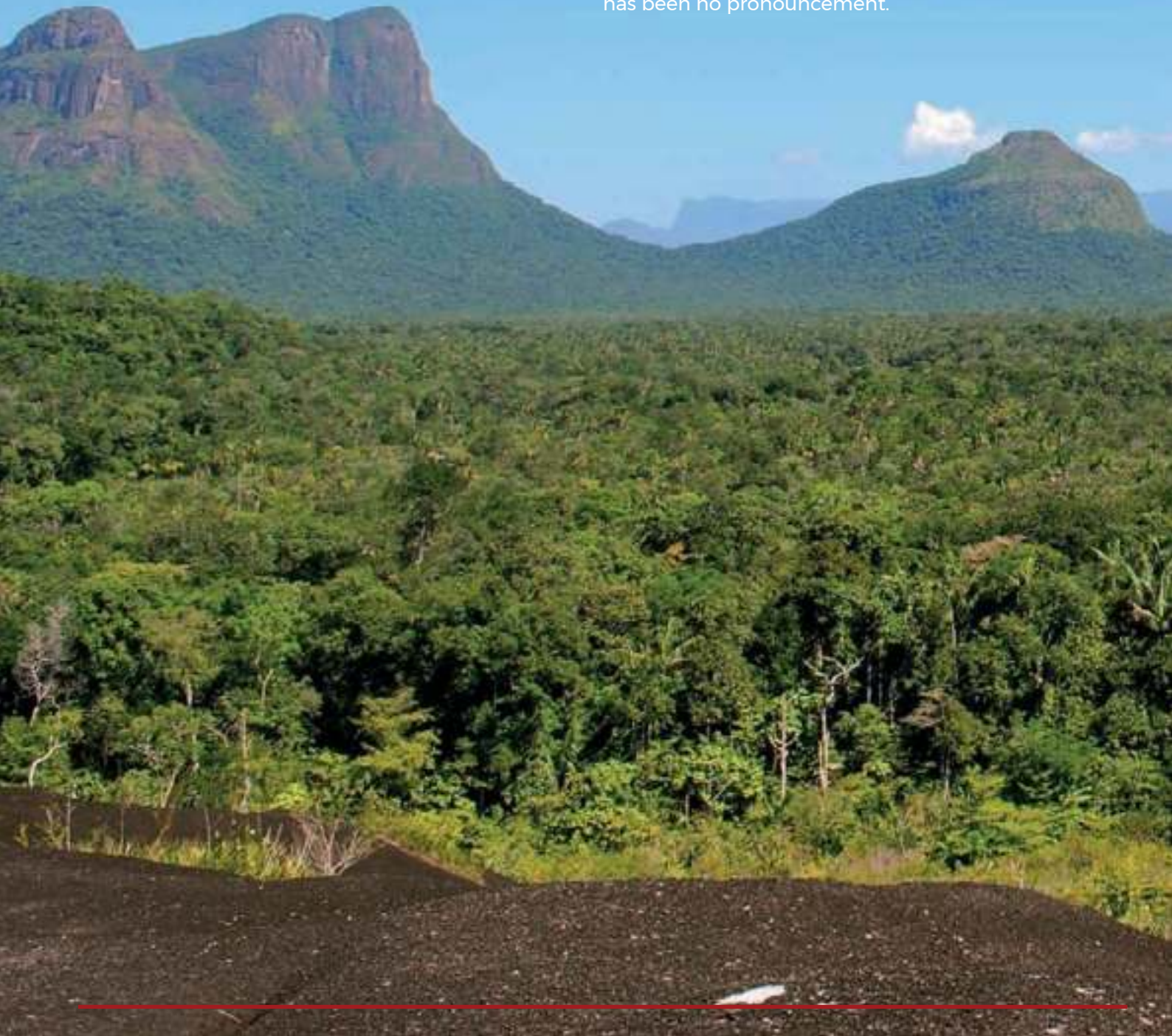
It is one of the rights most affected by mining activity in Cerro Yapacana. With this activity, ecocide is being committed in the Venezuelan Amazon. The contamination of the Atabapo River is “something that hurts,” since water is a source of survival, as it is where food comes from. Water contamination causes various diseases that cannot be treated because there is no health center and because of the strict controls of certain irregular groups.

## **The right to one's own identity**

It is a right to have an identification document. Unfortunately, the presence of irregular groups in the territories has made it difficult to guarantee this right. Indigenous peoples are also isolated in their territories for fear of being invaded. The Venezuelan state should make the communities more accessible and not concentrate on the cities, as well as giving them free passport processing, since these populations border Colombia and Brazil.

## **Right to self-determination and prior consultation**

In 2000, the leaders of different communities in the municipality of Atabapo held a meeting with the FARC. At that meeting, the communities asked for mining activities to be withdrawn from their territory because they were being carried out without prior consent. This information was published by our sister organization S.O.S Orinoco. On the other hand, the denunciations of these leaders were heard in Caracas before government bodies and so far there has been no pronouncement.







It is worth noting that the presence of these irregular groups in territories such as Atabapo violates the right to prior consultation declared by the LOPCI.

### **The right to one's own education**

Many Indigenous parents have been forced to migrate with their children to the border so that they can have access to a better education. Indigenous teachers, on the other hand, engage in mining activities as a means of survival. It is worth mentioning that there are schools in the area that have been completely abandoned due to the high dropout rate.

Cerro Yapacana is a very violent area due to mining activities and clashes between miners (Indigenous and non-Indigenous) and the FANB (Bolivarian National Armed Forces). When the military's "Autana Operation" was set up with the aim of expelling the illegal miners, a series of clashes broke out, resulting in several injuries and deaths. On September 13, 2023, in the early hours of the morning, the eviction by military officers began despite the fact that, 20 days before this confrontation, a voluntary eviction agreement had been reached with the Yapacana Human Rights Committee. The authorities began the forced eviction, resulting in around 51 arrests, more than 10 injuries and 3 deaths.





As a result of all this confrontation, Indigenous organizations reacted with a nationwide denunciation. The organization MOINADDHH (Indigenous Movement for Human Rights of Amazonas) and COIBA (Bolivarian Indigenous Confederation of Amazonas), led by lawyers Pablo Tapo and Roberto Yavinape, addressed the media and national and international organizations to publicize the concern and suffering of the families of the Indigenous people injured, killed and displaced in Yapacana.

## Proposals

### 1. Integral territorial demarcation

The Indigenous peoples of Amazonas, through grassroots organizations, have requested territorial demarcation from government bodies such as the Ministry of Indigenous Peoples' Power, the People's Public Defender's Office (Amazonas, Venezuela) and their Indigenous deputies, including the Public Prosecutor's Office, in order to resolve the problems due to the fact that the Indigenous peoples' territory suffers from constant invasions and the presence of illegal miners and groups who contaminate and exploit the land without the population's permission.

### 2. Health and food assistance for Indigenous Peoples affected by illegal mining in Yapacana

Indigenous Peoples are affected by mining contamination, especially children, who suffer from diarrhea and malnutrition. It is extremely important that the Venezuelan state cooperates with non-governmental organizations to help the affected population.

### 3. The Venezuelan state must relax migration policies in favor of Indigenous peoples

As a result of mining activities and the expansion of irregular groups in the Indigenous territories of Atabapo, many young Indigenous people have migrated across the Colombian border through the ports of Inírida or Carreño. Through Brazil, passing through São Gabriel de

Cachoeira. These facts should lead the Venezuelan state to implement a policy of accessibility to identification documents, such as the Indigenous identity card and the free passport, to prevent citizens from becoming undocumented.

### 4. Recognition of Indigenous jurisdiction as a legal support mechanism in the Supreme Court's judicial system

The National Assembly's Standing Committee on Indigenous Peoples decided to declare Indigenous jurisdiction to have the status and force of law. It is important that the Supreme Court of Justice cooperates and strengthens ties with this Commission to deal with cases of conflict in the territories, especially on environmental issues due to the presence of illegal miners.

### 5. Train and sensitize the Bolivarian National Armed Forces on the rights of Indigenous peoples

The authorities, both police and military, are unaware of the rights of Indigenous peoples, which leads to arbitrary arrests and mistreatment of Indigenous brothers and sisters. It is important that the Ministry of People's Power for Defense cooperates with organizations working in the field of Indigenous human rights and recognizes Indigenous Jurisdiction in order to offer better guarantees, treatment and attention to our peoples.

### 6. Creation of a technical committee

A technical committee of all the actors that make up the Yapacana territory: the government, the representation of the communities that make up Atabapo, the Yapacana Human Rights Committee, the representation of the United Nations including humanitarian architecture, among others, in order to address the current problem with **concrete solutions**, as well as the promotion of **integral ecology** and **circular economy** in this territory so that **Cerro Yapacana can be seen as a natural and ancestral symbol**.



Source: Yapacana Indigenous People resist the 1st eviction attempt, 2023.

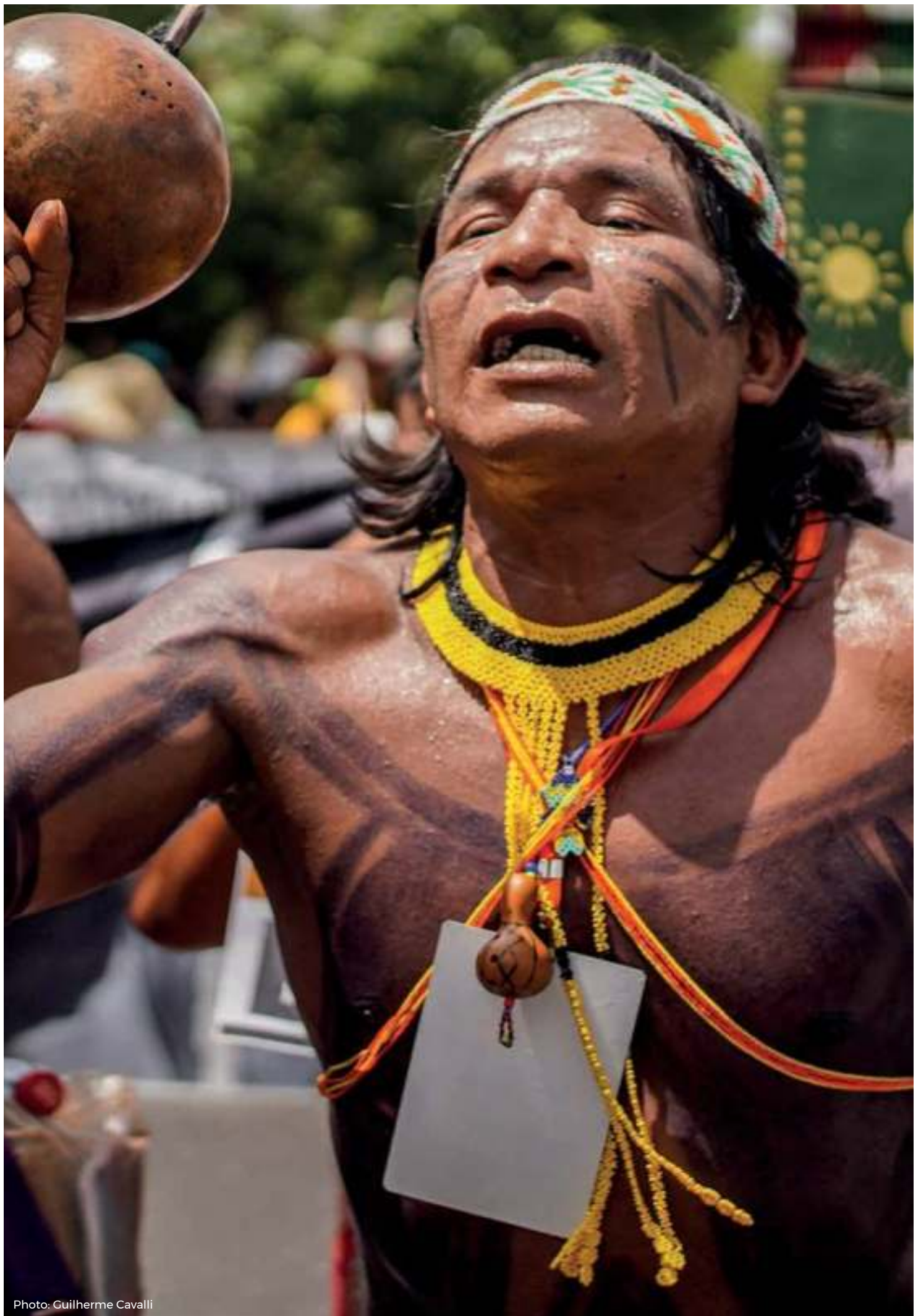


Photo: Guilherme Cavalli



# CHAPTER 03

## 3.1 Right to a healthy environment

In the current climate crisis, protecting the environment is imperative. The links between environmental law and human rights can now be seen in the consensus between environmental protection, the struggle for survival and the protection of life<sup>35</sup>. In this sense, environmental law and human rights should be understood as complementary rights. Therefore, “without a healthy environment, we cannot fulfill our aspirations, or even live at a level commensurate with minimum conditions of human dignity”<sup>36</sup>.

With the Stockholm Declaration on the Human Environment (1972), the first concerns about environmental degradation began to emerge: “Man has the fundamental right to freedom, equality and the enjoyment of adequate living conditions in an environment of such quality as to enable him to lead a life of dignity and well-being.”

After Stockholm, the main treaties that form the legal block for the protection of the right to a healthy environment are:

- The publication of the report Our Common Future (1987), which states that “meeting the needs of the present generation” should in no way jeopardize the lives of “future generations”
- The 1987 Montreal Protocol and the commitment to restore the ozone layer by 2050
- The Convention on Biological Diversity (1992)
- Convention 169 on Indigenous and Tribal Peoples in Independent Countries (1989)
- “Measures to Protect Ecology in Tropical Forests” (October 1990)
- The UNCED Declaration of Legally Non-Binding Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (UN 1992)
- The Rio Declaration on Environment and Development (1992)
- Agenda 21: Sustainable Development Action Program

- The European Commission Report on “Environmental Problems in the Amazon Region”

- The Declaration on the Rights of Indigenous Peoples (2007),

- The Paris Agreement (2015).

To protect the environment, the Inter-American System for the Protection of Human Rights has two tools at its disposal: the American Convention and the treaties that complement it. The Inter-American Commission on Human Rights (IACHR), on the one hand, and the Inter-American Court of Human Rights, on the other. Through the Court, it is contributing to the development of environmental jurisprudence. The environmental defense cases developed by the Court are made through the defense of the ancestral territory of Indigenous communities. This is because the environment is complex, of diffuse interest and, due to their recognition within ESCR<sup>37</sup>, they fall within the group of collective rights.

The American Convention on Human Rights does not recognize the right to an environment specifically, but rather, through a broad interpretation of Article 26, urges States Parties to fulfill their duty to respect economic, social and cultural rights. In search of more direct and effective protection of economic, social and cultural rights, the OAS states signed the Protocol of San Salvador, which includes the right to a healthy environment in Article 11:

**1. Everyone has the right to live in a healthy environment and to basic public services**

**2. States Parties shall promote the protection, preservation and improvement of the environment**

This protocol offers the possibility of enforcing the right to enjoy a healthy environment, linking it to other rights recognized both in the American Convention and in the conventions and protocols that implement it.

“The States Parties undertake to take measures, both internally and through international cooperation, especially economic and technical, to achieve progressively the full realization of the rights deriving from the economic, social, educational, scientific and

<sup>35</sup> <https://www.corteidh.or.cr/tablas/r37170.pdf>

<sup>36</sup> OHCHR, Special Rapporteur on human rights and the environment.

<sup>37</sup> <https://www.ohchr.org/es/human-rights/economic-social-cultural-rights#:~:text=Los%20derechos%20econ%C3%B3micos%2C%20sociales%20y%20saneamiento%2C%20y%20al%20trabajo>



Photo: Culherme Cavalli

cultural standards contained in the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires, to the extent of available resources, through legislation or other appropriate means.”

The treaties we have mentioned above are instruments that can be used in the Inter-American Commission and the Court, not to declare violations of articles, but as a framework for interpretative and evaluative development in cases involving the environment, giving state courts the possibility and facility to improve protection in cases of environmental deterioration. As an example, within the jurisprudence of the Inter-American System, we have the 1997 report on the Human Rights Situation in Ecuador:

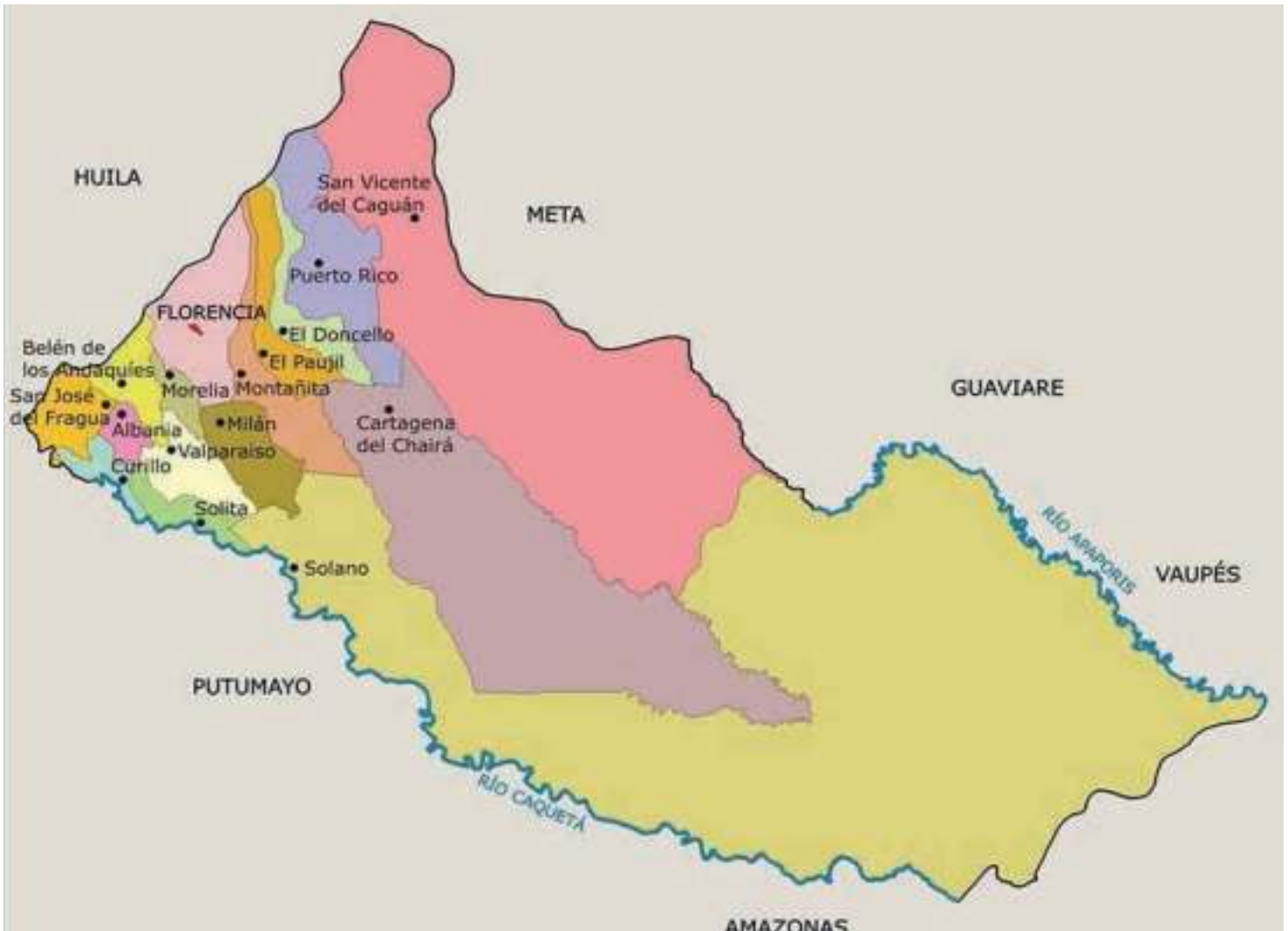
[...] The conditions of severe environmental contamination, which can cause serious physical illness, disability and suffering to the local population, are incompatible with the right to be respected as a human being.

[...] To achieve effective protection against ecological conditions that pose a threat to human health, it is imperative that the population has access to information, participates in relevant decision-making processes and has access to legal remedies.

The report includes actions related to pesticide contamination in agribusiness activities, inadequate implementation of infrastructure and extractive projects, air pollution in cities, low water availability in the poorest sectors, lack of interest in planning human settlements for peasants and other entrepreneurial actions, which need to be controlled with protection standards. This implies that the protection bodies of the Inter-American system should begin to be used to create jurisprudence on these points. Until now, the only way to protect the environment was by protecting the territories of Indigenous communities.

So, you only have to look at reality honestly to see that there is a great deterioration of our planet. There are regions of the world, such as the Pan-Amazon and its peoples, that are particularly at risk and need our immediate action in this regard.

With this report, we propose to promote integral ecology, given the pressing situation of the planet and the Amazon, not as a possible path to choose for the future in this territory, but as the only possible path, based on the proposals made by those who took part in this report.



Source: Government of Colombia - Political-Administrative Division of Caquetá, 2023

## 3.2. Realities

### 3.2.1 Peasant communities in the municipality of San Vicente del Caguán, Department of Caquetá, Colombian Amazon

The Department of Caquetá is made up of 16 (sixteen) municipalities. Most of the other municipalities are in the sixth category (15 municipalities). There is evidence of sparsely populated municipalities with low economic and social development, with great inequalities in the development of the Department.

Caquetá's hydrographic system is extensive. This department is interconnected with the Apaporis, Caquetá, Caguán, Orteguita, Yarí, Cabuya, Cuemaní, Mesay, Peneya, Pescado and Sinsuya. The average annual temperature is 28 °C and the relative humidity is high, with values close to 80%<sup>38</sup>.

#### Economic activity

Productive activity in the department is concentrated on livestock activities, especially cattle breeding. Agricultural production is limited to the cultivation of a few traditional products such as corn, bananas, rice and cassava. In the Department, the agricultural, fishing and forestry sectors are making efforts, sometimes in isolation and without the presence of the state, to establish processes to strengthen the production chains of cocoa, rubber, wood, forestry, meat, dairy products, flowers, fish farming, bananas, specialty coffee and sugar cane. There are currently three productive activities with a competitiveness agreement signed and registered with the Ministry of Agriculture and Rural Development: cocoa, rubber and livestock (meat and milk). For Caquetá, the two main sectors that make up the GDP are the services sector and the agricultural sector. Historically, livestock farming has been one of the Department's most representative economic activities<sup>39</sup>.

<sup>38</sup> <https://www.todacolombia.com/departamentos-de-colombia/caqueta/hidrografia.html>

<sup>39</sup> [Análisis-de-Situacion-gobernacion%20del%20CAQUETA.pdf](#)

## Historical Context of Colonization and the Beginning of Deforestation in the Caqueteño Piedmont 1905-1940

The colonization process that took place in the foothills<sup>40</sup> of Caquetá in the period 1905-1940 was the product of the confluence of different actors and factors: the interests of regional businessmen, such as the cattle ranchers of Huíla, the livestock companies and farmers at national level, who carried out colonization projects based on the use of landless settlers' labor. These settlers moved from Huíla to the foothills of Caquetá in search of better living conditions for themselves and their families.

Colonization is seen as a mechanism to encourage the process of occupation and exploitation of the territory by external agents (rubber tappers and settlers), through the granting or illegal appropriation of vacant land on which animals (cattle, horses, mules, pigs, poultry) should be cultivated and raised.

The expansion of agricultural production for export was the main stimulus for rural economic growth at the end of the 19th century. However, it is worth mentioning that the territory of Caquetá, in the mid-19th century, was perceived as an empty and wild space. But in the last century, the eastern plains and jungles in general, the low and hot pieces of land of the country, came to be seen by the elites as spaces for the extraction of wealth, as territories to be civilized and as spaces for settlement through the phenomenon of colonization<sup>41</sup>.

## Historical Context of the Agricultural Transformation of the Piedmont - 1910-1940

From the three zones of occupation that were formed in the period 1885-1910, the process of colonization took place in the foothills of the Caquetá between 1910 and 1940, as a result of the transformation of the forest into pastures for animals and cattle.

The disintegration of the rubber companies left some of their partners settled in areas of Caquetá as owners of land that was later transformed into cattle ranches, which would be the model for exploiting the land between 1910 and 1940.

The Caqueteño foothills were transformed into an area of ever-growing livestock expansion as a result of settlers cutting down forests to convert them into pastures for raising cattle. This process was consolidated in the Piedmont in the second half of the 20th century and spread to the Amazonian plains, which continue to incorporate thousands of hectares each year for livestock farming in the Department of Caquetá.

The development of cattle ranching is the product of established interests in Huíla, who saw in Caquetá the possibility of extracting rubber and, in turn, expanding cattle ranching on a large scale. The forest has been cut down permanently for more than a century. These reserves of land for grazing have allowed livestock farming to continue its process of incorporating more land<sup>42</sup>. Therefore, the forest is not only a space to be incorporated into the nation, but also a source of wealth, which must be well managed.



Photo: Alvaro Jaime

40 Piedmont is the gap between the prosperity of the center and the backwardness of the periphery; in nature is the transition between the mountains and the plains; in the political-administrative sphere, it stands between centralism, abandonment and incipient territorial development; culturally, it is a mixture of the mestizo Andes and Amazonian indignity; economically, between legality and illegality.

41 <https://repository.javeriana.edu.co/bitstream/handle/10554/14972/MeloRodriguezFabioAlvaro2014.pdf;sequence=1>

42 <https://repository.javeriana.edu.co/bitstream/handle/10554/14972/MeloRodriguezFabioAlvaro2014.pdf;sequence=1>



## Armed conflict

Caquetá has been characterized by major human conflicts motivated by the expansion of the agricultural frontier (extraction of cinchona, rubber, coca, livestock, etc.), the war with Peru, displacement between 1948 and 2002, drug plantations, armed conflict, geographical isolation and misuse of the land (colonization, extraction of timber and other resources, deforestation and unsustainable extensive systems), all of which affect and must be taken into account in the search for orderly development for the future. All these conflict processes that germinated in these agricultural frontier areas, shielded by state abandonment, characterized the centralist politics of the past<sup>43</sup>.

San Vicente del Caguán was the scene of peace negotiations between the Colombian state and the Revolutionary Armed Forces of Colombia - People's Army (FARC-EP). The peace process in Colombia meant the talks that took place between the Colombian government (on behalf of the state) and the FARC-EP guerrillas to put an end to Colombia's internal armed conflict, which began in 1960. These dialogues, which took place in Oslo and Havana, led to the signing of the "Agreement for the Definitive End of the Conflict in Bogotá" on November 24, 2016.

However, it seems that the agreement signed was only on paper. Today, the country continues to be immersed in violence in the countryside, only this time it is no longer the FARC who are the protagonists, but their dissidents, the ELN (National Liberation Army), paramilitary groups in the service of drug trafficking and various irregular groups in charge of maintaining public order in Colombia.

San Vicente del Caguán has become one of the municipalities most affected not only by the violence generated by the disintegration of these armed groups, but also by the abandonment of the governments in power, which have not contributed to solving the problems presented in the territory. One of the biggest problems that this municipality is experiencing and that part of the Amazon is being affected by is deforestation, resulting in a large loss of forest mass caused by anthropogenic actions associated with pasture formation processes, illicit crops, extensive livestock farming, expansion of the agricultural frontier into unauthorized areas and illegal logging, causing a direct change in land use, loss of ecosystem services in the forest and loss and displacement of the fauna that exists in these areas.



Source: Increase in pastures and establishment of livestock farming in the Municipality of San Vicente del Caguán Source, 2023.

<sup>43</sup> <https://repository.javeriana.edu.co/bitstream/handle/10554/14972/MeloRodriguezFabioAlvaro2014.pdf;sequence=1>



# Deforestation in the municipality of San Vicente del Caguán

In San Vicente del Caguán-Caquetá, the forest is dying and already has its tomb, or rather, the tombs are killing it. And we are referring to the felling of trees that are called “tombs” in these pieces of land.

According to IDEAM (Institute of Hydrology, Meteorology and Environmental Studies), San Vicente del Caguán is the municipality with the most deforestation in Colombia, with 19,652 hectares of forest cut down last year (2022). Extensive cattle ranching, land grabbing and, to a lesser extent, illicit crops are the main causes of deforestation in this region.

Deforestation is not a phenomenon of today; it has a history that goes back to the colonization of these pieces of land. For many years, they perceived the jungle as an enemy to be subdued and overthrown. Thus, in the center of San Vicente del Caguán, we have the axe as a symbol of the settlers who migrated in search of a better future for their families.

Landless peasants came from the Andean region, encouraged by the state itself, in search of land to live on. They cut down the forest and transformed it into pastures dedicated first to rubber, then to illicit crops and, lately, to extensive livestock farming, a model that requires large tracts of land and few animals. Thus, land grabbing through mass graves to convert forest into pasture has become a very lucrative business.

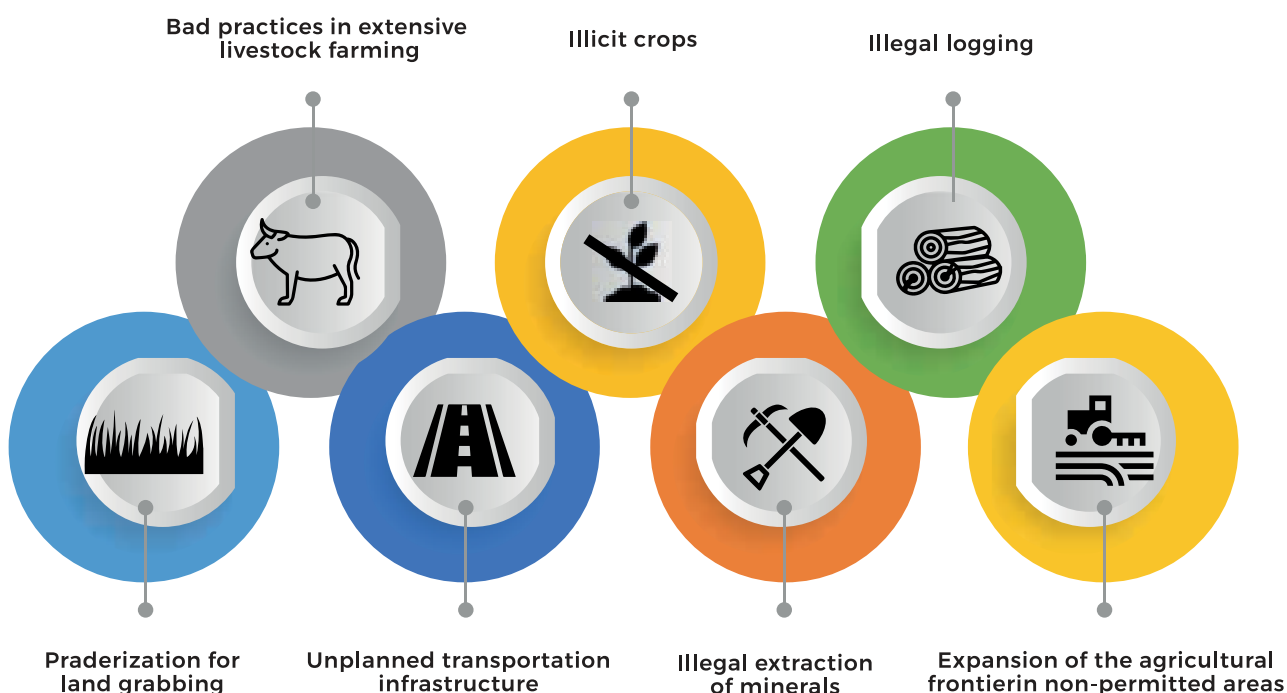
Despite the authorities' best efforts, deforestation in Colombia continues unabated. Last year (2022), **197,159 hectares of forest** were cut down in our country. According to the Sinchi Institute, the Colombian Amazon has 48 million hectares, of which we have lost 10% in the last 25 years. If we continue at this rate, it is estimated that by 2040 we will have lost 30% of our Amazon forest.

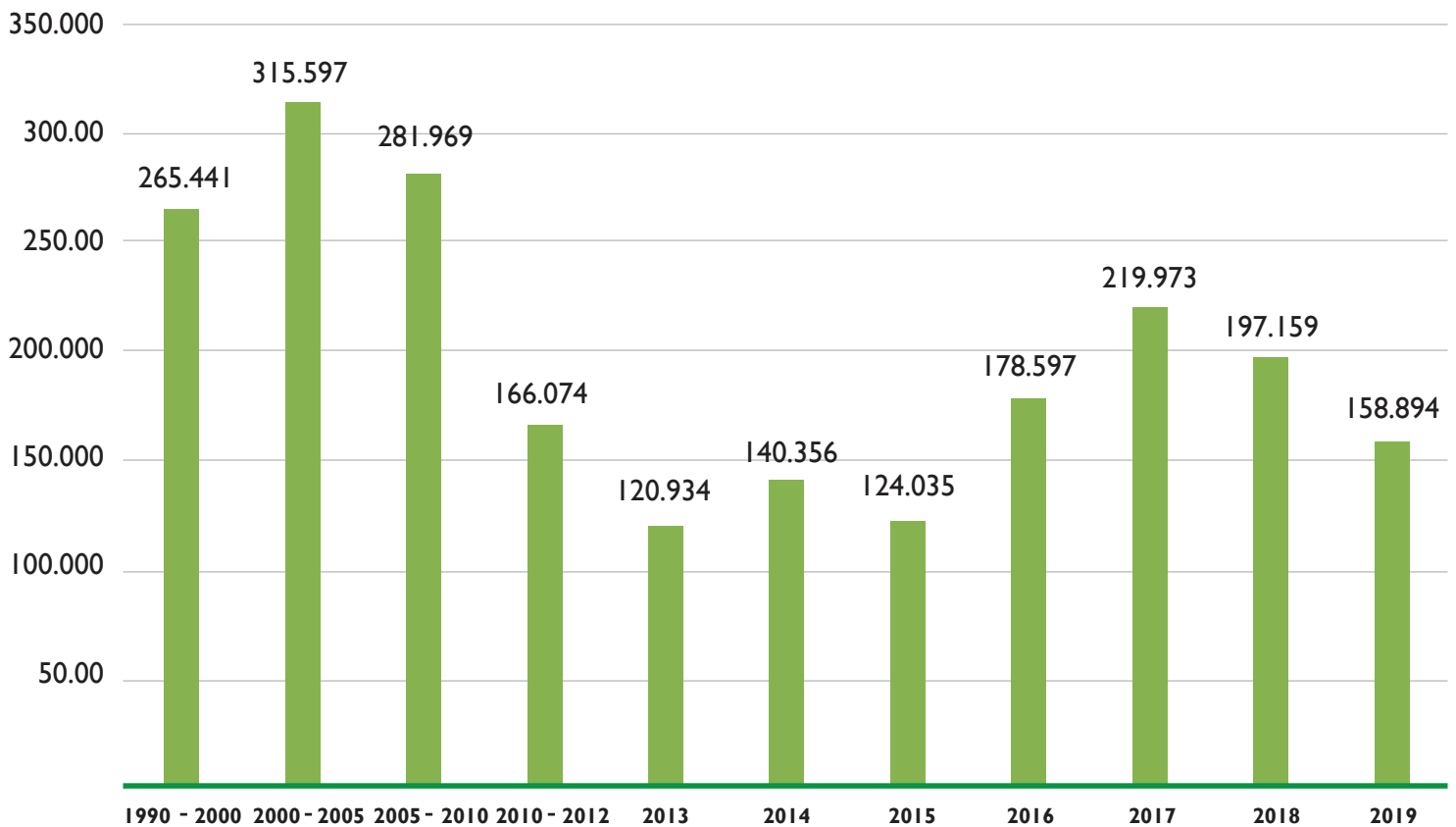
Faced with worrying deforestation figures, the federal government has implemented the environmental bubble, a strategy that seeks to unite environmental authorities, the police and the army in a brigade against deforestation. The results have not been so positive due to the lack of support in prosecuting environmental crimes.

Some peasants have realized that the way out is not to deforest. Their voices can be heard from Caquetá, asking for the presence of the state, asking for tools to modernize their pieces of land and make them more productive.

Colombia still cannot figure out how to stop its biggest environmental problem: the loss of forests. Deforestation continues to advance and hundreds of hectares, especially in the Amazon, are being turned into pastures week after week.

## CAUSES OF DEFORESTATION 2022 Main direct causes





Source: IDEAM - Institute of Hydrology, Meteorology and Environmental Studies (IDEAM), 2023.

With data captured by three satellites, Sentinel-1, Sentinel-2 and MODIS TERRA/AQUA, IDEAM's team of experts, responsible for the Forest and Carbon Monitoring System, confirmed the hotspots of deforestation in the country. Most of the problem is concentrated in eight active nuclei.

The main nucleus is located in the Department of Caquetá, between the Yarí and Caguán rivers. The other seven are: areas near the Caquetá River and the municipality of Puerto Leguizamo; Quito River, in Chocó; Uribe, in Meta; Southwest of Antioquia; Marginal de la Selva, in Guaviare; Tibú, in the north of Santander.

“Due to their economic profitability, pastures used for livestock farming exert strong pressure on the forest, followed in importance by agricultural and mining activities, both legal and illegal,” the report concludes.

It is estimated that between 2000 and 2019, around 2.8 million hectares of forest were destroyed” (CONPES 4021), highlighting one of the country's main socio-environmental problems, which causes damage to ecosystems, produces greenhouse gas emissions and socio-economic problems in rural communities and populations that live together culturally in areas of forest ecosystems, forest reserves established by Law 2 of 1959, SINAP protected areas and ethnic territories.





## Gross Greenhouse Gas (GHG) emissions due to deforestation, year 2022

REGION	Gross emissions (ACB, BCB) KTon CO2eq
Amazon	38.703
Andes	7.226
Caribbean	2.899
Orinoquía	1.169
Pacific	3.958
<b>National</b>	<b>53.955</b>

Source: IDEAM, 2022.

On average, 47% of the country's emissions are related to poor forest management:

- Deforestation: 33%
- Enteric fermentation 14%

During the year 2022, **53,955 KTON of CO2eq** were emitted due to deforestation, of which **71% was due to deforestation in the Amazon region.**

Monitoring deforestation and forest management in the Amazon was one of the court orders set out in STC Ruling 4360 of 2018. This decision is a response to international commitments to the Sustainable Development Goals (SDGs), the Paris Agreement, the New York Declaration on Forests, the Letícia Pact, the Joint Declaration of Intent (JIU) between the Governments of Colombia, Germany, the United Kingdom and the Kingdom of Norway to control deforestation, and the Convention on Biological Diversity<sup>44</sup>.

Ruling STC 4360 established that, within six months, an action plan must be developed to reduce the rate of deforestation in the Colombian Amazon to zero by 2020. This ruling also reflects the spirit of Constitutional Court ruling T-622 of 2016, which establishes the recognition of nature as an authentic subject of rights.

### Violated right: The right to a healthy and balanced environment

According to CONPES 4021, "the largest area of forest in Colombia is in the Amazon, with 39,623,573 hectares (66%), and in the Andes, with 11,338,180 hectares (19%), followed by the Pacific regions, with 5,510,932 hectares (9%); Orinoquía, with 2,121,189 hectares (4%); and the Caribbean, with 1,691,838 hectares (3%) (Ideam and Ministry of the Environment and Sustainable Development, 2019)."

In 2020, more than 171 thousand hectares were destroyed; 70% of Colombia's deforestation was concentrated in the departments of Meta, Caquetá, Guaviare, Putumayo and Antioquia. Once again, the biggest loss is in the Amazon, which went from 98

thousand hectares in 2019 to 109 thousand hectares in 2020" (Luque, Mongabay, July 8, 2021).

The government's strategy to curb deforestation is, on the one hand, military, with Plan Artemisa; and, on the other, social investment projects through payment for environmental services. Both have been criticized by rural communities and populations, since the favorable impact on how deforestation has been halted by military operations is not seen. On the contrary, the operations end up affecting small farmers, as evidenced by the pressure that the Attorney General's Office and the security forces have exerted in territories such as La Macarena and San Vicente del Caguán.

The militarization of environmental conservation through the deployment of military troops in protected areas has led to forced removals, becoming a challenge for the state. Given that, when the Armed Forces are pressured to achieve results, they violate human rights in the territories.

It will be up to the Ministry of Agriculture and Rural Development and the Ministry of National Defense to demonstrate results in the effectiveness and efficiency of the development of the assigned strategies. On the other hand, the Congress of the Republic will have to hold debates to control and monitor the formulation and fulfillment of CONPES 4021 strategies in the coming years.

<sup>44</sup> [https://gggi.org/wp-content/uploads/2023/07/Deforestacion-y-Derecho\\_Manual-Judicial.pdf](https://gggi.org/wp-content/uploads/2023/07/Deforestacion-y-Derecho_Manual-Judicial.pdf)



Photo: Istock Images by Laszlo Mates



## Proposals

1. Structural reform of the national environmental system and the creation of a single legal instrument that links all government entities, organizations and officials to an appropriate mechanism that allows for the effective protection of the environment.

2. The imperative need to create sustainable cities, in the words of Jordi Borja: “the city is what it should be, a place and a community, with the capacity for self-government, capable of defining development strategies agreed between institutions and civil society. What these cities should not be in the 21st century is passive in the face of social and environmental problems.”

3. Forest harvesting licenses, which must contain measures to compensate for the environmental impacts and effects resulting from the respective license. The legislator is aware of this type of impact, but does not measure or does not want to measure the impact that these licenses have on people’s fundamental rights, so before authorizing these explorations they must verify the place where the environmental compensation will be carried out with exhaustive monitoring of these activities.

4. To curb deforestation, maintain biodiversity and achieve the Sustainable Development Goals (SDGs) in the Colombian Amazon, vertical reforms must be included to zone land use, concessions and land-use planning that allocate land and minerals to private commercial interests.

### 3.2.2 Morcego Indigenous community, Murupú region, Serra da Moça Indigenous land, municipality of Boa Vista, Roraima - Brazil

The state of Roraima is located in the far north of Brazil. It borders Venezuela and British Guiana. It is the state with the highest percentage of Indigenous population. The Murupú Indigenous region is located to the north of Boa Vista, the state capital. The Murupú region is home to the Truaru and Serra da Moça Indigenous pieces of land, where the Wapichana and Macuxi Indigenous peoples live.

#### Location and territorial situation<sup>45</sup>

The Serra da Moça Indigenous Land (IL) is located in the Murupú ethno-region, in the central region of the state of Roraima, in the municipality of Boa Vista. The distance between the communities and the urban center of Boa Vista varies from 50 to 60 kilometers; the distances between the communities vary between 5 and 15 kilometers.

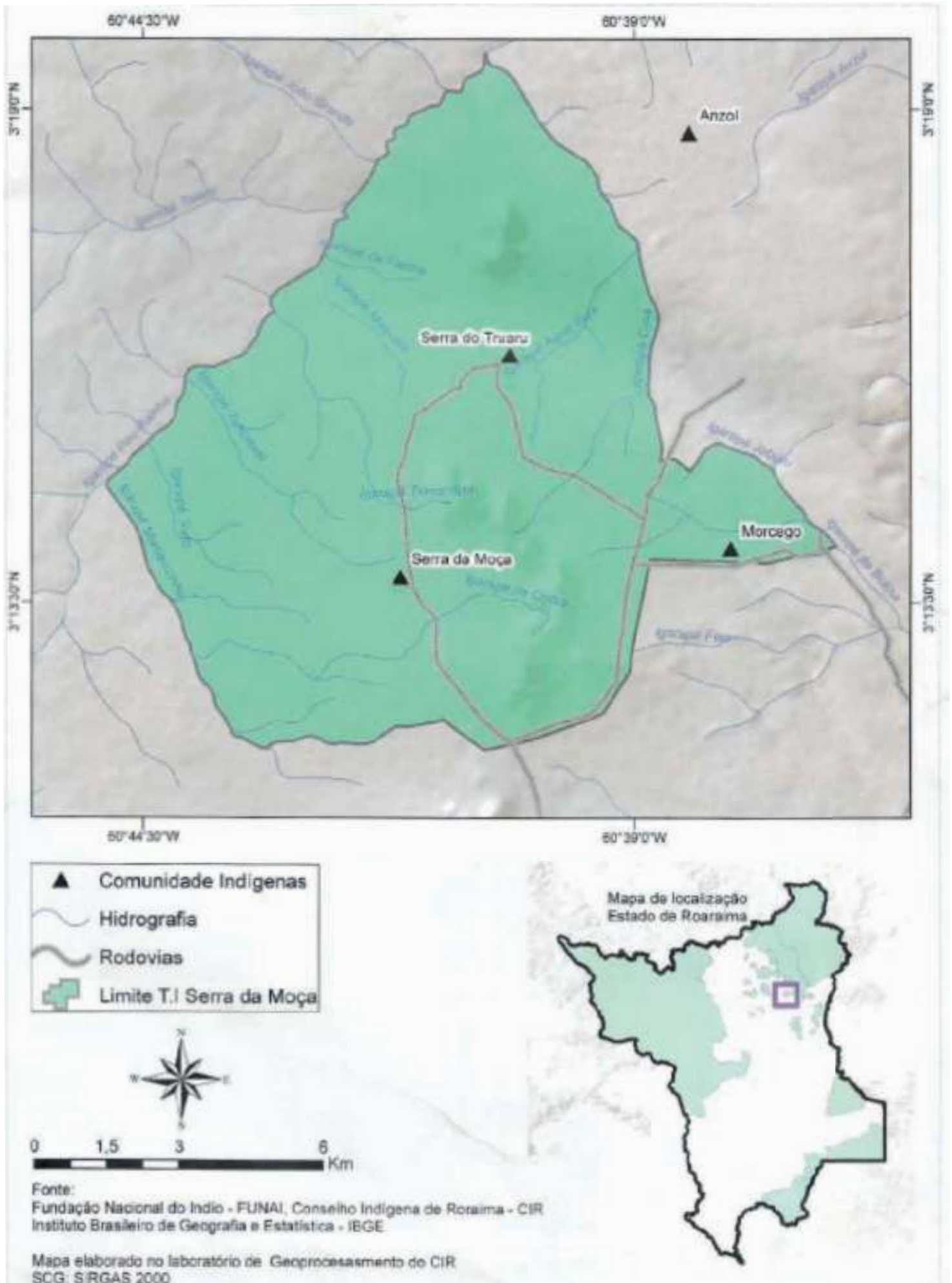
The Indigenous Land is part of a savannah ecosystem known as *lavrado*, located near the Uraricoera River, from which it was isolated by farms after demarcation. Few watercourses remain within the IL, the main one being the Truaru stream.

The land, demarcated as an island, is characterized by an insufficient area, surrounded by farms and settlements, and is today densely inhabited by families of the Wapichana and Macuxi ethnic groups. It has a population of 750 inhabitants (DSEI East Special Indigenous Health District, December 2021), who belong to the Serra da Moça, Serra do Truaru, Morcego Indigenous communities, as well as the Lago da Praia and Anzol Indigenous communities, which were left out of the demarcation boundaries.

Its current legal-administrative status can be considered officially guaranteed for the exclusive use of the Indigenous people. It was demarcated, with an area of 11,626.7912 hectares, on May 23, 1985 and ratified in 1991.



<sup>45</sup> PCTA Territorial and Environmental Management Plan - Serra da Moça Indigenous Land. Indigenous Council of Roraima CIR, 2014.



Source: National Indian Foundation - FUNAI, 2000.

## History with the arrival of non-Indigenous people<sup>46</sup>

### Invasion and expulsion

Like all the communities in the region, Serra da Moça was also founded long before the creation of the Brazilian state. However, due to the invasion of outsiders from Belém do Pará, which began in 1616, the Indigenous peoples had to abandon their communities. They took refuge and formed other communities on the banks of the upper Uraricoera River, where they remained for more than two centuries. There they were protected from the genocide and slavery promoted by these outsiders, who forcibly took Indigenous people to work as slaves on farms in Pará and Maranhão.

It was only around 1750 that the Portuguese colonized the region. This process took place through religious settlements and reductions, as well as the establishment of cattle ranches.

### Returning to the land

With the increase in population and the scarcity of game, in 1895, under the leadership of the tuxaua (chief) Aleixo, twenty Wapichana families decided to return to their community of origin.

The very productive land and the wealth of hunting and fishing attracted several families who migrated

from other more distant communities. At the time, there was a rivalry between the Wapichana and the Macuxi, so the tuxaua Aleixo chose the families, and each of these peoples returned to different communities. Communities with Wapichana families and communities with Macuxi families were thus formed.

### The current situation

The definition of territorial limits in the demarcation process was done without respecting constitutional criteria. The result is a small area, which excludes lakes, rivers, streams, forests and fundamental burit groves, surrounded by farms and settlements – receiving, for this reason, the name of Indigenous island land. This has implications for the development of the main economic activities in IL: agriculture, livestock, fishing and hunting.

### Morcego Indigenous Community

The Morcego Indigenous community belongs to the Serra da Moça Indigenous land. Its name comes from a very large ucuuba tree trunk found in the region. There were lots of bats in it; when the villagers felled the tree, bats of all kinds came out<sup>47</sup>.



Source: Indigenous Council of Roraima, 2019.

<sup>46</sup> PCTA, *ibid*.

<sup>47</sup> Pedagogical political project Jairo Pereira da Silva Indigenous State School. Morcego Indigenous Community, 2019.





Photo: Istock images by Joao Bento da Silva

## Context

The presence of soya plantations near the Morcego Indigenous community is causing conflicts and violating the Indigenous population's right to a healthy environment.

## Soybean production

The main socio-economic characteristic of soybeans is commercial-scale production on large properties, and this pattern is repeated in Roraima. Its production has a very positive impact on certain social aspects, such as income, business management and administration, and food security.

Until 2013, according to the MapBiomas Platform, the area devoted to soy in Roraima was no more than 10 thousand hectares. In the following years, the area grew to something close to 20 thousand hectares, remaining at this level until 2019, when it exploded. Between 2018 and 2021, there was a 257% increase in the area dedicated to soy, occupying around 75 thousand hectares<sup>48</sup>. However, because it is a large-scale crop, other social impacts are felt less significantly or even negatively. One of these aspects that is improving, but at more modest rates, is employment, which is generated in small quantities in production, but with better quality in terms of qualifications and labor aspects.

The "health" aspect, on the other hand, shows the only deterioration in relation to the previous year, perhaps due to the intensive way in which production is carried out, without due consideration for environmental care and employee working conditions.

The negative environmental impact of the technology stems from the technological structure of the crop and the characteristics of the cultivar and the areas where they are planted in the state of Roraima. In general, the areas are flat or have a slight slope, which favors the complete mechanization of the production process. In addition, the soils have low natural fertility, which justifies the intensive use of fertilizers<sup>49</sup>.

## Pesticides in Brazil

In Brazil, the use of pesticides began to spread in the mid-40s. At the end of the 1960s, consumption accelerated due to tax exemptions. By making rural credit conditional on the purchase of agrochemicals, the state was the main promoter of the technological package that represented modernity in agriculture; the Brazilian market has become one of the most important for the agrochemical industry.

However, Brazil merely followed a worldwide trend, i.e. government incentives were part of a global policy for developing countries. Furthermore, this subsidy policy also contributed to the indiscriminate use of pesticides, which were used not only by better-capitalized farmers, but also by family producers.

Grains account for the largest share of Brazilian production, especially corn and soybeans. In 2008, Brazil became the main consumer market for pesticides, ahead of the USA, with a consumption of 733.9 million tons. This volume can be considered a veritable "tsunami" in Brazilian agriculture, but the damage to health and, consequently, the socio-economic damage is still "invisible" to society in general<sup>50</sup>.

It turns out that, in addition to getting rid of so-called "pests", pesticides kill life in the soil, destroy rivers, pollute the air we breathe, contaminate food and poison and make human bodies sick<sup>51</sup>.

48 MapBiomas, Collection 7.0 of the Annual Series of Land Cover and Land Use Maps of Brazil. 2022 <https://plataforma.brasil.mapbiomas.org/>  
49 Impact Assessment Report on Technologies generated by EMBRAPA - 2014. Boa Vista - RR, 2015.

50 Use of pesticides and their impact on health and the environment: an integrated assessment of the economy, public health, ecology and agriculture. Wagner Lopes Soares. Doctoral thesis. Rio de Janeiro, 2010.

51 Booklet - Como os agrotóxicos afetam as nossas vidas - Permanent Campaign Against Pesticides and For Life (supported by PAHO and Fiocruz). May 2023.



Image: Istock Images by saraTM

## Agribusiness in Brazil

There is a deep connection between agribusiness companies and the rural lobby in Brasilia. In addition, the multinationals are in charge of advocacy actions, either through associations or by meeting directly with the government and parliamentarians.

The Parliamentary Agricultural Front (FPA) is the most powerful lobby in Congress; controls half of the House and Senate. The Pensar Agro Institute (IPA) is a think tank that advises the FPA and connects it with the private sector. The IPA structure is maintained by 48 agribusiness associations; these associations bring together more than 1,000 companies and 69 thousand rural producers. But behind this huge structure are the multinationals, the hidden leaders of the agribusiness lobby<sup>52</sup>.

## Environmental impacts

Over the years, the Brazilian government has adopted monoculture and the intensive use of pesticides as an agricultural policy for modernizing the countryside. This has caused rapid and intense changes in land use, producing environmental impacts that were previously non-existent, such as water and wind erosion, habitat loss, alterations to settlements and wildlife populations, a reduction in the flow of rivers draining the region, siltation, genetic erosion and a reduction in biodiversity.

Studies have shown the environmental imbalance caused by the use of pesticides which, in addition to developing the ability of agricultural pests to resist these products, leads to the need to increase the doses applied or resort to new products, causing the emergence of new pests<sup>53</sup>.

## Health impacts

The recognition of the harmful effects of pesticides began in 1962, with Rachel Carson's "Silent Spring," which highlighted the adverse effects of the use of synthetic chemical pesticides and insecticides: i) it penetrates the food chain and accumulates in the fatty tissues of animals, including humans, increasing the risk of causing cancer and genetic damage; ii) it not only affects pests, but countless other species, silencing birds, fish and even children; iii) it remains toxic in the environment even when diluted by rain.

There are countless studies linking the use of pesticides and their harmful effects on human health (Alavanja et al., 2004; Colosso et al., 2003; Peres et al., 2003; Santos, 2003). The acute effects appear during or after contact with the pesticide and can be classified as muscarinic effects (bradycardia, miosis, intestinal and bronchial spasms, stimulation of the salivary and lacrimal glands); nicotinic drugs (muscle fibrillations and convulsions); and central (drowsiness, lethargy, fatigue, headache, loss of concentration, mental confusion and cardiovascular problems)<sup>54</sup>.



Source: CIR, 2022.

<sup>52</sup> The financiers of the cattle - such as the agribusiness multinationals - support the rural caucus and sponsor the socio-environmental dismantling. Keeping an eye on ruralists, Agribusiness Observatory in Brazil. July 2022.

<sup>53</sup> The flexibilization of Brazilian pesticide legislation and the risks to human health: analysis of Bill 3200/2015. Mirella Dias Almeida et al. Ensaio. Health Surveillance Secretariat, Ministry of Health, Brasília, 2017.

<sup>54</sup> Use of pesticides and their impact on health and the environment. Op. Cit.

## Impacts on the Indigenous community

In the fields of the tenants of Fazenda Paricana, the use of small planes to dump chemical products (agrottoxins) is affecting the health of the closest residents, the Morcego Indigenous community.

Testimonies from some of the residents indicate the origin of the rights violations in the presence of the plantation. "Soybean farming is mainly what has brought us this kind of rights violation"<sup>55</sup>. This type of activity is recent: "it came in 2019, when they started deforesting near here..., when the plane passes, it dumps pesticides on top of our house"<sup>56</sup>. The consequences for the environment are devastating. "Farming causes us a lot of damage, both to our crops and to the animals and residents of the community"<sup>57</sup>.

The damage caused by pesticides does not just come through the air. "The pesticides thrown on the crops reach the streams, contaminating our water, where we go to bathe and even for consumption"<sup>58</sup>. "We have a stream; when these pesticides are released by air, they come into our community; when it rains in winter, everything goes into the only stream in the community. This stream is used by our children for fishing and bathing"<sup>59</sup>.

The most obvious effects are those that affect human health: "problems in children; my grandfather suffers from it, he is sick; and it really affects our breathing too; breathing is difficult; the poison is very strong and causes problems with the skin, irritation, itching..., and also affects the eyes"<sup>60</sup>; "...many of our children

TERRA INDÍGENA: SERRA DA MOÇA

POVO(S): WAPIXANA

TIPO DE DANO/CONFLITO: Monocultivo de soja; uso de agrotóxicos

DESCRIÇÃO: Lideranças da comunidade Morcego afirmam que os moradores da comunidade já sofrem com as consequências dos despejos de agrotóxicos por aviões sobre a comunidade. Devido à proximidade das fazendas de soja, os indígenas Wapixana estão preocupados com a saúde da população, pois vários moradores já apresentaram irritações na pele e falta de ar. As lideranças fizeram denúncia ao MPF e Ibama, pedindo providências. A TI Serra da Moça é cercada por fazendas de soja, o que implica na grave situação da saúde e segurança de suas comunidades, além da agressão ao meio ambiente, principalmente às fontes de água. O Conselho Indígena de Roraima (CIR) acompanha o caso por meio de sua assessoria jurídica e cobrou das autoridades competentes uma solução urgente.

Das informações de: Conselho Indígena de Roraima, 13/08/2021; Pastoral Indigenista de Roraima; Cimi Regional Norte 1

Source: Indigenous Council of Roraima - CIR, 2021.

have had skin problems, irritation, suffocation from the poison,... shortness of breath, vomiting, itchy skin, eye irritation, all caused by pesticides"<sup>61</sup>.

The organizational structure of the Indigenous community is also violated by the farmers' initiatives and actions in the community's territory without asking for prior authorization: "lack of respect"<sup>62</sup>; "they are invading our territory, territory that is demarcated and homologated"<sup>63</sup>; "They made gates into our community without authorization, they removed the culverts to pass their big machines, which are tractors, trucks, they did not ask for authorization either"<sup>64</sup>.

Human health is not the only one under threat; it is also an attack on physical integrity: "People come to threaten us. We suffer a lot from this, for making our demands"<sup>65</sup>; "...one thing we fear a lot is our safety; we have denounced it and will continue to do so"<sup>66</sup>.



55 L.S. resident of the Morcego community. Interview of January 11, 2023.  
56 V.A. resident of the Morcego community. Interview of January 11, 2023.  
57 Z.A. resident of the Morcego community. Interview of January 11, 2023.  
58 Z.A. morador da comunidade Morcego. Entrevista 11 de janeiro de 2023.  
59 V.A. morador da comunidade Morcego. Entrevista 11 de janeiro de 2023.

60 N.N. resident of the Morcego community. Interview of January 11, 2023.  
61 V.A. resident of the Morcego community. Interview of January 11, 2023.  
62 N.N. resident of the Morcego community. Interview of January 11, 2023.  
63 L.S. resident of the Morcego community. Interview of January 11, 2023.  
64 V.A. resident of the Morcego community. Interview of January 11, 2023.  
65 Z.A. resident of the Morcego community. Interview of January 11, 2023.  
66 V.A. resident of the Morcego community. Interview of January 11, 2023.



## Rights affected: Right to a healthy environment

According to Article 225 of the Federal Constitution, “everyone has the right to an ecologically balanced environment, which is a common good and essential to a healthy quality of life, and the public authorities and the community have a duty to defend and preserve it for present and future generations.” In this sense, it is the duty of environmental agencies to promote the appropriate measures to guarantee this constitutional right, including investigating the occurrence of any environmental crime, according to the provisions of Law 9605/1998.

The damage to the environment caused by aerial pesticide dumping is obvious. The chemicals are absorbed by the soil and contaminate the waters of the streams - both through rainfall and aquifers. But they are also inhaled by community residents, absorbed through the skin or ingested orally, especially by children when they play.

According to ILO Convention 169, ratified by the Brazilian state, “governments shall ensure that (...) studies are carried out among the peoples concerned with a view to assessing the social, (...) and environmental impact that the planned development activities may have on these peoples” (art. 7, §3). After the studies, governments “shall adopt measures in cooperation with the peoples concerned to protect and preserve the environment of the territories they inhabit” (art. 7, §4).

The United Nations Declaration on the Rights of Indigenous Peoples also guarantees in article 29, 2 that “States shall take effective measures to ensure that no hazardous materials are stored or disposed of on the pieces of land or territories of Indigenous peoples without their prior, free and informed consent.” Article 29, 3 also states that “programs for monitoring, maintaining and restoring the health of Indigenous peoples affected by these materials, designed and implemented by these peoples” will be adopted.

Along the same lines, the American Declaration on the Rights of Indigenous Peoples states in Article 19, 4 that “Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their pieces of land or territories and resources.” Therefore, if a different model, such as that of agribusiness, interferes, it will be up to the state to “establish and execute assistance programs for Indigenous peoples to ensure this conservation and protection, without discrimination.”



## Right to a life in accordance with ancestral culture and traditions

The Federal Constitution was an important achievement for Indigenous peoples when it established, among other things, the right to self-determination in the caput of Article 231, stating that “Indigenous people are recognized for their social organization, customs, languages, beliefs and traditions.” They can therefore demand that the state take the necessary measures to prevent actions that interfere with their traditional way of life.

In the same vein, they are protected by articles 22 and 3 of the Universal Declaration of Human Rights and the Declaration on the Rights of Indigenous Peoples, respectively, both adopted by the United Nations. The latter declaration is also violated in its Article 31, which guarantees the right to preserve Indigenous technologies and cultures, specifically with regard to traditional production methods:

The pesticides that fall on the community’s territory affect the fauna, the animals that the Indigenous people hunt or fish for food. If the fish become unfit for human consumption, the wild animals flee the community’s territory, the Indigenous people will be forced to change their diet, they will be forced to buy industrialized products, they will be forced to work in some “western” job in order to earn the money they need to buy food. So you will stop eating and living the traditional way.

“ Indigenous peoples have the right to the preservation of Indigenous technologies and cultures, specifically with regard to traditional production methods: Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, their traditional knowledge, their traditional cultural expressions and the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literature, drawings, traditional sports and games, and the visual and interpretive arts [...]. ”



## Legislation on the use of pesticides

As of 2022, Bill 1459/2022 completely repealed the previous law on pesticides (Law 7802/89). Pesticides in Brazil increased by 190% between 2012 and 2022<sup>68</sup>.

The discussion of the Bill to make the use of pesticides more flexible in Brazil has highlighted two distinct positions on the subject<sup>69</sup>: those against say it is the “Poison Bill”; those in favor say the proposal will modernize agriculture.

## Conclusions and proposals

The Macuxi and Wapichana Indigenous peoples of the Morcego Indigenous community are seriously affected in their health and traditional way of life by the aerial spraying of pesticides. The chemical products used in soy cultivation around the Morcego Indigenous community pose a direct threat to the lives of the community’s residents.

The impact on human health and the environment is evident according to the reports of the community’s Indigenous residents: damage to crops, streams, animals (hunting and fishing), and community residents (skin problems, irritation, itching, shortness of breath, vomiting, eye irritation...).

### • Law 16820/19 (State of Ceará) on banning aerial spraying of pesticides

Pesticide dumping is used throughout Brazil, but it must meet certain conditions. In some states of the country, organized civil society is calling for a ban on aerial spraying of pesticides. In the state of Ceará, there is a law that prohibits such activity, the Zé Maria do Tomé Law.

“Law 16820/19 inserts article 28-B into state law 12228/93, which deals with the use of pesticides in Ceará. This provision prohibits the aerial spraying of poison in agriculture. This law was based on data from EMBRAPA (Brazilian Agricultural Research Corporation): almost 20% of the pesticide managed by aerial spraying is dispersed to areas outside the region of application. Another 50% is retained by the soil and only 32% actually reaches the plants in the application area.

### • Study on the effects of aerial spraying of pesticides and its follow-up

Spraying also has an impact on the health of the communities living in the vicinity of the sprayed plantations, with the contamination of home gardens and family farming projects, as well as water wells and even the houses over which the planes fly, according to research and studies carried out by various institutions (Oswaldo Cruz Foundation, Federal University of Ceará, among others)<sup>70</sup>.

“At the end of May 2023, the STF (Supreme Federal Court) unanimously ruled that the Ceará law was constitutional - which opens the way for the measure to be approved in other states”<sup>71</sup>.

### • Ban on aerial spraying of pesticides

### • The concrete proposal is to adopt the Zé Maria do Tomé Law in the state of Roraima as well.

A ban on the aerial spraying of poison in agriculture would allow the Morcego Indigenous community to have a healthier diet (crops, hunting and fishing), less contamination of the streams and soil and the possibility of breathing much cleaner air.



Source: CIR, 2022.

68 <https://www12.senado.leg.br/noticias/infomaterias/2022/12/pl-dos-agrotoxicos-entenda-os-principais-pontos-do-projeto>

69 <https://www.camara.leg.br/noticias/849570-oposicao-critica-alteracao-em-registro-de-agrotoxicos-enquanto-governistas-falam-em-modernizacao>

70 Folder da Lei Zé Maria do Tomé: [www.renatoroseno.com.br](http://www.renatoroseno.com.br)

71 <https://apublica.org/2023/06/agrotoxicos-apos-decisao-do-stf-dez-Estados-podem-proibir-pulverizacao-por-avioes>



### 3.2.3 La Chiquitania People: Roboré - Tucabaca Valley (Bolivia)

The Llanos de Chiquitos, or Chiquitana, is the name that the Spanish mistakenly gave to one of the Pámpida ethnic groups that inhabited this region. At the beginning of the 16th century, the Spanish conquistadors found several abandoned villages and were struck by the fact that the huts had doors that were only a little over half a meter high. This led to the conclusion that its inhabitants were pygmies and were called "little ones." The truth is that the Chiquitan aborigines were taller than the vast majority of Spaniards at that time. The size of the doors was due to the fact that, on the one hand, it was a way of keeping the internal temperature of the huts warm and, on the other, it made it easier to defend against animals such as pumas.



Cornelio Méndez Parabá from San Juan de Chiquitos, 65 years old.

“ We had beans, we had cassava. Cassava was eaten with honey for breakfast. We had corn, used to make tamale... All this was very healthy for us, because there was not that canned butter like there is today... We raised pigs and made tamale from the lard... Back then there was no oil, everything was natural... And that was our right... We cut down trees and planted oranges, tangerines, lemons, and lived off that. It was not as hot then as it is now. There was not much deforestation. And in those days the river was also looked after. Nobody cut down anything around the river, not even a tree moved. Because that is where we went to bathe, that is where we got our drinking water from? ”

“ Before, people lived on their farms, from where they got everything they needed for their sustainability, they planted cassava, corn, beans [...] they harvested what they needed on a daily basis, there was no electricity or water service; they drew water from nature itself, from the rivers, to drink, cook and bathe. There was no public transportation like there is today. People traveled by horse or donkey to transport firewood and food to other places. ”



© CEPAD-FELCODE/Enrique Rodríguez



According to the records of the first Jesuit priests who arrived in the Chiquitania region, the area was inhabited by Indigenous groups such as the Boro, Tao, Otuque, Imono, Coypotorade and others.

In the 19th century, various ethnic groups lived in the Llanos de Chiquitos. Due to its location almost in the center of South America, this territory was home to peoples from the Amazonian, Papuan and Andean groups. Andeans had practically no presence in the Llanos de Chiquitos. It was only in the second half of the 20th century that some small population groups with Andean origins were found in this region. The Pámpido people were transhumant hunter-gatherers; the Amazonians, although they had transhumant characteristics and an economy largely based on hunting and gathering, also had itinerant agricultural practices, such as planting cassava, corn, peanuts and a greater development of pottery.

Today, Chiquitano, Chiquito or Besiro is an Indigenous language, native to the plains of Chiquitos and the Bolivian Chaco, currently spoken by the Chiquitanos in the Provinces of Ñuflo de Chávez, Velasco, Sandoval, Busch, Ichilo and Chiquitos, in the Department of Santa Cruz; Iténez, in the Department of Beni and in some Brazilian municipalities.

Since 2000, with the enactment of Supreme Decree 25894, Besiro has been one of Bolivia's official Indigenous languages and is also included in Bolivia's Political Constitution.



Source: Google Earth, 2023.t

The name Roboré derives from the Indigenous word Chovoré, which means round stone, although some historians believe that the name comes from the word Chovoreca, which means house of the devil.

**Roboré** is a town and municipality in the province of Chiquitos, in the department of Santa Cruz, Bolivia, 410 km from the city of Santa Cruz de la Sierra. The main access route is the Santa Cruz - Puerto Suárez railroad, which crosses the municipality from east to west and is part of the Central Bioceanic Railway Corridor. The Santa Cruz - Puerto Suárez highway, called Route 4, also passes through Roboré.



Source: Google Earth, 2023.



## Conflict situation

Bolivia's Chiquitania faces a series of environmental and social problems that threaten its natural and cultural wealth. One of the main sources of conflict is in the Roboré region, where land grabbing and illegal human settlements in Tucabaca have led to tensions and a deterioration in the ecological balance. The lack of regulation and effective control has allowed groups of people to invade and occupy protected areas. The territories are being concessioned by the state itself, through INRA (the National Agrarian Reform Institute).

This region has been affected by various problems, including the expansion of mining activities, which threaten the integrity of local ecosystems and water quality; forest concessions, the indiscriminate felling of trees and the transformation of vast forest areas into land for agriculture and livestock farming. These irresponsible practices not only put the region's biodiversity at risk, but also the way of life of Indigenous and peasant communities who depend on natural resources for their livelihoods.

“ The fight to conserve our natural resources began around the 2000s, driven as much by the need to preserve our environment as by the desire to live according to our identity... The land is a heritage that we want to leave to future generations, not large tracts of agribusiness, but water, forests and our identity. We are aware of our responsibility towards future generations and are committed to their well-being.

*Community member.*



Fighting forest fires has been particularly challenging and is yet another problem. Fires, sometimes caused by irresponsible human activities, have swept through large areas of forest and caused irreparable damage to biodiversity and ecosystems.

Faced with this problematic context, the most affected are the peasant and Indigenous communities of this region due to their dependence on the forest and their ancestral territory.

Photo: Victor Moriyama



## Causes of rights violations

### 1. Intercultural people: the new rural subjects<sup>72</sup>

The forest fires in the lowlands of Bolivia, the constant conflicts over the invasions of Indigenous territories in Chiquitania, have triggered the “intercultural” protagonists in the current agrarian policies of the MAS (Movement towards Socialism).

They are the children of peasants of Quechua and Aymara origin who settled in the most remote regions. Like many, as a result of poverty, they migrated in search of better living conditions, founding communities and settling down. Others returned to their place of origin. Initially they were called “colonizers” and today they are the agrarian capitalist force.

According to its leaders, there are 2.5 million intercultural organizations organized into 24 federations at national level. There are three main areas: north of La Paz, in Santa Cruz and the Chapare de Cochabamba.

For Fundación Tierra, the Union Confederation of Intercultural Communities of Bolivia (CSCIB) has managed to title almost 25 million hectares for its members, which is equivalent to 28% of the total land titled by INRA. In recent years, they have had direct and indirect control of the main state institution in the sector: the Ministry of Rural Development and Pieces of Land.

Proportionately, the “intercultural people” are increasingly important. They are producers who have a series of links and interests in common with the medium and large entrepreneurs and who are increasingly distant from the interests of the poor peasants who, at certain times of the year, work as their temporary employees<sup>73</sup>.

In reality, the way they are accessing the land, the change in land use with the backing of the law, which authorizes deforestation and burning, indicate that they are part of the agrarian model for export, orienting all activity towards monoculture. According to the available information, this area is mostly forested and not suitable for agriculture.



Photo: Víctor Moriyama



Photo: Víctor Moriyama

<sup>72</sup> <https://tierra.org/index.php/opinion-y-analisis/984-campesinos-interculturales-nueva-potencia-comunitaria#:~:text=Sabemos%20que%20los%20campesinos%20interculturales, fueron%20bautizados%20como%20%E2%80%9Ccolonizadores%E2%80%9D>

<sup>73</sup> <https://cedla.org/prya/interculturales-y-tierras-bajas-quienes-son-y-que-buscan>



Photo: Istock Images by SPmemory



## 2. The fires

The fires in Chiquitania may be a tangible example of the extractive agro-industrial and livestock models that are attacking and destroying the forests. In the wake of the oil crisis, Bolivia has tried to replace this deficit with income from livestock, biofuels and other projects.

On April 26, 2019, the Minister of Foreign Affairs, Diego Pary, and the Minister of the Customs Administration of China, Ni Yuefeng, signed a protocol to export 20 thousand tons of meat to China, needing to expand from 13 million hectares of livestock use to 20 million, as established in the 2020-2030 Livestock Development Plan.

On July 9, 2019, in Beni, Supreme Decree 3973 was approved, which reads in part:

“Article 5: In the Departments of Santa Cruz and Beni, deforestation is authorized for agricultural activities on private and community pieces of land, which fall within the scope of Integrated and Sustainable Forest and Land Management, in accordance with the specific management instruments approved by the Forest and Land Supervisory and Social Control Authority - ABT, and its current Land Use Plans. In both Departments, controlled burning is permitted in accordance with current standards, in the areas classified by PLUS that allow it.”

Although the government says that “our home, Mother Earth, is our only home, is irreplaceable and is suffering more and more from fires, floods, hurricanes, earthquakes, droughts and other catastrophes”, the acts of promoting burning actions, issuing resolutions that grant settlements to intercultural organizations under the critical eye of corruption, are examples of contradictory acts that affect elementary rights.



The forest fire in Bolivia in 2019 was considered one of the most serious ecological disasters of the last 10 years. According to Ever Durán, president of the Santa Cruz College of Forest Engineers (CIF-SC), it will take 200 years to reforest Chiquitania.

This fire affected the tropical regions of the Chiquitana forest, the Bolivian Amazon and the western Pantanal, where populations such as Roboré, Puerto Busch and San Ignacio de Velasco are located, among the eight regions directly involved<sup>74</sup>, in the Department of Santa Cruz and the Department of Beni in Bolivia. The Tucabaca reserves, the Noel Kempff Market or the Ñembi Guasu National Park and the territory of the isolated Ayoreo peoples<sup>75</sup> were also under threat.

According to reports, this event meant the loss of five million hectares<sup>76</sup> of dry forest in Chiquitania, whose soil is supposed to be forest and which, in recent years, has been converted into agricultural production land

without prior consultation with the communities that inhabit the region.

More than 400 Indigenous communities were affected by the flames. 34% of the territory burned in Ñembi, an area inhabited by Indigenous people in voluntary isolation<sup>77</sup>.

Data on environmental damage during the development of fires has varied. To date, the analyses and quantifications carried out are partial and subject to change over time. For example: an assessment carried out by Ciência Bolivia and the La Paz Biologists College determined that around 1600 species were lost in the fire.

The lack of knowledge about fire control in the new settlements is listed as one of the causes of fires in Chiquitania.

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<sup>74</sup> [https://es.wikipedia.org/wiki/Incendio\\_forestal\\_en\\_Bolivia\\_de\\_2019#cite\\_note-Sin\\_nombre-p7LH-1-3](https://es.wikipedia.org/wiki/Incendio_forestal_en_Bolivia_de_2019#cite_note-Sin_nombre-p7LH-1-3)

<sup>75</sup> [https://es.wikipedia.org/wiki/Incendio\\_forestal\\_en\\_Bolivia\\_de\\_2019#cite\\_note-5](https://es.wikipedia.org/wiki/Incendio_forestal_en_Bolivia_de_2019#cite_note-5)

<sup>76</sup> [https://es.wikipedia.org/wiki/Incendio\\_forestal\\_en\\_Bolivia\\_de\\_2019#cite\\_note-17-6](https://es.wikipedia.org/wiki/Incendio_forestal_en_Bolivia_de_2019#cite_note-17-6)

<sup>77</sup> [https://es.wikipedia.org/wiki/Incendio\\_forestal\\_en\\_Bolivia\\_de\\_2019#cite\\_note-28-48](https://es.wikipedia.org/wiki/Incendio_forestal_en_Bolivia_de_2019#cite_note-28-48)

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Photo: FMBOLIVIA



Photo: Dico Solís

### 3. Illegal settlements

On March 30, 2019, in San Miguel de Velasco, around 1,000 people gathered to express the threats they felt due to the arrival of outsiders with INRA authorization. According to reports, in an area of 130 thousand hectares in Chiquitania, INRA had authorized the settlement of 69 communities. The favored ones entered by killing the cattle and burning the land.

Despite our efforts and the people's demands to protect our territories, the different levels of government, from the municipalities to the central government, try to impose their own government plans. These plans include human settlements without proper planning, which harms both our communities and the inhabitants who have no land or territory in other parts of Bolivia.

*Testimony from community members.*

Between 2014 and 2019, INRA, linked to the Ministry of Rural Development and Pieces of Land, signed more than 1,400 authorizations for the settlement of new communities in Santa Cruz<sup>78</sup>.

The settlement plans, in addition to causing deterioration of our territory and destruction of our land, imply a forced change in our society of origin, imposing customs and traditions alien to ours, without respecting our identity.

*Testimony from community members*



Photo: INRA



Photo: Josué Hinojosa



Photo: Miguel Surubi

<sup>78</sup> <https://www.lostiempos.com/actualidad/pais/20190925/evo-pide-defender-madre-tierra-pero-impulsa-10-acciones-que-destruyen>

#### 4. Law 741: Law authorizing deforestation of small properties for agricultural activities

With the entry into force of this law in 2015<sup>79</sup>, it is permitted to clear and burn forest land, intensifying not only land trafficking, but also timber trafficking.

“ Economic reactivation projects are being promoted that threaten the exploitation of natural resources, such as minerals present in the region. These projects are a great detriment to our peoples and territory, because we value water conservation more than obtaining wealth such as gold ”

*Testimony from community members.*

Traditional communities in the region produced foods such as chia, peanuts, sesame, corn, beef and sheep meat, among others. The new settlements are geared towards the production of soy and beef for agro-export. The aim of the land donation is to guarantee the country's food supply. According to the complaints, the socio-economic function is being disregarded; on the contrary, they were involved in the illegal sale of land and timber, leading to clashes among the population.

Faced with the intensification of land trafficking, the Fundação Tierra published a report describing INRA as “a parallel consortium, made up of former civil servants and public officials who are dedicated to falsifying land registers and whitewashing legal records in order to hand over Bolivian land to the highest bidder.”

#### 5. Titling of Community Pieces of land of Origin (TCO)

The process of titling TCOs is a legal recognition of the ancestral ownership of pieces of land that were occupied by Indigenous communities and, due to historical events, were deprived of this right. Ownership of their land is based on Convention 169 of the International Labor Organization (ILO), ratified by Bolivia on July 11, 1991.

“ They are masters and lords who go beyond all legal limits to give priority to their people, to the famous “misnamed intercultural ones”, leaving aside the request for territorial expansion of the local communities and also of the local people who want to have their piece of land... INRA gives priority to the political sphere... and then to the interests they have with big businessmen, already falling into land trafficking. ”

*Rumbén Darío.*

“ My community is made up of Indigenous people; it was titled in 1964, and updated in 2000 by the new agrarian reform. The communities have problems updating their legal personalities and their title deeds; they are the new peasants arriving from the west, authorized by the government to settle in the Tucabaca valley and Roboré's public pieces of land. ”

*Ronny Zambrana  
Pocubé - El Portón Community.*

<sup>79</sup> [https://sea.gob.bo/digesto/CompendioII/M/96\\_L\\_741.pdf](https://sea.gob.bo/digesto/CompendioII/M/96_L_741.pdf)





Photo: Istock Images by Andres Unterladstaetter

## Violated rights

### Right to territory:

The Roboré and Chochis regions have suffered natural disasters since 1979. Today, the survivors and descendants are facing a legal battle to defend the ownership of their land. They claim that people from outside the community are claiming property rights, affecting the Indigenous community of El Portón. After four years, the community regained collective title to 321 hectares. The community is within a nature and conservation reserve. The attacks do not stop, despite having the title. The fires are also causing a lot of damage. They are being left without water, without food, without anything. The expansion of the agricultural frontier that deforests in the name of the famous social development is another problem.

❗ **As leader of the community of El Portón and a member of CONTIOCAP, I ask the government, through INRA, to stop all settlements and new land appropriations so that there is no confrontation and that justice is transparent, because it is subject to these criminals who are destroying our Indigenous peoples and nature reserves.** ❗

*Testimony from community members.*



Photo: Victor Moriyama



## The right to a healthy environment:

Forest fires have directly affected nature and with it human habitat, which is essential for the survival of Indigenous peoples. They burned their crops and the communities' livelihoods. They also created health problems and respiratory diseases with the heavy smoke.

The Bolivian state passed Law 1171 on the rational use and management of fires on May 2, 2019. This law allows the indiscriminate burning of forests. The lack of supervision of those who carry out these activities is a violation of the rights of those who live off nature.

## Right to water

We know that the consequence of deforestation is the environmental imbalance we are suffering everywhere, including here in Chiquitania. Forest fires have caused prolonged droughts. In Roboré, 70% of the population gets their water from wells. The rivers' tributaries are at extremely low levels. And in the communities, most of them have no water. "They have dug everywhere... they are already bringing it from the city to the countryside." Zoila Zeballos.

## Rights to freedom and expression:

Article 13 of the American Convention on Human Rights states that everyone has the right to freedom of thought and expression. We see this right being trampled on because the leaders are being sued when they stand up to prevent the ghost communities linked to the government from penetrating the forests and Conservation Units in Roboré.

# Proposals:

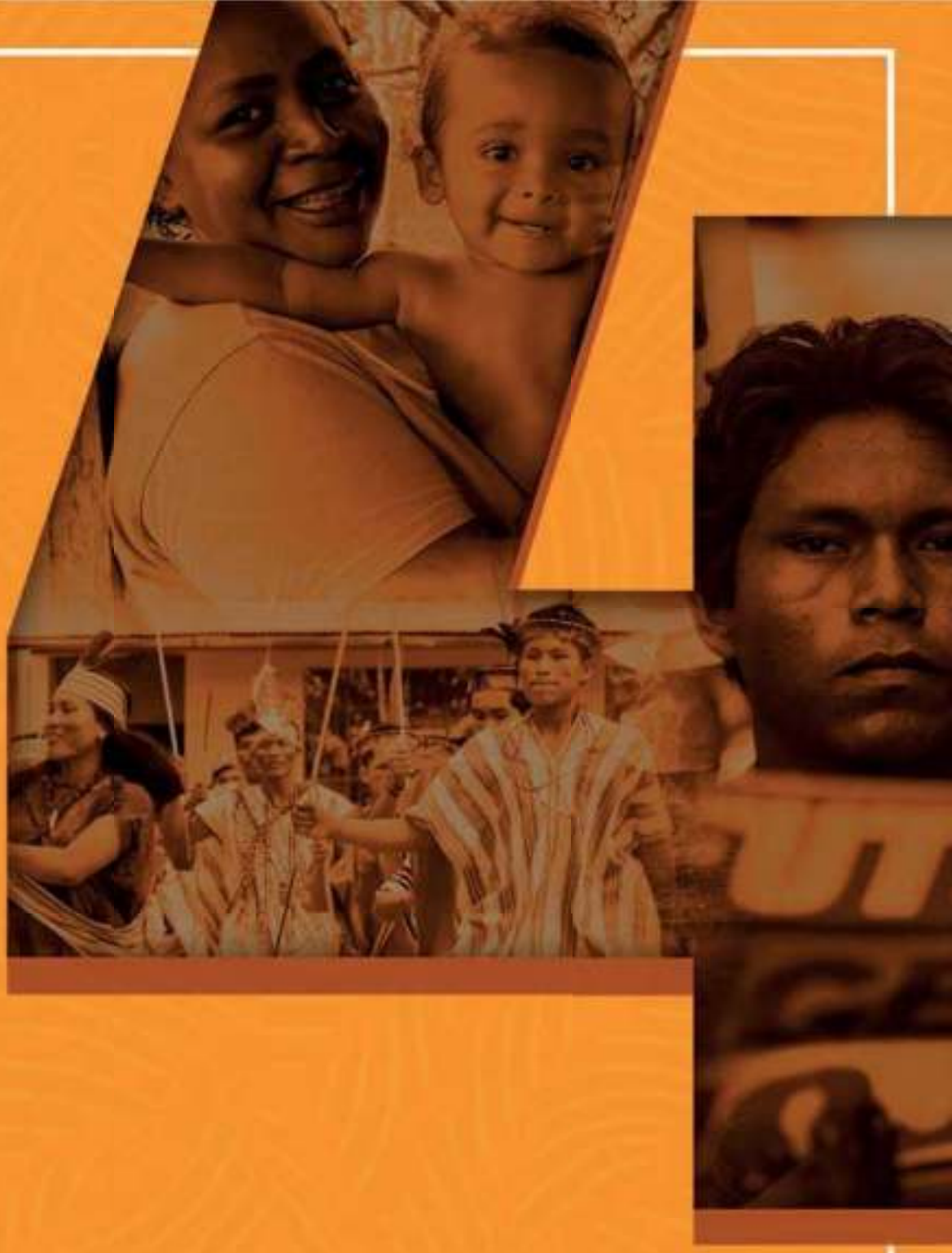
- Declare their intangibility and prevent man from entering the Tucabaca Valley Conservation Units and the Paquio Reserve, as they are natural water reservoirs.
- Prohibit settlements in the affected areas and promote their regeneration, avoiding changes in the type of land use.
- Repeal Law 741 of 2015 and Supreme Decree 3973 of July 10, 2019.
- Enact the new Environmental Law and changes to the Forestry Law to protect the forest's vocation.
- Providing peasant communities with tools to prepare the soil without burning.
- Annul the resolutions on settlements on public land for not complying with the requirements of economic activity within environmental parameters.
- Suspend administrative procedures for requests for settlements from communities until a technical survey of the requested area has been carried out.

Photo: Istock Images by Rafael Nilton Pelizzeri





# CCHAPTER 04





## 4.1. Right to food

This report provides an overview of how things stand in this part of America. It also provides data on the effects of public policies, the reproduction of inequalities and the political power of certain companies. One example is the food insecurity that the comrades recount in this chapter. This insecurity is the result of an economic system that extracts resources without considering the local population and the environment, the effects of which are generating poverty, dependency and changes in eating habits, where eating fish has gone from being an everyday thing to something extraordinary.

The right to adequate food is inseparably linked to the inherent dignity of the human person and is indispensable to the enjoyment of other human rights. Human rights are interdependent, indivisible and interrelated. This means that violating the right to food can hinder the enjoyment of other human rights, such as the right to water, health, work, life, the environment, land, among others.

According to the data, the world produces enough food to feed its entire population. “The root cause of hunger and malnutrition is not a lack of food, but a lack of access to available food,” says the **FAO** (Food and Agriculture Organization of the United Nations). On the other hand, the “right of access” means that food must be regular, permanent and free, either directly or through cash purchases; quantitatively and qualitatively adequate and sufficient food, which corresponds to the cultural traditions of the population to which the consumer belongs and which guarantees a mental and physical life, individual and collective, free from anguish, satisfactory and dignified” (**United Nations Special Rapporteur on the Right to Food**).

The richest 1% in the world emit more carbon than the poorest 50%. The discourse on the need to feed 10 billion people by 2050 seems to be justifying the productivity paradigm, ignoring planetary limitations and the entire climate crisis.

The right to food means that food must be available, accessible and adequate. This has always been the case in the world of Amazonian communities. The right to food is not the same as the right to be fed<sup>80</sup>, as this production model aims to do. The poverty created, social exclusion, the despoiling of their land and the constant effects of contamination mean that many communities are unable to produce or buy their own food. In Pan-Amazonian communities, access to healthy, sufficient and nutritious food has historically come from a healthy and ecologically balanced environment, where it has been possible to fish in rivers, hunt native species and plant in healthy spaces.

80 <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet34sp.pdf>



Most Indigenous peoples are among the most vulnerable to hunger and malnutrition because their diet is different due to their special relationship with the forest and their territory. Their livelihoods depend fundamentally on their access to and control over the natural resources of their ancestral pieces of land. Their diet depends on the dynamics of the forest, fishing and hunting seasons and planting on river banks (floodplains) when they dry out.

In 2006, the Inter-American Court of Human Rights ruled that the government of Paraguay had violated the right to life of members of the Sawhoyamaya Indigenous community by failing to guarantee their access to ancestral pieces of land, which provided them with natural resources directly related to their ability to survive and preserve their way of life. It was recognized that the denial of access to land and traditional means of subsistence pushed the community into extreme poverty, including deprivation of access to a minimum amount of food, thus threatening the right to life of its members.



Photo: [orteidh.or.cr](http://orteidh.or.cr)

The international instruments that protect the right of access to safe food are:

- Universal Declaration of Human Rights, Article 25: "Everyone has the right to a standard of living adequate for the health and well-being of themselves and their family, including food, clothing, housing, medical care and necessary social services."
- Social and Cultural Rights (ICESCR), Article 11: "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."
- Protocol of San Salvador, Article 12: "Everyone has the right to adequate nutrition to ensure the enjoyment of the highest level of physical, emotional and intellectual development. In order to realize this right and eradicate malnutrition, improve food production, supply and distribution methods, promote greater international cooperation in support of national policies on the subject"
- General Comment 12, second session, 1999, of the Committee on Economic, Social and Cultural Rights, establishes that the right to adequate food is realized when every man, woman or child, alone or in common with others, has physical and economic access at all times to adequate food or the means to obtain it.





- On November 23, 2004, the 187 Member States of the FAO General Council adopted a Set of Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of Food Security and Nutrition. These guidelines, a set of recommendations adopted by states, provide states with practical guidance on how best to fulfill their obligation under international law to respect the right to adequate food and ensure that people do not suffer from hunger.
- Convention on the Rights of the Child, §2 of Article 24, sub-item c); and paragraph 3 of article 27.
- Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities.



Photo: Amnesty International



Photo: dejusticia.org



## 4.2. Realities

### 4.2.1 Kichwa people, on the banks of the Coca River, in Ecuador

“Bring the rope and do not forget your backpack!” Vargas shouts from afar to his son at his home in Panduyaku (Sucumbios Province). It is 6 p.m. on Friday, January 28, 2022, and they are preparing to visit relatives in the community of San Francisco, so they have to cross the Coca River in their motorized canoe, moored to the makeshift dock of the Playas del Río Coca community. However, they have to change their plans when they notice a strong, nauseating smell in the river, a smell that, unfortunately, they already recognize and brings back the memory of what happened in April 2020.

A new oil spill occurred in the Coca River, again in the same sector of San Rafael where the Heavy Oil Pipeline (OCP, for its acronym in Spanish) suffered a rupture that spilled approximately 6,300 barrels<sup>81</sup> into the river, affecting thousands of families who live downstream on the banks of the Coca and Napo rivers.



Source: Amazon Frontlines, Spill in Piedra Fina Sector, Napo, January 29, 2022



<sup>81</sup> See: New spill in the Ecuadorian Amazon | NGO Manos Unidas



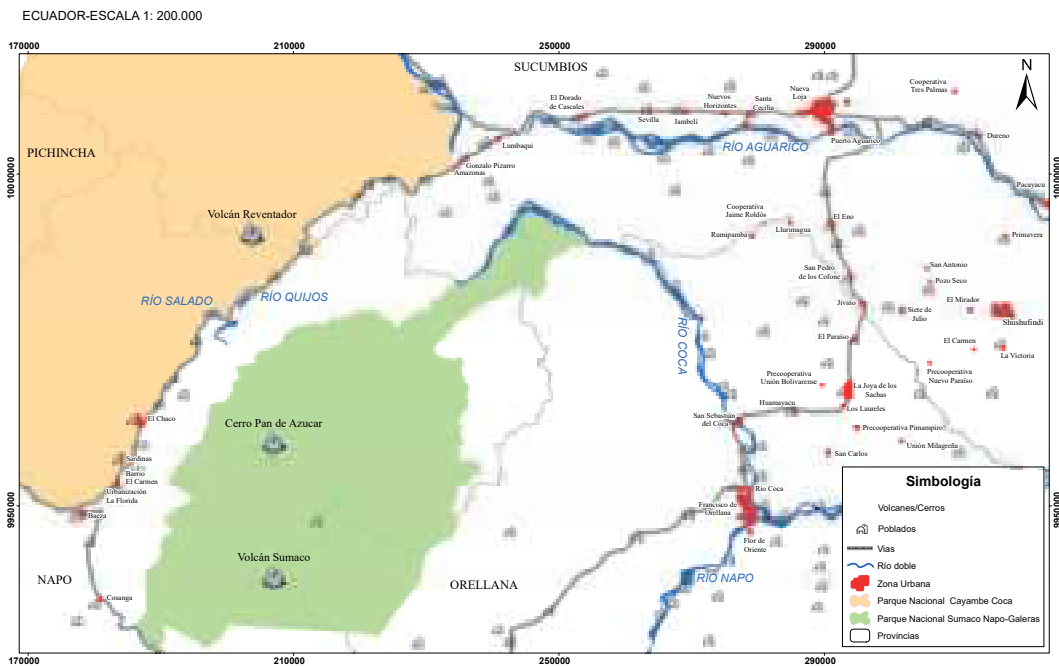


Source: Amazon Frontlines, Spill in Piedra Fina Sector, Napo, January 29, 2022.

Although the Trans Ecuadorian Oil Pipeline System (SOTE) was not ruptured, the volume spilled by the OCP was enough to continue affecting families of Amazonian Kichwa nationality<sup>82</sup>, who live ancestrally between the north and center of the Ecuadorian Amazon as a riverine people, and who reproduce their ways of life around rivers such as the Aguarico, Napo, Pastaza, Bobonaza, Misahualli and many others, including the Coca River, which now summons us to write these lines.

The imposition of the oil industry in the territories bordering the Coca and Napo rivers is putting pressure on the Kichwa to adapt their way of life. From daily work to consumption patterns and social conditions, they have had to mutate in order to sustain life in their territories in the face of ecological imbalances that violate fundamental rights, such as access to water, food, living in a healthy environment and other related rights.

### Defensa de los derechos humanos de las comunidades amazónicas afectadas por los derrames de petróleo del Oleoducto Transecuatoriano



Source: Caritas Ecuador Social Pastoral, 2021.

<sup>82</sup> Ecuador is also home to the Andean Kichwa people, in the north and center of the Ecuadorian Andes.

<sup>83</sup> See REPAM's Second Regional Report on Human Rights Violations in the Pan-Amazon region.

The right to safe and permanent access to healthy, sufficient and nutritious food, enshrined in Article 13 of Ecuador's Political Constitution, could historically be exercised from a healthy and ecologically balanced environment, where it was possible to fish in rivers, hunt native species and plant in healthy spaces.

**As Guadalupe Duende, from the Amaranmesa community, tells us:**



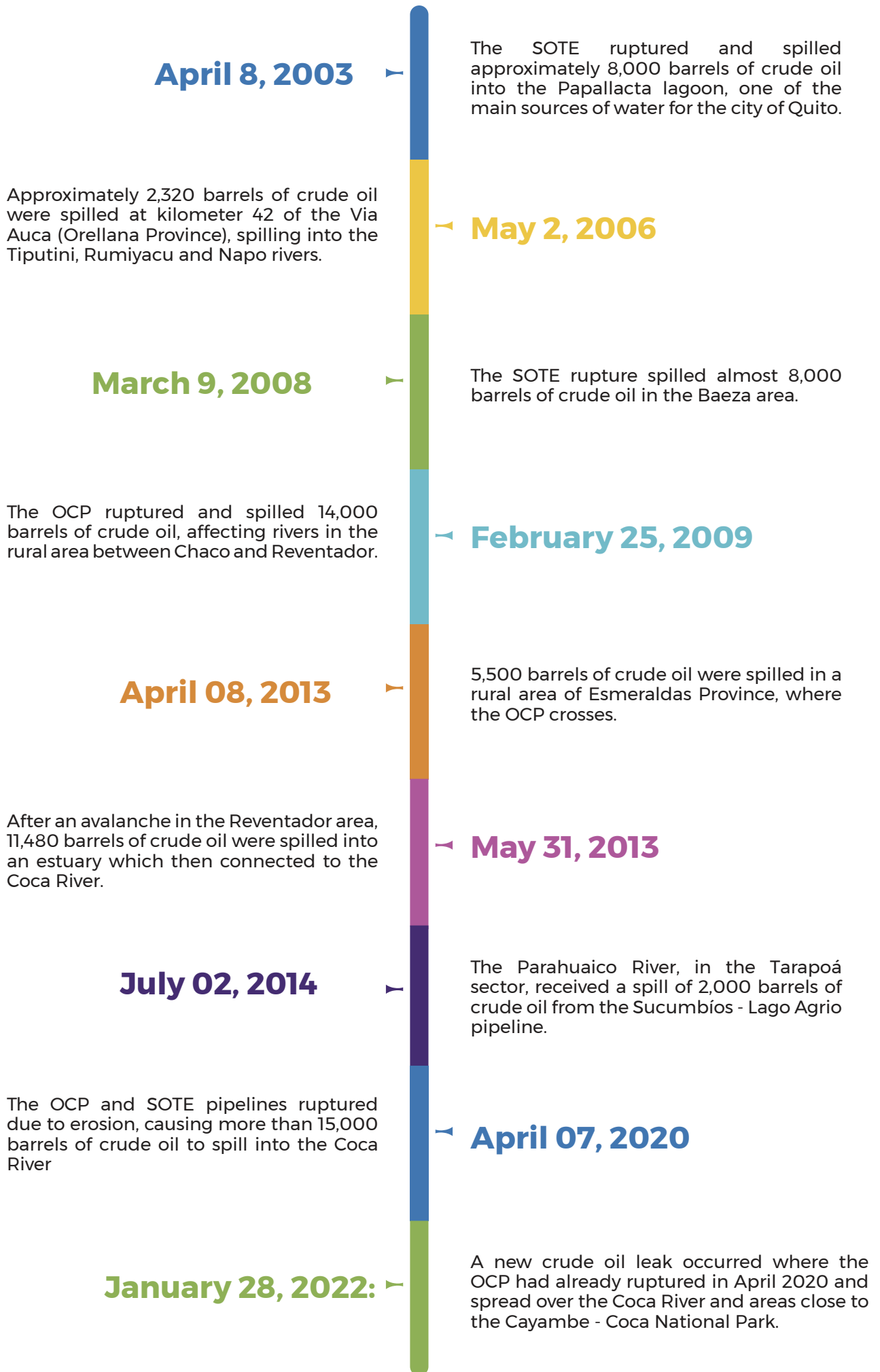
**! ! I have lived here in Amaranmesa since I was a child... In those days there was game meat and no shortage of fish in the river. There was also no shortage of paca, coatis and turkeys. Only the salt came from the village. There was rice in the field itself; there were nuts, abiu do monte, pitombas, cocoa, peanuts... The little fish we ate were ciscos, bocachico. They spent the night fishing with harpoons and brought back lots of fish. We also ate catfish. They brought game meat: paca, quati, bush pig, deer; and there were also tapirs.**

The daily life of the Kichwa on the Coca and Napo rivers, where the rivers are spaces for food, work, recreation and even spiritual connection, is under serious threat. It is difficult to reproduce a healthy and balanced life due to the oil spills<sup>B4</sup> that have been occurring in their territories for decades, especially those that occurred in April 2020 and January 2022.

The leaks in the Ecuadorian Amazon are a chronic problem; the violations suffered in the Coca River are some of the accumulation of oil spills that the extractive industry has caused in the territory of Indigenous, mestizo and Afro peoples.

In the last 20 years there have been almost 900 oil spills, such as those highlighted by DW listed chronologically below:

<sup>B4</sup> See: Oil spill in Ecuador: a chronic disease - DW - 01/31/2022.





In operation since 1967, SOTE is a milestone in the country's extractive history, along with OCP, which began operating in 2002. Both were responsible for the increase in oil spills, affecting nearby locations along the route of the two pipelines that runs from Lago Agrio to Esmeraldas, crossing the Andean region.

Crude oil spills have reshaped life in the territories, where communities have been impoverished or forced to migrate to the cities. Food, work, health and lifestyles are affected, as **Luis Calapucha**, from the **Lumucha** community in Orellana province, tells us:



“ [...] food has been greatly affected, especially the cultivation of cassava, which is one of the daily staples of our diet. Cassava is used in all three meals, including chicha (a drink made from fermented cassava), which is not lacking in any home. Bananas and fish are more than essential. As I always mentioned in the interviews I was given, everyday life was with fish; today this no longer exists, it has disappeared. No one fishes in the Coca River anymore, mainly because of the contamination; there are no more fish. You cannot fish anymore. ”

To understand these relationships that Luis recounts, let's remember that the Coca River begins its journey in the San Rafael sector (Napo Province), at the junction of the Cascabel and Quijos rivers, until it flows into the Napo River next to the city of Puerto Francisco de Orellana. Along its course, the river is accompanied by hundreds of communities on its banks who reproduce ways of life with the local rivers as sources of water and food, river transportation and recreation. In this context, the right to safe and permanent access to food for families on these rivers has been achieved through agricultural work, access to drinking water in the rivers, fishing and hunting, with which the health of the inhabitants has been guaranteed.

### **Violation of the Human Rights of the Kichwa People on the Coca and Napo Rivers**

The intention of this contribution on Ecuador is to follow up on what was published in the II Pan-Amazon Regional Report and thus strengthen the visibility and demand in the judicial process that the plaintiffs have continued before the Constitutional Court.

Understanding the interconnectedness of human rights, there are many rights violations suffered by families on the banks of the Coca and Napo rivers as a result of crude oil spills. This interconnection means that rivers contaminated with oil not only violate

access to water, but also to food, work and health; since it is impossible to fish and use water for irrigation in agriculture.

As food is one of the most important human rights associated with people's food security and sovereignty, the communities are demanding the restoration of this right through environmental recovery, since the oil spread on the banks of the Coca River prevents the use of these spaces for agricultural work, as well as the use of this water for irrigation. This violates Article 13 of Ecuador's Constitution, which states that "individuals and communities have the right to safe and permanent access to healthy, sufficient and nutritious food; preferably produced locally."

Given that the nature of local food is important and preferable for guaranteeing sufficient, healthy and nutritious food, this violation summons and organizes Kichwa families to rebuild their eating habits adapted to the new context, while demanding the restitution of this violated right.

## Oil spills of April 7, 2020 and January 28, 2022

After years of violations due to the numerous cases of oil spills, emphasizing the tragedy of April 7, 2020, the Ecuadorian state and the OCP have failed to comply with one of the elements of full reparation: the guarantee of non-repetition. This forces local men and women to adapt to the contaminated environment or migrate to nearby towns, as Javier Andi, a resident of the San José del Coca community in Orellana Province, says:



“ Before, you could plant corn, bananas and cassava on the banks of the river, because they were not affected, it was healthy and suitable for consumption. Since the leak came completely on the banks (floodplain), there’s no way of planting.

It was also possible to produce well on the islands. But now there are hardly any islands. Before, if I went upstream, I could dig on the river bank and consume that water. ”

The change in eating habits is evidence of the need, due to the change in environmental conditions that allowed the reproduction of traditional life and food. Mrs. **Guadalupe Duende** reiterates this reality from her own experience:

“ [...] more canned goods. Now young people, my children, grandchildren eat more rice with pasta, more eggs (...) for example, we add a little color to the rice, annatto as they call it, “cafecito.”

For today’s lunch, for example, we are making noodle soup with fish. Here in the village we buy tilapia at \$ 1.50 per kilo. We bought four small fish just for flavor because there are ten of us in the family, and none of us have left the countryside... there’s no work in Coca, and if they went there, they’d have to pay rent. ”



Source: Remains of ruptured oil pipelines - Pastoral Social Caritas Ecuador, 2020

Crude oil precipitated on the riverbed and accelerated erosion affect the communities, making it impossible for them to fish and plant on the banks; this impoverishes them and makes them dependent on high-calorie urban food, with canned goods and sugars, as Mrs. Guadalupe from Amaranmesa explained, where eating fish has gone from being an everyday thing to something extraordinary and with tilapia, which are fish bred in captivity and not native to the rivers.

The continuous disruptions in the SOTE and OCP continually violate the human right to sufficient and nutritious food, forcing people to migrate to towns such as Lago Agrio, Puerto Francisco de Orellana and Joya de los Sachas, rapidly impoverishing families. They also suffer ethnic and cultural discrimination in urban spaces. Thus, Mr. **Ubaldo Ajón** explains the conditions suffered in the commune of **San José del Coca** due to the erosion that continues to demolish spaces that enter the communities where it used to be possible to live or work by planting. It is no longer possible to plant because of the crude oil residue that remains on the river banks.



That is why we see poverty in the communities that live on the banks of the river... First of all, there are no more fish. What's more, there is no way of planting on the banks of the Coca River because all the spillage happened on the banks, and, in addition, the banks collapsed and there was no one to stop it. This still happens today [...] Around 200 meters are collapsing on the banks of the river.





In the scenario described, the Ecuadorian state's omission constitutes continuous and systematic violations of the human rights of those who suffer the impacts of oil spills, despite the provisions of Article 13 of the Political Constitution of Ecuador, which states:

"Individuals and communities have the right to safe and permanent access to healthy, sufficient and nutritious food; preferably produced locally and in correspondence with their diverse identities and cultural traditions."

Between the two leaks, in April 2020 and January 2022, the **president of San José del Coca** for the year 2022, **Claudia Ushua**, exposes the problems that families have in their daily lives: "If before buying food in the village was something complementary and alternative, now it's the main thing, because agricultural work has been put aside due to the impossibility of planting on the islands and banks of the Coca River."



“[...] sometimes they sell coffee, cocoa and buy more food with chemicals, like chicken, meat. By law, they should buy fish... This is food for you [...]

We used to drink water from a little pond back here [...] Before, as there was no spillage, the river water was fine [...] Now, with the spillage, some girls have started to get itchy bumps on their skin.

According to the Inter-American Human Rights System (IACHR), food is one of the most fundamental human rights, related to others such as water and a dignified life. During the XLII General Assembly of the Organization of American States (OAS), held in Bolivia in 2012, the member countries presented their views and positions on the importance of food security with sovereignty, where the then Ecuadorian Foreign Minister, referring to the right to food, said: "It is part of the concept of living well, which includes access, availability, stability of supply and use of food. The availability of food is a political responsibility of our governments<sup>85</sup>".



85 See OEA: Asamblea General OEA: países debaten Seguridad Alimentaria y otros asuntos (oas.org)



The information leaflet 34<sup>86</sup> of 2010 from the Food and Agriculture Organization of the United Nations (FAO) contains a very important contribution to the right to food:

States must protect the exercise of people's right to food against violations committed by third parties (e.g. other individuals, groups, private companies or other entities). States must prevent third parties from destroying food sources, for example by contaminating land, water and air with harmful industrial or agricultural products or by destroying the ancestral pieces of land of Indigenous peoples in order to make way for mines, dams, roads or agribusiness. The obligation to protect also includes ensuring that the food that reaches the market is safe and nutritious.



Food is therefore a right that must be linked to the guarantee of other rights, such as territory, health and water, in order to guarantee the reproduction of life in territories where there are more vulnerabilities. This is the case of thousands of families on the banks of the Coca and Napo rivers, where for generations they have developed ways of life around agriculture, hunting, fishing and the commercial exchange of products and services. The river becomes a fundamental space for everyday life, hence the importance of a healthy river.

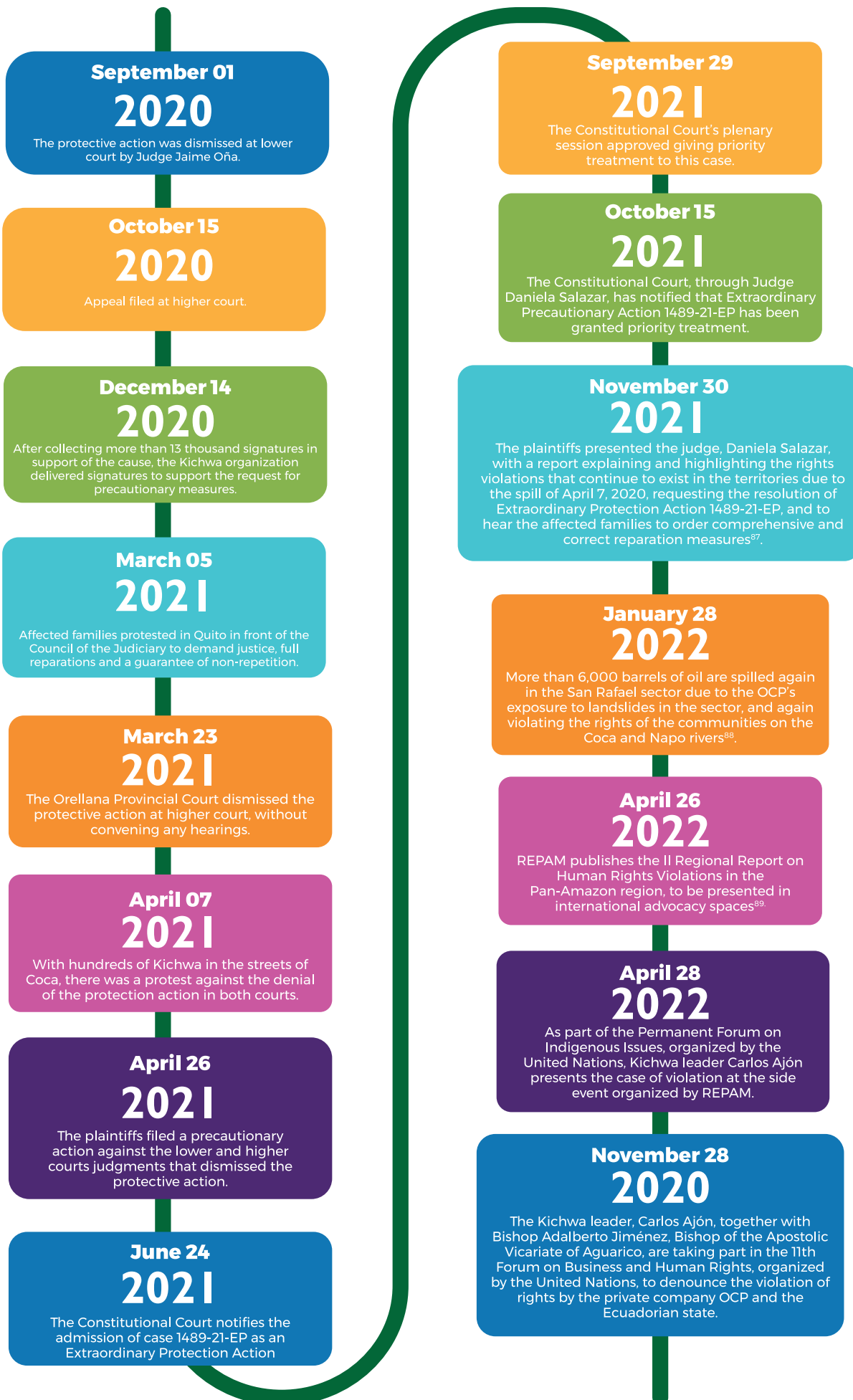
Therefore, although these oil spills occurred a few years ago, the impacts continue to generate suffering for the Kichwa communities, from the material dimension to the social, psychological and spiritual conditions, so that migration to cities and towns has increased since 2021 in these communities.

## Chronology of violations of the human right to food

According to what has been explained, all the vulnerabilities of the Kichwa communities along the Coca and Napo rivers materialize in the effects on multiple interrelated rights. In other words, by affecting the environment and violating the right to live in a healthy and ecologically balanced environment, the right to clean water, health/treatment for all diseases caused by ecosystem imbalances and actions that prevent the development of traditional agricultural and fishing activities around the Coca and Napo rivers are also violated. These violations are linked to the violation of the right to safe and permanent access to healthy, sufficient and nutritious food that corresponds to their identity and cultural traditions. Thus, we have a chronology of violations of many human rights:

86 See FactSheet34sp.pdf (ohchr.org).





<sup>87</sup> See Corte Constitucional decidirá sobre derrame de petróleo en la Amazonía (gk.city)

<sup>88</sup> See Nuevo derrame de petróleo en Ecuador se suma a la cadena de desastres provocados por la erosión del río Coca (mongabay.com)

<sup>89</sup> See 2nd Regional Report on Violation of Human Rights in the Pan-Amazon - REPAM





# Proposals

More than three years after the April 2020 oil spill and more than a year after the January 2022 oil spill, the Kichwa people on the Coca and Napo rivers continue to demand justice. Despite the denial of the protective action in the two local courts, the plaintiffs are continuing the case in the Constitutional Court, where it has been declared a priority case to enrich the jurisprudence on issues related to human rights and nature.

In this way, the plaintiffs, together with the communities, continue to demand full reparation and, above all, the guarantee of non-repetition, since, as has been observed, the SOTE and OCP ruptures are a chronic evil that affects the lives of thousands of communities and impoverishes them, limiting and violating their rights to sufficient and nutritious, culturally appropriate food, as well as other related rights, such as the right to work, to health, to live in a healthy and ecologically balanced environment and, of course, access to clean and safe water.

Although the action for protection has been denied in the Lower and Higher Courts, the communities are now continuing their demands in the Constitutional Court:

1. Declare the violation of fundamental human rights, such as access to water, sufficient and nutritious food, health, living in a healthy and ecologically balanced environment and, of course, the right of nature to be fully respected..
2. Comply with reparation measures that include the restitution of rights through environmental recovery, which allows the recovery of territories from which food security and access to water were previously obtained.
3. Ensure non-repetition measures, improving the infrastructure of both pipelines along their entire routes, to mitigate the damage as much as possible.



# ❁ CHAPTER 05





Photo: Istock Images by jacoblund

## 5.1. Right to health and education

According to the information available, the Afro-descendant population in the Americas is made up of more than 150 million people, equivalent to approximately 30% of the total population, and is among the poorest groups on the continent. In Durban, in 2001, in South Africa, the American States agreed to define the term “Afro-descendant” as a person of African origin who lives in the Americas and in all areas of the African diaspora as a result of slavery, having historically been denied the exercise of their fundamental rights<sup>90</sup>. This assertion is also revealed by the World Bank, stating that “race and ethnicity are integral factors in the social exclusion and poverty faced by people of African descent.”<sup>91</sup>

This report reveals the importance of moving from the formal abolition of slavery to freedom. It is also the lesson of their struggle for solidarity, resistance and persistence.

In this context of racial discrimination, xenophobia and the various expressions of intolerance towards this population, this report has managed to capture the current struggle to obtain ownership of their territory and protect their environment in conditions suitable for the development of life. The persistence of their struggle also extends to the full enjoyment of economic and social rights linked to their customs and traditions, such as access to drinking water, health and education.

Just like the peasants, Indigenous people, riverside dwellers and quilombola communities, the tragedy of slavery and its legacy has extended to the monstrous effects of the extractivism, exploitation and development projects that dominate the world. Because of them, historically occupied territories are not being recognized, demarcated or titled.

Despite repeated rulings by the Inter-American Court of Human Rights that, based on the principle of **jus cogens**, no legal act of discrimination is admissible, today, in practice, we see that it is not complied with. In the words of Dalva da Silva, a quilombola who took part in this report, “many rights are only on paper.”

90 IACHR, Preliminary Observations of the Inter-American Commission on Human Rights following the visit of the Rapporteur on the Rights of Afro-descendants and against Racial Discrimination to the Republic of Colombia, OEA/Ser.L/V/II.134, Doc. 66, March 27, 2009, para.

91 CIDH, Acceso a la justicia para mujeres víctimas de violencias en las Américas, OEA/Ser.L/V/II., Doc. 68, 20 enero 2007, para. 209.



Although slavery has been officially abolished and many binding and non-binding treaties have been enacted, declared and signed, this report shows that in the Pan-Amazon region, the Afro-descendant population suffers from structural discrimination like the rest of the Amazonian communities. The invention that we are all equal in the **“idea that [...] there is no racism because [...] all races and cultures have merged forever in a happy synthesis”<sup>92</sup>**, seems like a utopia.

According to the IACHR, the Afro-descendant population is disproportionately concentrated in the poorest residential areas<sup>93</sup> and with the greatest housing deficit, which are poorly accessible, have inadequate means of transportation and are more exposed to crime and violence<sup>94</sup>.

Santa Fé, one of Brazil's quilombola communities, recounts in this report the arduous process of titling that has dragged on for 10 years and the constant invasions they have to face. Like many other communities, they do not have a health center or an educational center. The children should leave the community at 7 a.m. and return late at night. They have no public transportation to get around.

Faced with historical suffering and its continuity in terms of exclusion and racism, they remain invisible. Therefore, within the framework of international law, there is a jurisprudential and doctrinal development that is cited in general on these points:

<sup>92</sup> [https://www.oas.org/es/cidh/afrodescendientes/docs/pdf/AFROS\\_2011\\_ESP.pdf](https://www.oas.org/es/cidh/afrodescendientes/docs/pdf/AFROS_2011_ESP.pdf)

<sup>93</sup> [https://www.oas.org/es/cidh/afrodescendientes/docs/pdf/AFROS\\_2011\\_ESP.pdf](https://www.oas.org/es/cidh/afrodescendientes/docs/pdf/AFROS_2011_ESP.pdf) (Response from the State of Guyana).

<sup>94</sup> [https://www.oas.org/es/cidh/afrodescendientes/docs/pdf/AFROS\\_2011\\_ESP.pdf](https://www.oas.org/es/cidh/afrodescendientes/docs/pdf/AFROS_2011_ESP.pdf)



- Article II of the American Declaration of the Rights and Duties of Man states: “All persons are equal before the law and have the rights and duties enshrined in this Declaration, without distinction as to race, sex, language, creed or any other matter.” Therefore, education and health must be guaranteed.
- Resolution A/RES/64/169 of the United Nations General Assembly, which adopted the “International Year of People of African Descent,” with a view to strengthening national measures and regional and international cooperation for the benefit of people of African descent for the full enjoyment of their human rights
- The Durban Declaration and Program of Action (“DPAD”) which states: “...all countries in the region of the Americas [...] recognize the existence of their population of African origin [...] and admit the persistence of racism, racial discrimination, xenophobia and related forms of intolerance.”<sup>95</sup>
- Article 1 of the American Convention on Human Rights.
- Article 3.1 of the OAS Charter.
- Article 9 of the Inter-American Democratic Charter.
- Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.
- Article 13 of the Durban Plan of Action.
- Article XVIII of the American Declaration of the Rights and Duties of Man.
- Article 25 of the American Convention.

<sup>95</sup> Durban Declaration and Program of Action (DPAD), para. 33.



We transcribe article 13 of the Durban Plan of Action as a way of becoming painfully aware of inhumane acts, giving us the opportunity to react to this misery:

“ That slavery and the slave trade, in particular the transatlantic slave trade, were atrocious tragedies in the history of humanity, not only because of their abominable barbarity, but also because of their magnitude, their organized character and, above all, their denial of the essence of the victims, and we even recognize that slavery and the slave trade [...], constitute, and should always have been, a crime against humanity. ”



## 5.2. Realities

### 5.2.1 Quilombola peoples of Santa Fé, Brazil

#### Historical context and location

The quilombo of Santa Fé, located in the municipality of Costa Marques, Rondônia, Brazil, is situated on the banks of the Guaporé River, which borders Bolivia. After years of struggle, with the historical presence of the remnants on the site, their land was only recognized on December 20, 2018.

The Santa Fé Quilombo has a demarcated area of 1,452,092,24 (One thousand, four hundred and fifty-two hectares, ninety-two ares and 24 centiares). Although it looks like an extensive area of land, a large part of the area claimed was left out of the demarcation. The quilombola community of Santa Fé has 14 permanent resident families, of which 28 are children, 2 adolescents, 18 women and 13 men. There are many other quilombola families living in the city, but they are registered with INCRA as belonging to the Santa Fé Community.

Historically, this region was occupied by Indigenous peoples. Later, quilombola groups arrived. Both live in the forest, practicing rubber extraction, fishing and small-scale agriculture. The reality of the Quilombola Community is complex, as there are many cultural and environmental beauties. However, there are also many challenges and obstacles to realizing the quilombolas' projects.

Despite all the legal recognition, the reality of these communities today is not very different from the living conditions of their close ancestors who lived in slavery, since the lack of basic health services, education and the titling of their territory can be considered modern forms of slavery.

We would like to emphasize that there is often a lack of clear awareness of the problems that particularly affect the excluded. When it comes to taking concrete measures, they should not come last<sup>96</sup>. It is a question of establishing and complying with global and efficient rules that make it possible to “guarantee this protection”<sup>97</sup>: health, education and territory.

<sup>96</sup> [https://www.vatican.va/content/francesco/es/encyclicals/documents/papa-francesco\\_20150524\\_encyclica-laudato-si.html](https://www.vatican.va/content/francesco/es/encyclicals/documents/papa-francesco_20150524_encyclica-laudato-si.html)

<sup>97</sup> [https://www.vatican.va/content/francesco/es/apost\\_exhortations/documents/20231004-laudate-deum.html](https://www.vatican.va/content/francesco/es/apost_exhortations/documents/20231004-laudate-deum.html)





Source: New Social Cartography of the Amazon: Quilombolas of Santa Fé - Costa Marques, Rondônia, Brazil, 2009.

The surrounding traditional communities, which are directly related to the Santa Fé Community, are at different stages in their territorial regularization processes, ranging from communities without demarcated territories to situations where land titles have already been registered. The violation common to all these collectives is the territorial invasions suffered by criminal groups with different focuses, predominantly loggers, land grabbers, miners and cattle ranchers, as well as predatory hunting and fishing activities that affect the uses and customs of the communities located in these territories.

## Violations of the right to a healthy environment

We can say that the violation of a healthy environment is a state policy in the territory of Rondônia. From the 1970s onwards, there was an expansion of the colonization process led by the Brazilian state, which was guided by the premises of the military dictatorship of occupation and invasion of the Amazon territory. In this context, the dynamics of the communities' coexistence has intensified in conflicts with farmers and land grabbers who invade the territories traditionally occupied by these peoples, especially for logging, incorporation of the occupied pieces of land into their private patrimony, and beef and dairy farming, which predominates in a large part of these territories.



Dams, mining, predatory tourism, invading communities, and the environmental impacts/damage resulting from these actions are enormous. According to Brazil's constitution, when it comes to quilombola and Indigenous communities, these pieces of land must be protected by law, but unfortunately this is not the case. What do we see? We see developments advancing, often masked by the legal apparatus, but without legitimacy. They do not respect the law or international agreements, such as ILO (International Labor Organization) Convention 169, which was ratified by the Brazilian Constitution, and which establishes that all actions involving traditional communities must include prior consultation and a consultation protocol. And in the Caput of Article 225 of the Brazilian Constitution, it states that:

**Ms. Mafalda**, the matriarch of the quilombo says:

Looking at the river is looking at our source of life. to 'kill' the river is to kill our community

With this new demand for agricultural exports, the so-called BR 429 highway, which connects the Quilombola community in question, is now receiving major logistics projects, such as the binational highway project with Bolivia, passing through the territory of the aforementioned Quilombola Community of Forte Príncipe da Beira, in the municipality of Guajará Mirim, which neighbors the Santa Fé Quilombola community. The impact of this work is direct on its historical heritage, which is about to become a UNESCO World Heritage Site. The community is forced to live under a process of quartering because of a military base, which directly interferes with people's lives.

Everyone has the right to an ecologically balanced environment, a common use of the people and essential to a healthy quality of life, imposing on the public authorities and the community the duty to defend and preserve it for present and future generations

We reaffirm that this threat to the environment, just as in the past in traditional territories, is now part of a state policy, since, based on this new pattern of expansion of the soybean and corn export market, in addition to the heating up of the land market, the processes of land discussion have gained a new chapter, with the removal of pastures and forests for the planting of monoculture transgenic products, with the application of tons of pesticides, many of which are banned in several European countries and the USA, thus producing a series of diseases that until then had not been catalogued in the region.

The Santa Fé Quilombola community lives surrounded by farms and is under constant threat of environmental destruction due to the use of pesticides that impact on a much larger radius than where they are used; under the threat of contamination of the river, due to the indiscriminate use of pesticides, as these enter the soil and reach the water table, consequently causing the death and decline of fish, the community's main source of food.



Furthermore, the proposal for this highway, which will link Brazil to Bolivian territory, is being drawn up without listening to the community, thus violating ILO Convention 169, which deals with prior consultation.



“ They are insisting on building a binational bridge in the community area, inside the quilombo. We are under psychological pressure. All the time people are pressuring us to accept. They arrive saying that the competent bodies have already accepted it and all that’s left is for us... We have always been against it, we are a traditional community and we do not want to lose our culture, our tradition... This road will not benefit us, because if it is built, businesses will come; we will be employees and not owners. We are going back to the time of slavery; we will be slaves to the masters. If we accept the road, it will be trucks and trucks passing by... We will not be able to make a living from fishing or hunting anymore, because it will pass through the middle of where we hunt...; outsourced companies are going to come into the community, putting an end to coexistence. ”

*Nucieleide da Paz Pinheiro - President of the Fonte Príncipe da Beira Quilombola Association.*



## The right to a healthy environment and its correlation with other human rights violations

### Correlation with the Right to Water

The Quilombola Territory of Santa Fé, as well as the entire surrounding area, which is vulnerable to the contamination of the water in its rivers by the indiscriminate use of pesticides, as well as the water table, which, in theory, can contaminate the water in artesian wells, is seeing a basic right potentially violated.

In 2010, the UN General Assembly recognized “the right to clean and safe drinking water and sanitation as an essential human right for the full enjoyment of life and all human rights” (Resolution 64/191, para. 1). The Convention on the Elimination of All Forms of Discrimination Against Women states that states must ensure that women have the right to “adequate living conditions, particularly in relation to (...) the provision of water, (Article 14, para. 2). The Convention on the Rights of the Child requires those responsible to combat disease and malnutrition “through the provision of nutritionally adequate food and drinking water” (Art. 24, para. 2). Persuasively, the Committee on Economic,

Social and Cultural Rights concludes that the right to water is essential to ensure an adequate standard of living and “inextricably linked to the right to the highest attainable standard of health” (General Comment 15, para. 3).

To address the issue of water is to address the issue of human rights as a whole. We therefore believe that the right to an ecologically balanced environment (in this case, water) is a fundamental right. The Human Right to Water is an essential requirement for health, life, food and culture, above other demands on this good. This guarantee of this asset not only includes this generation, but future ones as well. It is an integral part of life; therefore, it is necessary to pay attention to all the ways of maintaining life, not only in the individual sphere, but also in the collective sphere.



Photo: Roberto Ossak



## Correlation with the right to health

The presence of pesticides in large conglomerates producing livestock and/or, above all, grains exacerbates territorial violations. The consequences of water, soil and air contamination, especially through mechanized application, go beyond the boundaries of the properties that handle these poisons, leading to serious health problems for community members. The Rural Quilombola Community of Santa Fé, located in this context, pressured by large farms, although titled by the agrarian agency, has suffered violations of its rights, such as the threat of living with a contaminated environment and without the right to health, as we can see in this account below:

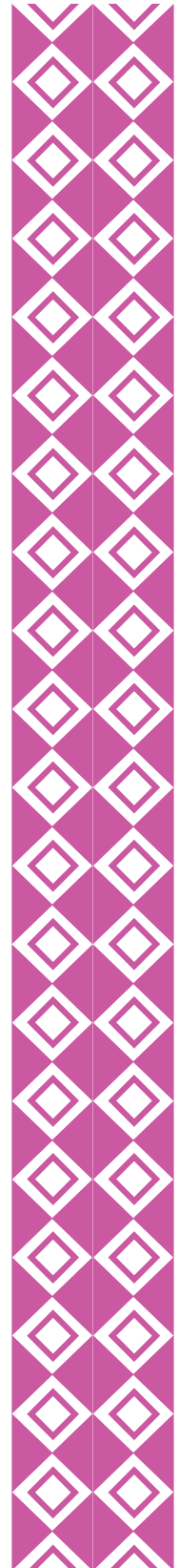
“The health issue in the quilombola community of Santa Fé is precarious. The most common illnesses here are malaria, the flu, a strong viral illness with a high fever, and headaches from inhaling pesticides from the surrounding farms.” Dalva tells us that: “Before the pandemic, we had medical care every month. But during the pandemic, the community was isolated. But even without COVID-19 care, we only had two people who were infected, but it was not serious. Therefore, since the pandemic, there has been no more assistance for families.”



Photo: Roberto Ossak



Photo: Roberto Ossak





“We are fighting for the return of the monthly service. There is no health center and no nurse to provide first aid. We have a health agent, but he does not live in the quilombola community of Santa Fé. The ideal would be for the agent to live in the community in order to help.” This situation becomes even more precarious, according to residents, in the rainy season, when the bridge is blocked and the road is flooded. To get to the town center, the only alternative is to take the river or a very long detour.

**Dalva adds:**

**When we need health care, families who have an old motorcycle are able to travel to seek health care. There is public transportation, which is a van under the responsibility of the Social Welfare Department, for all the communities and associations in the municipality. Therefore, when we need it, we have to make a request. Most of the time, however, transportation is denied.**

## Correlation with the right to education

Another violation that can be linked to the threat to the environment is the denial of the right to education, because with the expansion of agribusiness in the region, many small producers have sold their land and today all you see are farms. With few communities in the countryside, the government has no interest in building schools to serve the few that remain. The fact that there are no schools in the community violates the right to quilombola education, guaranteed by law, which makes it possible to work on quilombola culture and strengthen identity.

Therefore, the report on education in the quilombo is a reflection of what has happened since the Brazilian Empire. Even today, Brazil, as a democratic state, is a contradictory country, because it has a legislature that drafts laws, many of which are considered to be advanced, but there is an executive branch that is the first to fail to comply with these laws. An example of this is Law 12852/2013, which makes it compulsory for the state to provide mechanisms so that every child and young person has access to education.

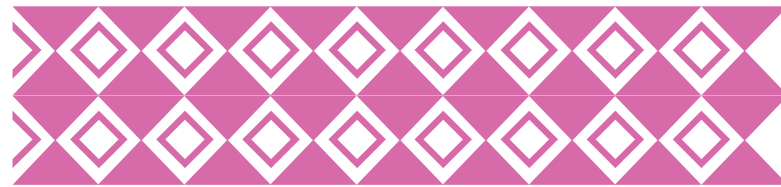


Photo: Roberto Ossak

The distance from the Santa Fé Community to the municipal school, in the seat of the municipality of Costa Marques, Rondônia, is 7 kilometers. There are currently 13 students from the community studying at the school in the town center. The access roads to the city are unrideable. Although there are school buses, they are not maintained, there are always problems and, in many cases, the children have to walk long distances to get to school. The school bus is accompanied by a trained monitor who, together with the driver, is responsible for ensuring the safety of the students.

Faced with this situation, the **community leader of Quilombo Santa Fé, DALVA**, tells us that:

“ Here in our community, we have been fighting for years to see if we can get an elementary school, especially for the children, because there are other communities around our community that do not have a school. If we could get this school here for our quilombo, it would already benefit the other children who live around our community. Therefore, school transportation would not just benefit our community, but all the other communities. The bus leaves from our quilombo community of Santa Fé and picks up other children and teenagers who live nearby. ”



Thus, we can say that the Municipality of Costa Marques, as well as the State of Rondônia and its government agencies, do not comply with the law. Almost the entire school population has to travel to the town center to study. The government, which should constitutionally guarantee access to a basic human right, which is the right to education, a basic right written into the Brazilian Magna Carta, fails to do so. As a result, children put their lives at risk, since school transportation is scrapped and they use buses in precarious situations to access a right that should be present in these communities.



Photo: Roberto Ossak

## Correlation with the right to use the territory

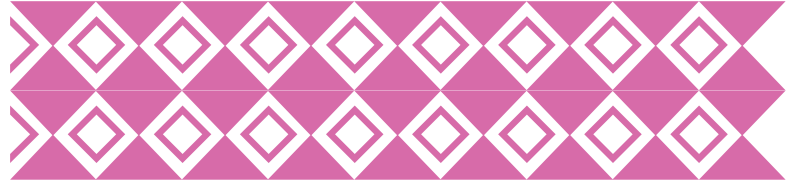
The violation of having a balanced environment can be related to the violation of traditional communities' right to subsistence. In addition to these violations of individual and social rights mentioned above, there are many developments coming to the region. On the one hand, there is the economic exploitation of natural resources, where big business sees the region as a generator of wealth, without taking into account the communities that exist there. On the other hand, there is the inactivity and omission of public authorities. This violence is built on fear, on a false debate, which leads to brutal violence against communities that have traditionally lived there. Even though the quilombola land of Santa Fé has been demarcated, there is still no public policy to guarantee access to the constitutional rights established. The process of omission, as well as criminalization, is constant. For example, when it comes to overseeing and protecting land and the environment, the environmental police and SEDAM (Secretariat for Environmental Development) are the very public agents who are playing the role of persecutors of leaders and communities in general, with the aim of intimidating and demobilizing the struggles for ancestral land. It is a contest of unequal forces, because they are public agents with political ties, using their power to intimidate the entire community. Several arrests have taken place recently, in situations where quilombolas were fishing for subsistence and were fined or imprisoned. There have been cases of abuse such as home invasions and other types of threats. All of this is associated with invasive "tourists" who engage in predatory tourism, using modern fishing reels and instruments, but are not penalized by the authorities.



We can understand the serious situation from the account of Quilombola **Sebastião Rodrigues Filho**:

! First of all, I want to tell you a little about the time I was approached. I myself was approached not only by the environmental police, but also by the "parquinhos" (guards), which is a police force that looks after the Bolivian side. But I was approached on the Brazilian side, arriving in the community, after a lot of struggle and because I had not committed any crime, they did not film me or anything and told me to leave. I have already been a victim of the environmental police and they took all my fishing gear. Another thing that saddens me is predatory fishing. Regarding predatory fishing, in the beginning when the community was recognized as a quilombola territory, many tourists arrived from other municipalities and other states. I went to talk to them and asked them to leave, because they were in a quilombola area. I reported them to SEDAM because they were loaded with fish. It was pure traíra fish from the Guaporé river. ! !







With these predatory policies on the part of the government, what we see is the suffering of the local population, whose rights are being massacred. That is the question: how is that possible? How can an area that has been demarcated, recognized and titled remain on the fringes of the “Law”? With the advance of developments in this region (mining, construction of Small Hydroelectric Power Plants (SHPs), tourism), we can see that the public authorities and the local agents involved are not prepared for the social, ethnic and environmental complexity of dealing with these developments in the region. They are not prepared or are familiar with these abuses and dismantling of public oversight bodies and the implementation of public policy for the entire population.

## Conclusion

Indigenous peoples, traditional populations and communities know the value of life and respect for their territories. Therefore, they fight against all exploitation and policies that go against the principle of human dignity and human rights. They do not agree with the policies of degradation caused by these enterprises. These peoples know the value of the waters, the forests, the land and the animals, and they demand respect for their traditions, customs and their territories as a right to exist. They have the right to develop from their projects of caring for our common home.

The principle of self-determination and self-identification justifies prior, free and informed consultation with traditional peoples. Self-determination means that “we have our value system, our understanding of nutrition and cuisine, our political and legal system, our pedagogy for educating children, our rites. It means that we are involved in a space-time that determines who we are.”

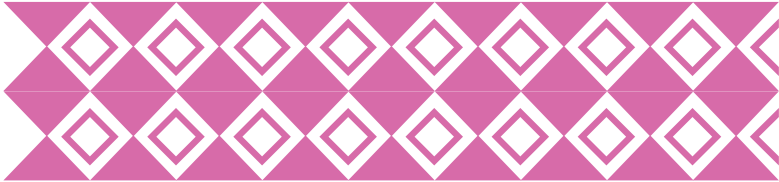
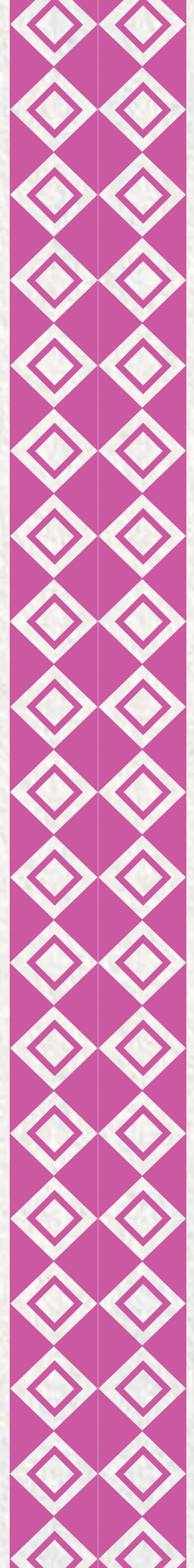


Photo: Roberto Ossak

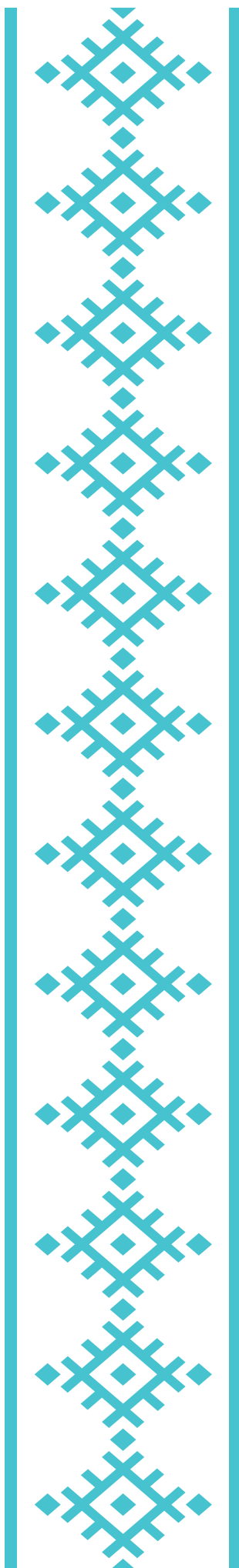
# Therefore, we ask:

- Prior, free and informed consultation in quilombola territories that could potentially be impacted by major projects.
- Effective protection of quilombola territory, so that the environment is minimally conducive to the life of the community;
- That a health center be set up in the community, or that the municipality's transportation be effective in transporting people to the health centers in the municipality;
- Safe school transportation;
- Immediate continuation of the demarcation of Indigenous and quilombola pieces of land in the state of Rondônia;
- Immediate solution to the logistical problem of collecting the garbage produced in the community, especially as a result of irregular tourist activities;
- National Policy for the Sustainable Development of Traditional Peoples and Communities;
- Urgent establishment of an environmental and territorial management plan in the Community to be drawn up with our partners at IFRO (Federal Institute of Rondônia) and UNIR (Federal University of Rondônia), under the mediation of the MPF (Federal Public Prosecutor's Office), taking into account the needs of: survey of land use and occupation; diagnosis of the impacts of tourism on the community; mapping the archaeological concentration and indicating free areas for the construction of public and community facilities; mapping historical occupation; review of ethnological, historical, geographical and archaeological literature, as well as ethnography of ethnically differentiated groups; conducting ethnography on the community's current relationship with archaeological artifacts; training for agro-extractivism and agro-ecology; training for the protection of archaeological heritage; training for the activities involved in ecotourism.





# CHAPTER 06



## 6.1. Right to sexual freedom

The report addresses the situation of children and adolescents subjected to trafficking and rape in the context of the triple frontier of Peru, Colombia and Brazil and in schools attended by Indigenous girls belonging to the Awajún people. The cases starkly expose the failure of the education system and the abandonment of borders by governments.

Human trafficking is a complex crime and, in a border context where criminal activities such as drug trafficking, the illegal timber and arms trade, the smuggling of certain illegal products prevail, and in the absence of state action, identifying, reporting and accompanying victims is extremely dangerous. According to the data, this evil (trafficking) affects almost **50 million people**, according to global estimates of modern slavery for the year 2021, which represents an increase of 10 million people in the last five years<sup>98</sup>.

Worldwide, children now account for almost a third of the victims of trafficking detected. Of every three child victims, two are girls and one is a boy<sup>99</sup>. More than 2 billion people do not have the full protection provided by the Trafficking Protocol<sup>100</sup>.

In this context, “day after day, children are denied the right to be children. **Anyone who**<sup>101</sup> manages to be a child has a lot of magic and a lot of luck,” says **Eduardo Galeano**.

In a panoramic view, therefore, rape and trafficking in minors continue to be the harshest expression of social injustice, poverty and vulnerability, especially for those who come from or live in the Amazon region because they have less access to education.

According to the figures, for example, pregnancies occur among women with primary education (41.7%), 23.5% of whom are women from the forest<sup>102</sup>.

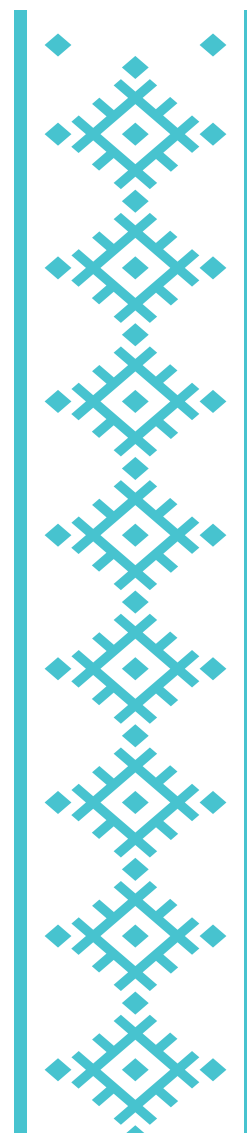
98 [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_855047/lang-es/index.html](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_855047/lang-es/index.html)

99 [https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP14\\_ExSum\\_spanish.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP14_ExSum_spanish.pdf)

100 [https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP14\\_ExSum\\_spanish.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP14_ExSum_spanish.pdf)

101 Modification of the coordinator of this report.

102 [https://peru.unfpa.org/sites/default/files/pub-pdf/estudio\\_csemap\\_ver\\_digital\\_1.pdf](https://peru.unfpa.org/sites/default/files/pub-pdf/estudio_csemap_ver_digital_1.pdf)



According to Peru's National Registry of Identification and Civil Status (RENIEC), in 2019, a total of 27,799 births were registered, the mothers of which were girls and adolescents aged between 10 and 17. In 2020, a total of 48,575 births were registered throughout the country, within this figure, 1,303 pregnancies of girls and adolescents between the ages of 10 and 14 were registered. These figures should worry the authorities, forcing them to take action to ensure comprehensive care for pregnant girls and adolescents, to monitor the origin of these pregnancies and to implement guidelines aimed at improving the prevention and reporting of different forms of violence.

A fundamental principle of international human rights law is that children and adolescents should enjoy a life free from violence. It is the legal duty of the States Parties to the universal and regional system to guarantee the fundamental rights to personal integrity, among other rights, in which the full development of each person is guaranteed. These rights are widely recognized by the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man, specialized instruments such as the Inter-American Convention on the Prevention, Punishment and Eradication of Violence

against Women (Belém do Pará) and the United Nations Convention on the Rights of the Child. **Within this broad international framework of protection**, the Convention on the Rights of the Child set an important milestone on the international stage by recognizing children and adolescents as subjects of human rights. This convention placed the **best interests** at the center as a fundamental indicator that must be considered in any decision affecting children and adolescents. In developing this principle, in accordance with Inter-American standards on the best interests of the child, states should explicitly include it as a guiding principle to be considered in any action, policy or decision affecting the rights of children and adolescents<sup>103</sup>.

<sup>103</sup> <https://www.oas.org/es/cidh/informes/pdfs/ViolenciaMujeresNNA.pdf>



Although there are good practices and efforts to address the issue, they have not been enough so far. This failure is reflected in the data and cases recorded in this report. It is enough to look at the reality in Peru's jurisdiction to give us an idea of what is happening in the Pan-Amazon region, where, between "the years 2019 and 2021, 84,653 complaints of physical, psychological and/or sexual violence against students were registered, of which 1,450 have been decided on the merits and another 317 disciplinary proceedings have been opened, but there is still no record of their conclusion. The remaining complaints, a total of 2,886, more than half of the cases (1,533), have no record to indicate whether or not administrative disciplinary proceedings have been initiated<sup>104</sup>."

The argument that best illustrates this problem of impunity is the failure of the legal system. In other words, "in the context of an administrative disciplinary procedure (for sexual abuse) against a teacher or former teacher subject to the Public Teaching Career, the corresponding limitation period must be checked<sup>105</sup>," in order to determine whether the disciplinary power is in force. In other words, in a cumbersome system, where investigation processes take years, crimes, even if proven, remain unpunished due to the passage of time. This means that the defendants have recourse to the statute of limitations, a right qualified as a means of

defense within the right to due process of law that leads many rapist teachers to be acquitted and reinstated in the educational center to continue putting the integrity of the students at risk.

Not only states, but society as a whole, must promote full compliance with human rights treaties signed in application of the principle of the best interests of students and adolescents. This principle plays an important hermeneutic or interpretative role in cases of doubt or legal vacuum, in order to avoid any risk to the mental, physical and sexual integrity of children and adolescents.

Article 3.1 of the Convention on the Rights of the Child states: "In all actions concerning children taken by public or private social welfare institutions, courts, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."



Photo: Istock Images

104 <https://www.defensoria.gob.pe/wp-content/uploads/2022/07/IA-04-2022-DP-AAE-.pdf>

105 <https://www.defensoria.gob.pe/wp-content/uploads/2022/07/IA-04-2022-DP-AAE-.pdf>



Photo: Istock by saiyood

The Convention on the Rights of the Child (CRC) is the most important and binding international human rights treaty aimed at protecting children and adolescents. It contains 54 articles, which establish the responsibilities and obligations of parents, health professionals, teachers and anyone who has dealings with these children and adolescents.

The Committee on the Rights of the Child is the monitoring body for the Convention, with 3 protocols that complement it:

- The Protocol on the Sale of Children and Child Prostitution.
- The Protocol on the Involvement of Children in Armed Conflict.
- The Protocol on a communications procedure for submitting complaints to the Committee on the Rights of the Child.

Other important **international instruments include the International Convention for the Suppression of the Traffic in Women and Minors**, a multilateral treaty of the League of Nations, adopted in Geneva on September 30, 1921, which aims to “accomplish more completely the suppression of the traffic in women and minors indicated in the preamble to the Convention of May 18, 1904, and in the Convention of May 4, 1910, under the name of the ‘white slave trade’”<sup>106</sup> and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, signed in New York on December 10, 1962.

As we can see, many laws and few actions. In practice, human rights are not the same for everyone. The cases included in this report are examples of the unlimited aberration of innocence, in some cases to the point of kidnapping for the sole purpose of selling their organs (children found in the triple frontier without organs). Human trafficking and other forms of slavery must be tackled today with serious commitments from everyone. “Criminal organizations use global networks to achieve their goals, and action to defeat this phenomenon requires a joint and global effort on the part of the different agents that make up society.”<sup>107</sup> We are all in this process.



Photo: Istock

106 [https://es.wikipedia.org/wiki/Convenci%C3%B3n\\_Internacional\\_para\\_la\\_supresi%C3%B3n\\_de\\_la\\_Trata\\_de\\_Mujeres\\_y\\_Menores#:~:text=La%20Convenci%C3%B3n%20Internacional%20para%20la,se%C3%B1alada%20en%20el%20pre%C3%A1mbulo%20del](https://es.wikipedia.org/wiki/Convenci%C3%B3n_Internacional_para_la_supresi%C3%B3n_de_la_Trata_de_Mujeres_y_Menores#:~:text=La%20Convenci%C3%B3n%20Internacional%20para%20la,se%C3%B1alada%20en%20el%20pre%C3%A1mbulo%20del)

107 [https://www.vatican.va/content/francesco/es/encyclicals/documents/papa-francesco\\_20201005\\_enciclica-fratelli-tutti.html](https://www.vatican.va/content/francesco/es/encyclicals/documents/papa-francesco_20201005_enciclica-fratelli-tutti.html)



## 6.2. Realities

### 6.2.1 Sexual exploitation and trafficking of children and adolescents on the Triple Frontier - Brazil, Peru and Colombia (Amazonas)

Municipalities: Tabatinga borders Letícia-Colombia and Santa Rosa-Peru; Benjamin Constant borders Islândia-Peru.

As a result of the changes in some people's lives due to advances in technology and globalization, there have been many vulnerabilities in the various social and economic contexts, as well as environmental impacts, where the Amazon has become more exploited in recent years. All of this has an impact on human, animal and plant life, as a result of the great wealth it possesses and the routes that facilitate the exploitation of the

Amazon. These are areas of the Triple Frontier between Brazil, Peru and Colombia where there is no security to curb the entry and exit of drug trafficking, which is a problem in this region, as is human trafficking. This article was based on bibliographical research and scientific articles on the above-mentioned topic, with the aim of giving visibility to the rights violations against children and adolescents in the Triple Frontier.

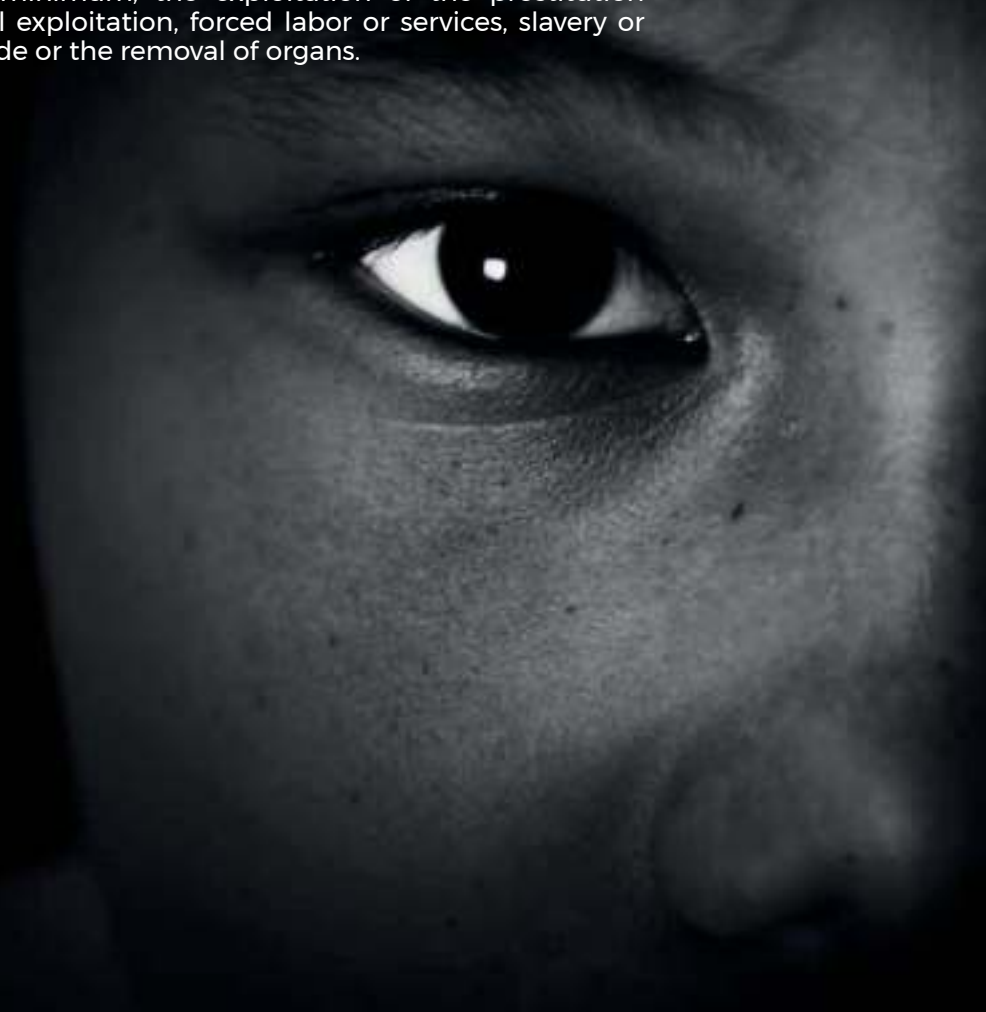
The richness of the varied biomes in these areas attracts covetous eyes and causes people to use bad intentions when capturing fauna and flora, through the natives, for profit and international interest. In the current context, Human Trafficking has become one of the most barbaric forms of abuse and violence against the dignity of the human person both inside and outside the country. Large criminal organizations operate transnationally to perpetuate economic exploitation, using all forms and practices that offend the dignity of human life. Human trafficking has been facilitated by the phenomenon of globalization, which allows for more open borders, with a high flow of migrants (VOLPATO, 2018). This crime is highly lucrative and transnational, with a turnover of 117 billion euros a year (data from January 9, 2021). Its victims are men, women, children and adolescents with diverse social backgrounds.





From the 2014 Fraternity Campaign of the CNBB (National Conference of Bishops of Brazil), which brought the Theme: “Fraternity and Human Trafficking” and the motto: “It is for freedom that Christ has set us free,” as a source of inspiration, made it possible to understand how these criminal practices really happen. It can also be seen that the 1949 Convention entered the realm of human rights more explicitly, emphasizing the dignity of the human person and making it clear that the victim can be anyone, regardless of gender or age.

The term “human trafficking” means the recruitment, transportation, transfer, harboring or reception of persons, using the threat or use of force or other forms of coercion, kidnapping, fraud, deception, abuse of authority or a situation of vulnerability or the delivery or acceptance of payments or benefits to obtain the consent of a person who has authority over another for the purpose of exploitation. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.



## The Triple Frontier

The border is classified as a zone of relationship between different territorial domains, due to the different legal and economic systems. Border areas can have an ambiguous meaning in that, on the one hand, they can potentialize conflicts and, on the other, they can enable exchanges between heterogeneous but complementary cultures. The Triple Frontier is located in the center of the Amazon jungle and, in this setting, all the ways of seeing this dynamic are so unique. However, looking at the reality of the Triple Border between Brazil, Peru and Colombia, the gateway for victims of human trafficking is located at the entrance and exit points: between the municipalities of Atalaia do Norte, Benjamin Constant and Tabatinga, in Alto Solimões in the state of Amazonas, Brazil; in Islândia, on the side of the Peruvian Javari; in Letícia, in the Amazonas Department of Colombia; and in Santa Rosa de Yavari, which is an island located in the Department of Loreto in Peru.

## Main victims

The biggest victims are children, adolescents and women, who are socially vulnerable because they are poor, uneducated, Indigenous, riverine and foreign, as well as being abandoned by the state, which does not care about entry and exit at the borders, where there is free passage for drug trafficking, human trafficking, illegal mining and exploitation of the biome. All this often happens because the laws are weakened and there are no border controls due to the negligence of local governments, as well as family disintegration and a lack of public policies.

The silence of the majority of victims is the fear of reporting even if they are far away, because they feel watched and fear for their lives and those of their families, as well as the entry and exit of people due to the lack of inspection in ticket sales where no documents are required for identification. For this reason, it makes police investigation work more difficult.

However, it is worth noting that the highest rates of sexual violence against children and adolescents are committed by family members, relatives, friends or acquaintances; they are also the ones who facilitate the victim's contact with third parties.

## Territorial Map



Source: Brazilian Institute of Geography and Statistics - IBGE, 2018.

### Human Trafficking for the purposes of:

- Sexual exploitation;
- Sexual abuse (rape of a vulnerable person)
- Slave labor (child labor);
- Organ removal;
- Domestic servitude;
- Servile marriage;
- Drug trafficking;
- Begging;
- Illegal adoption.

### Violated rights:

- To a dignified life
- Freedom
- To employment, study, leisure
- To free transit
- To making choices for their own life
- Not to be involved in illegal activities
- To the inspection of river boats between the surrounding areas and the capital, Manaus).



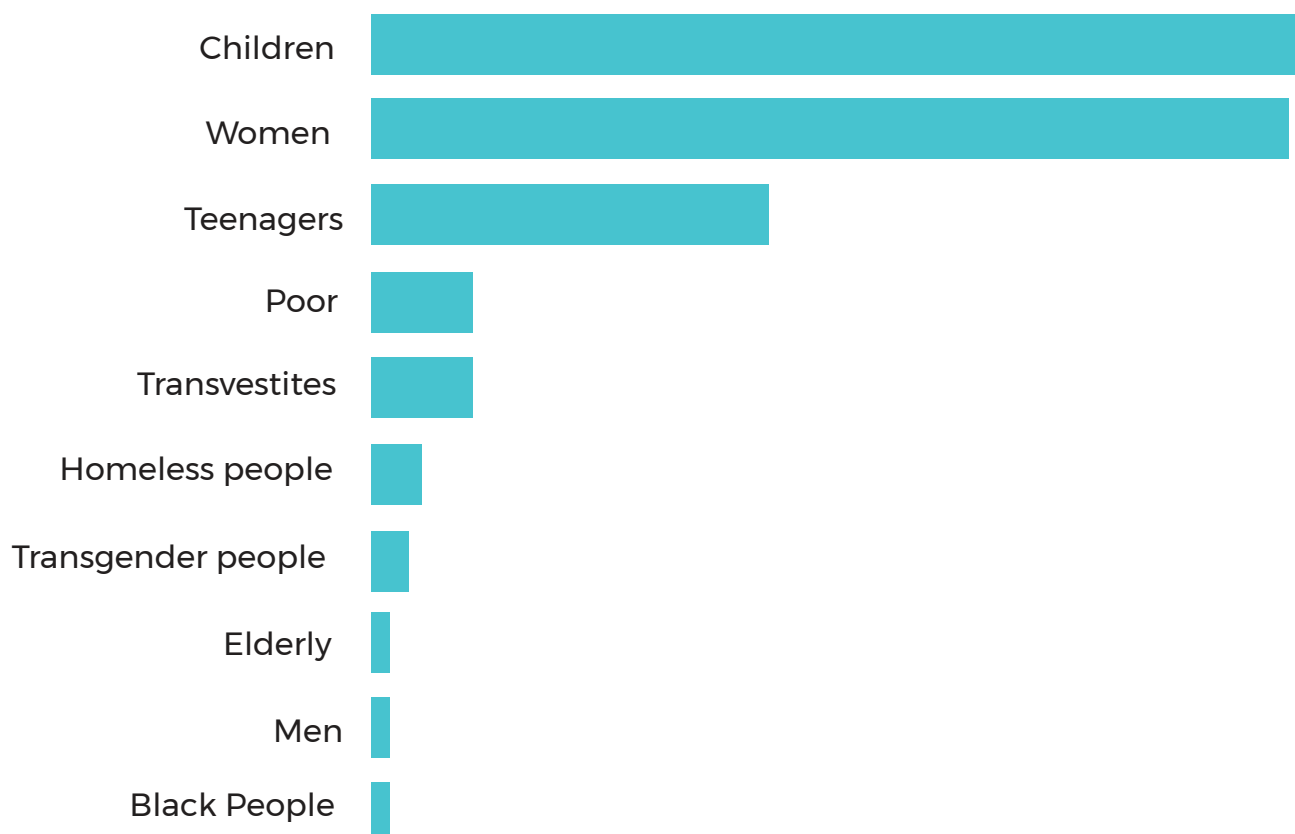
# Map of Violence



Source: Google Earth, 2023.

## WHO ARE THE MAIN VICTIMS?

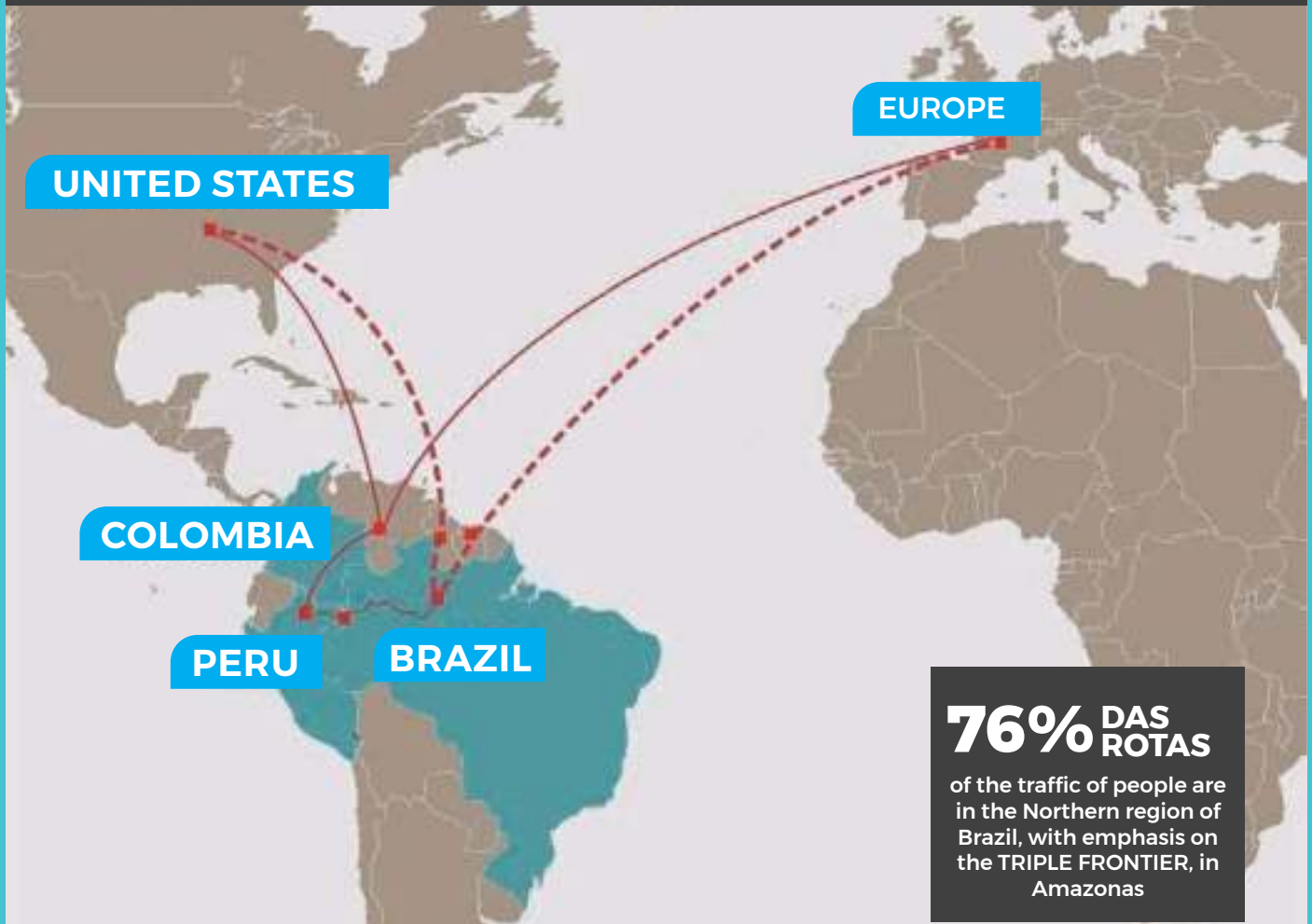
IN %



Source: Data Folha, 2016.

# TRAFFIC ROUTES

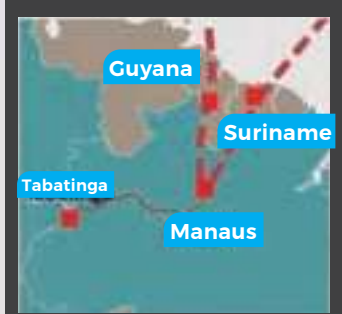
Despite being well known, the routes used by people smugglers to remove their victims from the country remain unimpeded and defy the Brazilian authorities.



**76% DAS ROTAS**  
of the traffic of people are in the Northern region of Brazil, with emphasis on the TRIPLE FRONTIER, in Amazonas



The most common route involves the forced exit of people through the Peruvian city of Caballococha, a two-hour boat ride from the Triple Frontier; by plane or boat, traffickers continue to Iquitos - the main city of the Peruvian Amazon - and have access to commercial airlines for the whole world.



Another way, less used by traffickers due to more rigid control. It is to reach Manaus through commercial or alternative routes by the Amazon River. But the trip lasts at least three days, depending on the type of boat and passes through populated regions, where the risk of being discovered is higher.

## Why these rights are violated:

- Because of the unbridled pursuit of illicit enrichment;
- Because the laws are weakened and do not work at the borders;
- Because of poverty and deprivation;
- Because of the fear of reporting it and being discriminated against;
- Because of the state's abandonment;
- Because of the lack of inspection and security at the borders;
- Because of the drug traffickers infiltrating society;
- Because of the negligence and omission of the municipal government;
- Because of social programs that do not comply with social public policies;
- Because of subordination;
- Because of forced migration;
- Because of a primarily Indigenous, riverine population, vulnerable to this type of crime;

- Because of the prevailing idleness among young people and teenagers;
- Because of the presence of armed groups, identified as factions, who impose their laws;
- Because of the recruitment of this age group (0 to 17 years).

## Current situation

In order to prevent the trafficking of children and adolescents, the local Guardianship Councils, the Coping Network, together with religious organizations, institutions and civil society, carry out preventive campaigns throughout the year, especially on the specific dates alluding to the day of struggle. Most cases of sexual abuse and exploitation are reported to the Guardianship Council, the body charged by civil society with ensuring that the rights of children and adolescents are respected.

## Evidence

- Complaints;
- Reports (victims or witnesses);
- Medical documents;
- Photos.



Photo: Istock by spukkato



## Legislation and ECA (Statute of the Child and Adolescent):

- Article 227 of the Constitution of the Republic states that it is the duty of the family, society and the state to protect children and adolescents from all forms of neglect, discrimination, exploitation, violence, cruelty and oppression. Paragraph 4 of the same article obliges the state to severely punish the abuse, violence and sexual exploitation of children and adolescents.

- Art. 5 - No child or adolescent shall be subjected to any form of neglect, discrimination, exploitation, violence, cruelty and oppression, and any violation of their fundamental rights, whether by action or omission, shall be punishable by law. Statute of the Child and Adolescent (ECA).

- Article 34 of the United Nations Convention on the Rights of the Child, ratified by Brazil, obliges the protection of children against all forms of sexual exploitation and abuse, including exploitation in pornographic performances or materials. The International Conference on Combating Child Pornography on the Internet (Vienna, 1999) calls for the production, distribution, export, transmission, import, intentional possession and advertising of child pornography to be made a crime worldwide.

- Article 201, fVIII, of the Statute of the Child and Adolescent says that it is the Public Prosecutor's Office's responsibility to ensure that the legal rights and guarantees guaranteed to children and adolescents are respected, promoting the appropriate judicial and extrajudicial measures.

- The Penal Code defines rape (art. 213), indecent assault (art. 214), seduction (art. 217), corruption of minors (art. 218) and pornography (art. 234) as crimes.

## Proposals:

- Effective border security, with personnel trained to identify people in kidnapping situations;

- That there is actually application of the Law to human rights violators;

- Periodic checks by the state on riverboats (paddle boats, canoes and boats), as well as on the ferries where tickets are sold and boats dock;

- That they set up a shelter for the victims, where they can feel welcome, with a view to full protection and their reintegration into society, the family and the job market;

- That a women's police station be set up in the municipalities of Alto Solimões to improve the speed with which victims are dealt with;

- Work on prevention campaigns throughout the year.

## Conclusion

In recent years, the issue of international trafficking in children and adolescents has entered the political agendas of the most diverse countries and from the most varied perspectives. They aim to identify routes, mechanisms used for such practices, the deeper causes which are largely linked to exclusions (social, economic, political, among others) in order to make it possible to build public policies capable of dealing with this reality, which is still present in society classified as globalized and contemporary, through both prevention and repression. (GIL, Antônio Carlos. Social research methods and techniques. 6. ed. São Paulo: Atlas, 2009).

This document will serve as the basis for a guidance manual within the public policies of the Municipality and State for a thorough look that will help this public that exists, but is made invisible by omission, lack of commitment and the detour of resources that come for these purposes.

In order to improve this vision and commitment, we are drafting this document, which will bring changes not only to this sector, but also to the public that lives this reality in the Triple Frontier.

## 6.2.2 The Awajun people (Peru) and the sexual violation of children in the school context

According to statistics from the National Institute of Statistics and Informatics (INEI), the Awajún have a population of 55,366 inhabitants and 281 communities; and are geographically distributed between the regions of San Martín, Loreto, Cajamarca and Amazonas. In this report, we will focus on the Awajún people of the province of Condorcanqui, in the Amazonas region; which currently has a high rate of cases of sexual, physical and psychological violence against women, girls and adolescents, especially in the school context.



Source: Technical Secretariat of the STPV Road Plan - Condorcanqui, 2011<sup>108</sup>.

<sup>108</sup> Condorcanqui is a province of Peru located in the Department of Amazonas. It borders Ecuador to the northwest, the department of Loreto to the east, the provinces of Bongará and Utcubamba to the south and the province of Bagua to the southwest.



## Situation

In Condorcanqui, sexual violence against children and adolescents is a problem that has been on the rise since 2019. The director of the IEB's Local Educational Management Unit (UGEL) in Condorcanqui has denounced the increase in cases of sexual abuse of schoolchildren; however, many of the complaints were rejected for lack of evidence after a fire at the UGEL Condorcanqui in June 2022, in which "(...) around 600 documents were lost that reported alleged sexual abuse by teachers against minors." In the face of this, impunity continues to prevail in Condorcanqui and is often shielded as a supposed Awajún cultural practice. According to the leaders of the Awajun people, violence and sexual abuse against children and adolescents are not part of cultural practices, but are linked to structural problems, as can be seen below:

Along these lines, the analysis developed by the duo reveals alarming discrepancies in the complaints and a significant lack of substantial records. The lack of homogeneity in the variables used by the various agencies has led to the underreporting of cases, which makes it difficult to fully understand the magnitude of the problem. Similarly, the inconsistencies in the figures reported by institutions such as UGEL and the Women's Emergency Center (CEM) in Santa María de Nieva highlight the urgent need for more effective cooperation. It is worth mentioning that in the province of Condorcanqui, there is no Gesell camera to guarantee the proper development of investigations, which limits access and the transfer of victims to the Public Prosecutor's Office and the Judiciary in charge of the investigation. In this regard, the Peruvian Public Defender's Office reiterated to the Public Prosecutor's Office the urgency of allocating budgetary, logistical and human resources to make the implementation of this service possible.

In addition, there is the omission of complaints motivated by coercion or the position of power of the aggressor, who is predominantly a man aged between 25 and 46, associated with positions of authority in relation to the victims and in the community. This dynamic reveals a clear hierarchy of power, which influences the perpetuation of violent acts. The various methods of coercion used by aggressors to perpetuate impunity range from physical force to more subtle tactics such as deception, offering money or seduction. In this context, physical proximity, trust and an imbalance of power characterize the relationships between victims and aggressors, deepening the complexity of the problem and increasing the vulnerability of victims.

This practice has no cultural roots in the Awajún tradition, but has infiltrated communities due to corruption and a lack of respect for cultural practices.

*Belinda, Awajún leader and rondera - Héctor Peas community.*

The current violence has no cultural basis, but is the result of a process of "corruption" of the Awajún order, influenced by relations with the national system, said

*Evaristo Nugkuag, historical leader of the Awajún people.*





The fragility of the justice system is aggravated by the “mechanism” of internal economic arrangements. The combination of families’ ingrained fear of reporting and the precariousness of justice facilitates the prioritization of pragmatic economic arrangements, allowing aggressors to maintain their position and hierarchy after reparations have been paid. This impunity not only undermines justice for the victims, but also contributes to perpetuating an environment that tolerates sexual violence. Thus, justice seems to be a non-existent concept for the students raped in Condorcanqui, since economic reparations are presented as “fair reparations” and are part of a complex equation of community, structural and emotional factors marked by impunity.

In the complex network of actors involved, both state and external, a number of deficiencies are evident as a result of inaction and the lack of diligence that falls within their remit. This represents a significant challenge in responding to the problem in question. On the one hand, the actions underway, such as talks in schools on preventing violence, with the participation of entities like the Municipal Ombudsman for Children and Adolescents (DEMUNA), the Women’s Care Centre (CEM) and non-governmental organizations like Flora Tristán, are based on good intentions, but are insufficient given the magnitude of the problem. In addition, although since 2022 the National Program for the Prevention and Eradication of Violence against Women and Family Members - Aurora has been sought to be implemented with the aim of developing interventions to prevent violence and provide care and protection services for people affected by violence against women and family group members throughout the country, this implementation does not fully respond to the needs of the population, as it is carried out without taking into account the knowledge and perspective of the Indigenous Awajún people.

In June 2023, an attempt was made to promote the “Comprehensive Strategic Implementation for Reducing Cases of Child Sexual Violence in Condorcanqui,” which still needs to accompany cases from an intercultural perspective, with constant accompaniment of victims in their healing process, as well as the implementation of culturally relevant mechanisms and actions to prevent sexual violence in the Condorcanqui school context. On the other hand, although these initiatives are joined by the “Condorcanqui” project, led by UNFPA (the United Nations agency in charge of sexual and reproductive health) in Peru, which seeks to contribute to consolidating the multisectoral action route for cases of gender violence in this area, which includes the review and preparation of an action plan for the prevention and care of gender violence in the Province of Condorcanqui, there is still a need for greater coordination between all the initiatives for effective implementation, in order to guarantee concrete results in eradicating this problem.

In short, the challenge of combating sexual violence in Condorcanqui requires a collective commitment that transcends cultural barriers and institutional shortcomings. A comprehensive reform of the justice system is a fundamental step, but it is also imperative to define initiatives that promote cultural awareness and preventive education from the earliest stages. The implementation of essential services must be transformed into a tangible reality through effective and sustainable execution, because only through an integrated approach, encompassing legal and cultural aspects, can a safer and more equitable social fabric be formed for present and future generations in Condorcanqui.



Photo: DelCaap

## Violated rights:

### Right to sexual freedom

The right to sexual freedom implies the capacity for autonomy and sexual self-determination that individuals possess, i.e. the freedom to choose and explore their sexuality freely, without limitations other than respect for the freedom of others. This right includes the power to freely choose sexual partners, to freely make and reject proposals and to follow a particular sexual tendency at any time in one's life without this entailing persecution, social or occupational stigmatization or any other type of negative consequences.

Peru's Penal Code establishes penalties for sexual crimes, including rape, sexual harassment, sexual exploitation, among others. In addition, Law 30838, published in the Official Gazette "El Peruano" in August 2018, amends the Penal Code and the Criminal Enforcement Code to strengthen the prevention and punishment of crimes against sexual freedom and identity. However, in the case of Condorcanqui, this regulation has not been adequately implemented and impunity persists in the face of acts of sexual violence, which are protected under the shield of "culturally conditioned errors" and through the payment of economic compensation to the victims' families.

## Right of access to justice

Peru's 1993 Political Constitution enshrines the right of access to justice in several articles. Article 139(3) states that the judiciary administers justice in the name of the nation and in accordance with the Constitution and the laws. Similarly, Article 139(2) guarantees the right to due process of law and effective judicial protection, laying the foundations for access to justice, "ensuring" that citizens can enforce their rights effectively and equally. However, in the case of Condorcanqui, from the filing of the complaint to the start of legal proceedings, there are difficulties with the authorities responsible for carrying out the steps and also for arrangements to be made not to continue with them. According to local reports, in the last two years, more than 80 cases have been opened against teachers and administrators accused of raping schoolchildren in the province of Condorcanqui. However, UGEL and the Attorney General's Office claim that they do not have the resources to follow up on complaints in the communities, which is why many cases of sexual violence go unpunished. In addition, according to the Ombudsman's Office, more than half of the cases are time-barred.



Photo: Shia Inguil



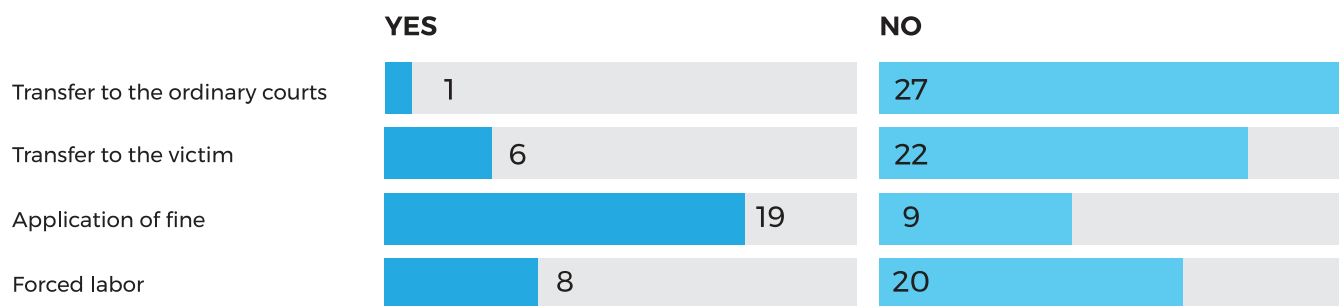
In the case of the spheres of justice in Condorcanqui, it is worth mentioning that they include ordinary, community and religious justice, among others. This approach is crucial because the factors of impunity vary significantly depending on the sphere of justice in which they are appealed. Common justice, represented by the state and its officials, is characterized by the exclusion of certain groups, such as rural dwellers, Indigenous people, those living in poverty and women. This makes it difficult to access and trust this form of justice, especially for the main victims in our research: Indigenous girls and adolescents, as well as their families, most of whom are mothers. In addition, the lack of knowledge about how this area of justice works is common among victims and their families.



Photo: Shia Inguil

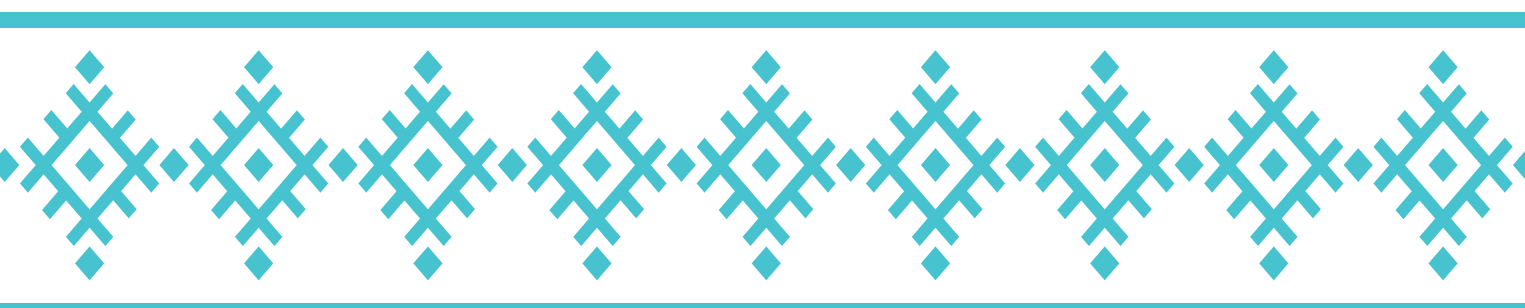
## Treatment of cases of sexual abuse against minors in the Awajún communities

An analysis of the regulations of 28 Awajún communities in the Amazon region reveals that only 3% of these communities refer cases of sexual violence to the Public Prosecutor's Office. The majority choose to fine the aggressor.



Graph. OjoPúblico - Source: "Violencia sexual y justicia comunal en pueblos indígenas awajún-wampis. región Amazonas" (Sexual violence and communal justice in Awajún-Wampis indigenous peoples. Amazon region)

Source: Ojo Público, 2022.



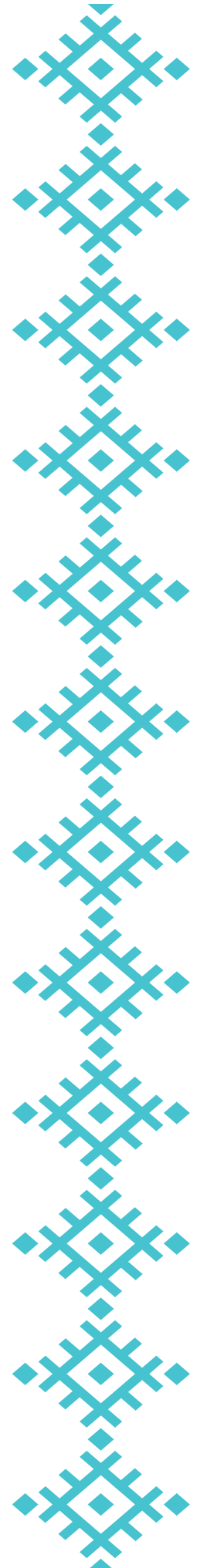
# Right to health.

The right to health is a fundamental right recognized in Peru's Constitution and in various international human rights treaties. In the Peruvian context, it can be found in Articles 7 and 11 of the Political Constitution of Peru and in Law 26842.

The observance and application of these legal precepts are essential to ensure that all people in Peru enjoy equitable and adequate access to health services, in accordance with established international and national standards. Sexual violence affects not only physical health, but also psychological health, especially considering that many of the victims are girls and adolescents and do not have support networks. With regard to medical, health and psychological assistance for victims of sexual violence, both on an emergency and ongoing basis, the Peruvian Ministry of Health has established a "Protocol on Violence against Women"<sup>109</sup> which seeks prompt attention for victims of violence. This protocol includes immediate medical care, prevention of sexually transmitted diseases, psychological care and social care. In addition, the Ministry of Health has established a network of comprehensive care services for victims of sexual violence, including medical, psychological and social care services. However, in the case of Condorcanqui, this protocol was not implemented. This province has a high rate of sexually transmitted diseases, such as HIV, due to sexual violence, which exposes the girls to being carriers of this disease, which, without proper treatment, can cause their death.

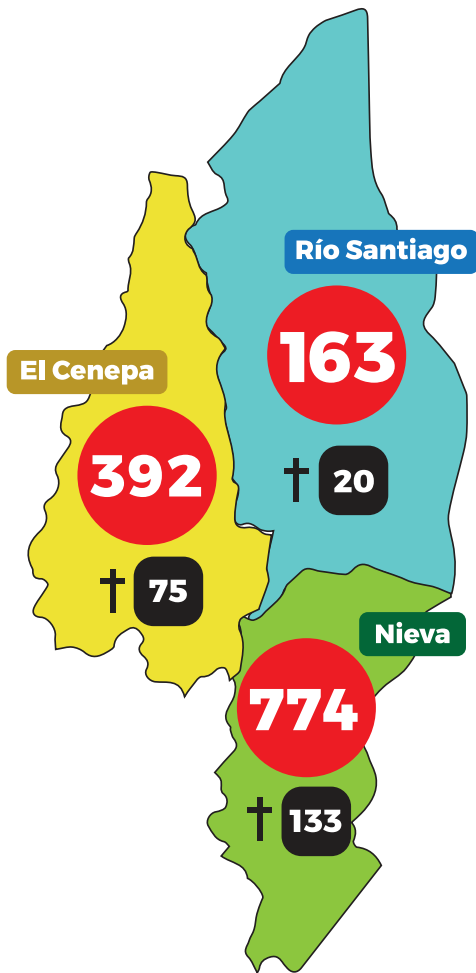
In this sense, it is imperative to consider the multidimensionality of the right to health, since, according to General Comment 14 of the Committee on Economic, Social and Cultural Rights, this right implies not only the availability of health facilities and services, but also their accessibility, acceptability and quality. Discrimination, lack of physical or economic accessibility and the quality of services directly influence a person's ability to reach the highest attainable standard of health, especially when they are victims of sexual violence and do not receive adequate care according to established protocols, which violates their mental health by re-victimizing them. It is therefore crucial to address these aspects, ensuring that barriers are removed and guaranteeing conditions that allow each individual to enjoy optimal health.

109 Véase en: Protocolo de acción conjunta para la atención a las víctimas de la violencia. <https://bvs.minsa.gob.pe/local/MINSA/4881.pdf>



# REPORTE DE VIH EN LA PROVINCIA DE CONDORCANQUI

Actualizado hasta el 28 de Noviembre del 2023



Fuente: Epidemiología - RSC

**176 CASOS NUEVOS** 2023

Acumulado de casos: 1329 en TOTAL

TOTAL DE FALLECIDOS: **228**

últimos 10 años

De los 157 casos

**81** mujeres

**60** gestantes

**87** hombres

El 81% de casos es entre los 15 y 39 años de edad.

**76%** Awajún

**21%** Wampis

**5%** Mestizo

Source: Regional Government of Amazonas (Peru), 2023.

## Right to education

Education is a fundamental right, regulated both by Peru's Political Constitution and by various international human rights treaties. Articles 13 and 14 of Peru's Political Constitution guarantee this right.

This right is understood as an integral process of continuing education, closely linked to the model of a social and democratic state governed by the rule of law. It should be emphasized that this right implies access to quality education, which does not only include staying in the educational center, but that this is provided with full respect for the dignity of the student, and receiving a quality education in accordance with their cultural context.

Unfortunately, in the province of Condorcanqui, Amazonas, this right is being violated, as worrying cases of sexual violence have been documented, ranging from rape to sexual harassment, especially in school environments. A report by the Ministry of Health reveals that of the 35 teachers investigated for sexual harassment and abuse in Condorcanqui, 24 no longer work in the region's schools, while 11 remain in the classroom. The permanence of these teachers in the educational environment has a significant impact on the exercise of the right to education, as they generate a climate of insecurity and mistrust in educational institutions, contributing to school dropouts.

## Right to integrity

The right to personal integrity is enshrined in article 2, subsection 1, of the Political Constitution of Peru and is a right that is inseparable from the dignity of the person, the rights to life, health, personal security and free development and well-being. This right implies that everyone has the right to have their physical, mental and moral integrity respected and not to be subjected to enforced disappearance, torture or cruel, inhuman or degrading treatment or punishment. Sexual violence, such as rape, affects the physical and psychological integrity of women and, more worryingly, the victims who, from an early age, see their rights violated within school spaces, to the point of normalizing this situation.

## Interrelation of violated rights

To exemplify the interrelationship of the rights described above, we will turn to a case presented in 2018 by the newspaper La Republica, which shows how sexual violence in the school environment casts a dark pall over the exercise of various fundamental rights. This anonymous case tells the story of a 14-year-old girl at school 16342, located in the Awajún community of Huampami, who was harassed by a teacher over 20 years old who took advantage of his position of authority. The young woman, a third-year high school student, faced indecent proposals and harassment, which not only violated her dignity and sexual freedom, but also had a direct impact on her right to education, as she considered dropping out of school an option.

The teenager sought refuge in the customary justice system of her community, which imposed a financial penalty on the teacher, but this measure was not enforced. Nor was the case brought before the “ordinary” Western justice system; as a result, the teacher went unpunished for his acts of sexual violence. The lack of coordination between community justice and state justice, combined with the inaccessibility of the justice system in remote areas, prevents not only the punishment of the aggressor, but also comprehensive care for the victim.

The complexity of the case is deepened by the revelation that more than half of the teachers in the Awajún communities do not have professional degrees. They are hired because of the shortage of bilingual educators. This context, combined with a lack of budget and resources, hampers the authorities’ ability to adequately address cases of sexual violence and ensure a safe educational environment.



Photo: Shia Inguil



Photo: Shia Inguil



Photo: Shia Inguil



The case also reflects the shortcomings of the justice system with the arguments of the statute of limitations<sup>110</sup> in this type of case and the lack of effective sanctions. Although preventive measures are taken, such as dismissing the teacher, the delay in administrative proceedings and the possibility of the accused being rehired in other schools highlight the impunity that surrounds many of these situations. The case shows a complex interrelationship of rights<sup>111</sup>, such as sexual freedom, education, access to justice, health and integrity in the context of sexual violence in school environments in the province of Condorcanqui, Amazonas. The interrelationship of these rights is crucial to understanding the complexity of the situation.

In short, a comprehensive intervention must address these interrelationships in order to effectively protect the fundamental rights of victims and guarantee a safe school environment, effective judicial processes and comprehensive support for the health and well-being of those affected. The complexity of this situation calls for comprehensive responses that take into account both the legal implications and the psychosocial needs of the victims, as well as the need to strengthen justice mechanisms to guarantee a safe and violence-free educational environment. It is imperative to address sexual violence not just as an individual problem, but as a systemic threat to the full exercise of the right to education and the integrity of the person.



Photo: Tadeu Rocha

<sup>110</sup> There is talk of a supposed limitation period because there is no limitation period for human rights violations.

<sup>111</sup> It is worth noting that there is another list of rights linked to the rights of children and adolescents, but as school age in Awajún territory can include people outside this range, we will not focus on children's rights. Likewise, women's rights are exclusive, since according to data obtained by the duo, there is a significant rate of children who are victims of sexual violence.



# Proposals

The context described highlights the urgent need for a comprehensive intervention, urging civil society and government actors to address these challenges as a matter of urgency. We propose the following measures:

## 1. Update of community regulations

In order to bring community regulations into line with current legislation on rape issues in the school context, it is proposed that local regulations be updated. This action aims to ensure that local regulations are aligned with national principles and laws, thus strengthening the protection of students' rights and facilitating the application of appropriate sanctions in cases of sexual violence.

Strengthen the "Aurora Program" and the "Comprehensive Strategy to Reduce Cases of Child Sexual Violence in Condorcanqui":

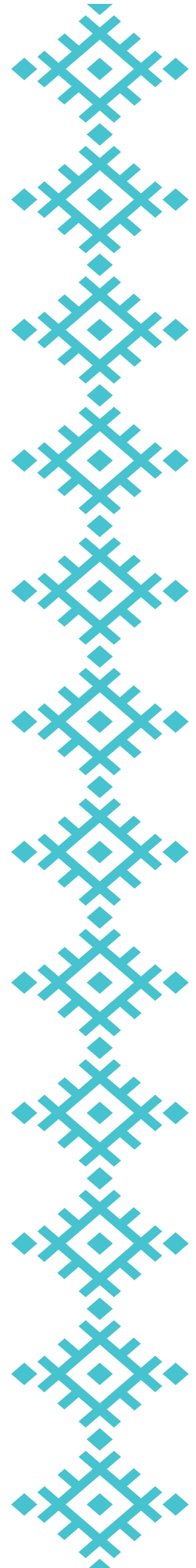
Provide these programs with a budget for their implementation and promote the inclusion of the Awajún people so that they can provide adequate support to victims of violence from an intercultural perspective that values their feelings and knowledge. As part of these programs to strengthen support for victims of sexual violence in their healing process, it is proposed to create an intercultural shelter in the district of Santa María de Nieva. This shelter would serve as a safe and supportive space for victims, where specialized and respectful care is provided in their cultural context.

## 2. Promote a sex education program with an intercultural approach

To prevent cases of sexual violence, it is suggested that education on rights and duties related to sexual and reproductive practices be promoted. This proposal seeks to incorporate an intercultural and gender approach to education, taking into account the terms used and the minimum ages of consent within communities. The initiative aims to empower students with relevant information, promoting mutual respect and understanding of personal limits and those of others.

## 3. Addressing Comprehensive Sexual Violence (CSE) with an intercultural approach as a preventive mechanism

By addressing the roots of abusive behavior within an integral educational framework, the foundations can be laid for effective prevention of sexual violence in Condorcanqui's school environment. The articulation of efforts between ESI (Comprehensive Sexual Education) programs and measures to prevent sexual violence is essential to generate a significant impact on the educational community.





# CHAPTER 07





## 7.1. Conclusions and proposals

The policy proposals at Pan-Amazon level included in both the First Report and the Second Regional Report on Human Rights Violations are demands that have not yet been implemented, but remain in force due to systematic violations. Violence is becoming more aggressive against people, and states are increasingly condoning impunity and corruption. This is corroborated by the data collected in this Third Report.

The systematic vision of strengthening the actions of occupation and pillage of the Amazon persists. The greed for the exploitation of natural resources without the slightest respect for human rights continues and is consolidated.

There is an awareness that we are facing an environmental crisis, caused mainly by the economy based on burning fossil fuels and other highly polluting forms of natural resource extraction.

Although we are clear about the importance of the Amazon in sustaining life on the planet and the dangers that its degradation is causing, in practical terms there is no evidence of initiatives that are working or international commitments that are being fulfilled. We continue to persist in our way of producing and consuming.

It seems that climate change is only devastating Amazonian communities with extreme droughts, heatwaves and crop losses. Meanwhile, the corporate sector increases its profits and expands its control over land and resources.

The historic debt to return expropriated territories to Indigenous, peasant, riverine and Afro-descendant communities continues.

Although environmental legislation has evolved at international level, the need to feed this large-scale, exclusionary and predatory development has prevented human rights protection mechanisms from achieving their objective. On the contrary, some regulations that protected the rights of Amazonians and the environment were relaxed. These are the cases of environmental impact studies and land use classification.

In this pursuit to accumulate wealth, the Amazon continues to be a refuge for murderers, meaning greater efforts for the peoples to persist and resist in their struggles.





## 1. Violation of access to territory, land and natural resources

**a) The legal physical sanitation of the integral territory of Amazonian communities:** This implies that “their traditional territories and the resources found there” must be delimited, demarcated, titled and duly registered<sup>112</sup>. Legal certainty means owning the entire habitat of the regions they occupy and use in some way.

**b) Repeal or declare unconstitutional laws aimed at promoting the expropriation of ancestral territories.** There is a tendency to use state power to enact laws, approve amendments, modify them and create administrative obstacles that increase people’s territorial insecurity.

**c) Creation of state security forces to monitor activities that put Indigenous communities and their environment at risk.** Its interventions must include graphic evidence, such as video recordings, to prevent any kind of abuse and impunity.

**d) Recognition of Indigenous jurisdiction as a legal support mechanism in the Judicial System.** Since ancient times, Indigenous communities have had their own social, economic, political, labor and justice systems according to their customs.

**e) Consider the standards and jurisprudence of the Inter-American Human Rights System in the titling of territories:**

### • On ancestral property:

“A broad concept of Indigenous land and territories, including, within the latter category, not only physically occupied spaces, but also those that are used for their cultural or subsistence activities, such as access roads.”

“Indigenous property rights over territories extend, in principle, to all the pieces of land and resources that Indigenous peoples currently use, and to the pieces of land and resources that they owned and were expropriated, with which they maintain their special relationship of international protection<sup>113</sup>.”

### • On natural resources:

“They include air, land, water, natural gas, coal, oil and hydrocarbons, minerals, wood, humus, fauna, flora, forests and wildlife. The right to legal recognition of their diverse and specific forms and modalities of control, ownership, use and enjoyment of their territories.”



Photo: Istock Images by Luzo Reis

<sup>112</sup> Inter-American Court of Human Rights. Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua. Fondo, Reparaciones y Costas. Sentence of August 31, 2001. Series C No. 79, para. 127.

<sup>113</sup> <https://cidh.org/countryrep/TierrasIndigenas2009/Cap.V-VI.html>



Photo: Guilherme Cavalli

- **On Indigenous peoples in voluntary isolation and initial contact**

These peoples are being forced into contact with the majority population by external agents. For these peoples, isolation has not been a voluntary option, but a survival strategy. Due to their extreme vulnerability, there is a need for greater protection, especially for the uncontacted.

- **Expand the Protected Natural Areas** (Indigenous reserve, territorial reserve) and implement the development of Rapid Action Protocols in relation to these peoples. Neighboring communities and regional and national organizations should be included in the construction of protocols, due to the importance of traditional views in the protection system.

- **Controlling the entry of third parties into the territories of Indigenous communities.** This guarantees the lives of members of the native community and the PIACs, a population that is extremely vulnerable to diseases such as influenza A and B, parainfluenza, rotavirus, whooping cough, measles, etc.

- Specialized bodies in forestry, environmental and agricultural management should hold informative workshops in coordination with organizations of Indigenous peoples, peasants, quilombolas, settlers, NGOs and experts to develop monitoring of territories and conservation units and create an Early Warning Procedure (PAT) for better control.

- Strengthen forest supervisors in these regions with resources and training to continue protecting the forest, reporting actions that put communities at risk.

- Review and strengthen legal mechanisms to recognize and protect the territorial rights of Indigenous communities. This means applying and respecting the laws that prohibit illegal expropriation and expulsion from ancestral pieces of land.





Photo: Istock by GummyBone

- **With regard to peasant and Afro-descendant communities**
- **Recognize their right to ownership and possession of the area they traditionally use**

Promote legal mechanisms that do not oblige peasants to demonstrate economic activity (deforestation for title) in order to recognize the right to land. Title and/or ownership must be based on criteria of forest management, forest protection and free from conflicts of invasion, expropriation and coexistence between communities.

For the titling of land or buildings, soil testing requirements must be mandatory to determine whether the land can be used for forestry, agriculture or grazing purposes.

## **2. On the violation of the right to a healthy environment**

- **Analyze and repeal the laws that authorize the use of fire to convert forest into arable land, due to their lack of management, planning and control**

The regulatory bodies of some Pan-Amazon states, which are authorizing the burning of the forest as a criterion for converting the soil into arable areas, are the main causes of the latest forest fires that have put the Amazon and its peoples in an emergency. The state's response capacity has been deficient in the face of these disasters.

- **Implement inter-institutional cooperation agreements with other state bodies, between states and organizations present in the national territory,** to facilitate the notification, registration or granting of deforestation and burning permits, in order to control, prevent and collaborate in the event of possible disasters.

- **The mandatory application of the Principle of Non-Retrogression in the enactment of laws and public policies in development actions in the Amazon**

On this path of no return for the Amazon and to tackle the global climate crisis, where there are more poor and excluded people, we need to limit public powers and tighten environmental protection laws. We cannot go back on the progress we have made, unless it is duly justified.

- **Strengthen and adhere to some laws that have been enacted with an ecosystem approach to the management of forest heritage and wildlife**

Within the framework of the Convention on Biological Diversity, which aims to develop strategies to improve the integrated management of land, water and living resources, developing this approach is an efficient way of promoting the conservation and sustainable use of resources.



- **Strengthen legal controls on forest exploitation to prevent the proliferation of illegal logging companies.** Likewise, greater control of selective logging, implementing resources and personnel for surveillance, control and monitoring of timber trafficking.

- **Implementation of policies, laws and regulations that guarantee the traceability of all timber sold.** In such a way that it can be traced from the process of obtaining, transporting and selling each batch of wood. This ensures that the wood sold comes from legal farms.

- **Implement management tools such as Environmental Impact Assessments** to maintain or improve the physico-chemical characteristics of water and the hydrological regime, for the benefit of the environment, public health and national security.

### **3. On the violation of the right to food:**

- **Implement agrarian policies that reflect the communities' practices and knowledge of land use for planting.** Considering the greater capacity for land use, it is clear that clearing areas for cultivation quickly and cheaply, such as burning, does not provide profitability for the farmer and causes a negative environmental balance.

- **Implement awareness campaigns about the perverse effects of burning on the soil and the Amazon biome** Better soil and forestry practices can help farmers adapt better to heatwaves, extreme droughts and floods, all of which have a terrible impact on agriculture and livelihoods

- **Create subsidy programs to promote the transition to more sustainable and less polluting agricultural practices.** subsidies should be managed through zero-interest loans to the farmer, guaranteeing technical and market support for the repayment of the loans.

- **Environmental, ecological, economic and socio-cultural factors, the Indigenous worldview and land use planning and ecological and economic zoning must be taken into account when constructing any policy for the management, use, exploration and exploitation of natural resources.** In addition, these resource management policies should recognize and value the diverse cultures and worldviews of Amazonian peoples.



- **Analyzing new economic models such as the bioeconomy** which aims to remove monocultures, livestock, harmful traditional agriculture and extractive activities from its development model, strengthening bio-enterprises in which the work of communities in protecting this territory and the Amazon biome is truly recognized.

- **Updating some codes and laws on the environment, mining and the Intercultural Organic Law on the use, management and protection of water resources.**

#### 4. On the violation of prior, free and informed consultation

The authorities must carry out prior, free and informed consultations before any initiative is developed within the area settled by the community, such as forestry and/or hydrocarbon concessions.



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#### 5. On the violation of the right to health

- **Health care in communities due to exposure to the effects of extractive and agro-industrial activities.**

It requires the establishment of health centers and the incorporation of ancestral medicine with proper registration.

- **Greater control over the use and control of herbicides, insecticides and fungicides due to their acute toxicity and damaging effects on health and the environment.**

Communities adjacent to agro-industrial crops, such as soya, for example, cannot grow their own crops because both the soil and the air are contaminated.

#### 6. On the protection of human rights defenders:

- **Ratification of the ESCAZÚ Agreement and establishment of the measures for its implementation.**

This treaty contains specific provisions for the promotion and protection of environmental defenders in Latin America.

- **Protocols for the protection of human rights defenders**, including awareness campaigns on the importance of the work of human rights defenders.

- **Implement effective security measures to guarantee the life and liberty of environmental defenders.** This could include the presence of police or security forces to prevent acts of violence and guarantee the integrity of communities.





## 7. On the recognition of the right to water

- **Declare access to drinking water and sanitation a national need and emergency.** The recent phenomena of extreme drought mean that all possible efforts by states must be dedicated to implementing technologies for the efficient treatment of water and its equitable distribution. Indigenous communities must be included in the management of this resource, with their participation and due prior, free and informed consultation.

- **Prioritizing access to water for the satisfaction of the primary needs of the human person over any other use, even more so in this context of scarcity that plagues Amazonian communities.** No technical opinion suggesting the granting of authorizations for uses other than human consumption should be prioritized.

- **Ongoing scientific analysis and damage studies in watersheds and micro-basins where extractive activities are operating.** Amazonian communities are settled on the banks of rivers and are the main ones affected, as they consume directly from them.

- **Free screenings for the population exposed to water contamination.** The communities that depend directly on river water are the most affected.

## 8. On the violation of the right to sexual freedom

### a. Human trafficking

- **Promote the implementation of the United Nations Convention against Transnational Organized Crime and its Complementary Protocols**

It involves the implementation of the Protocols with a multi-institutional approach to combating trafficking in persons and the development of a Protocol against trafficking in migrants for sexual purposes.

- **Developing national, regional and international action plans and strategies**

Human trafficking is transnational in nature, so dealing with the problem without international collaboration is much more complicated.



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- **International cooperation in the field of criminal liability**

Develop extradition measures with simple and fast mechanisms.

- **Adopt border control to hinder trafficking**

It involves creating barriers to prevent the easy movement of human trafficking across borders.

- **Establish witness protection policies during and after prosecution and trial**

Victims and witnesses refuse to report or testify for fear of retaliation. The granting of protective measures, such as concealing the identity of witnesses, can make it easier for many to be encouraged to take part in the process.

## **b. Sexual violence**

- **Develop a regional strategy to tackle violence against children and adolescents**

The care and protection of children is a human rights imperative. The aim is to have a happy childhood, creating a region where they can develop and live their childhood free from violence.

- **Put in place mechanisms to ensure that sanctions are enforced**

The law should be modified in the administrative sphere with regard to the means of defending the statute of limitations, a mechanism taken advantage of by the workload in the public administration, preventing many offenders from being sanctioned, disqualified and removed from their workplace.

- **Implement prevention awareness campaigns**

Inter-institutional cooperation with campaigns on sexual freedom through different social networks.



Photo: Tadeu Rocha



Photo: Tadeu Rocha



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