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Alejandro Parellada

bolivia

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Bolivia and Guatemala are the only two countries in Latin America in which indigenous peoples form a clear majority of the total population. And yet, at the same time, indigenous peoples continue to be the most impoverished sector, and the sector that has been most marginalised from political power since the birth of these two countries.

According to the UNDP Human Development Report on Bolivia for 2002, 63% of Bolivians live below the poverty line, i.e., without sufficient income to satisfy their basic needs, and 37% cannot cover even their food needs. Infant mortality in Bolivia is double the continent's average. This is the picture of indigenous Bolivia, in which a majority show alarming poverty indicators, and enjoy rights neither to their lands nor to their natural resources.

The titling of territories has been, and continues to be, the main demand of indigenous peoples. The indigenous march of 1990 for "territory and dignity", along with the 1996 march, resulted in the promulgation of the INRA Law of the National Institute for Agrarian Reform. This new legislation, considered to be extremely progressive, gave rise to great expectations within the indigenous organisations as it proposed the regularization and titling of extensive indigenous territories in the lowlands of Bolivia within a ten-month period.

It is now six years since the law was approved, and the results of titling are not quite what the indigenous peoples had hoped. Whilst properties belonging to the non-indigenous population (generally unproductive estates) have been consolidated, only 10% of the requests acknowledged by the government in favour of indigenous peoples have been titled, including titles for some areas in which no indigenous community is living.

The reasons for this slow and chequered titling process are varied. On the one hand, the law's governing regulations imposed all kinds of complications on the actual implementation of regularization. On the other, the state has blown hot and cold in implementing the regularization and titling process, issuing regressive measures, failing to fulfil the law, giving contradictory commitments to the social sectors. But it seems that the INRA officials also share much of the responsibility. As can be seen from a number of the articles in this issue, INRA has been accused of serious ineffectiveness and corruption, always to the benefit of power groups.

Apart from the scant results in terms of titling, there is also fierce controversy over the rights of indigenous peoples to their resources. The areas demanded are scattered with logging, mining and oil concessions and, in the case of some territories (such as in the Chaco), oil concessions have been 100% superimposed on them.

Given this backdrop, the possibility of achieving structural transformations within the current system of exclusion and exploitation from which the indigenous communities suffer seems increasingly unlikely within the context of application of the current Bolivian agrarian process, a process which, moreover, is in serious danger of collapsing.

Territorial management is also an issue of debate and is discussed in this issue by René Crellana and Aldices Vadillo on the basis of an analysis of the proposals for a new municipal system that arose out of the 1996 Law on Popular Participation and the subsequent proposal for Indigenous Municipalities. They propose a search for greater coherence and unity between mu-
unicipal boundaries and indigenous territories, recognising or building mechanisms that will enable access to public resources on the part of indigenous territorial management authorities.

Frustration in terms of the consolidation of indigenous territories has led to demands for the structural reform of the country. For, whilst the Constitution defines Bolivia as multiethnic and pluricultural, the indigenous population as a whole counts for nothing when state policies are being defined. In August 2000, the Confederation of Indigenous Peoples of Bolivia, CIDOB, made its first demand, nationally, for a Constituent Assembly by which to modify the Political Constitution of the State.

On 13th May last, the “March for Popular Sovereignty, Territory and Natural Resources” left the town of Santa Cruz under the banner of constitutional reform via a Constituent Assembly involving all of the country’s social sectors, not necessarily via the mediation of the political parties; opposition to planned forest reforms that would only favour the large logging companies; and opposition to the “Agrarian Package”, which seeks to limit indigenous access to land, in order to support the large estate owners.

The mobilisation was headed by a sector of CIDOB, the National Council of Marcas of Qollasuyu (CONAMAQ), the Landless Movement (MST) and various departmental federations of peasant farmers. The march managed to attract 4,000 people and created a real political commotion, given the forthcoming national elections. The march forcefully arrived in the town of Cochabamba, where various meetings were held with the government, continuing on to La Paz, now however without the participation of MST. They had negotiated their own position with the government, and thus withdrew from the mobilisation.

Alongside this, CIDOB’s President, Marcial Fabricano, and leaders of CONAMAQ held a hunger strike in La Paz, also demanding a Constituent Assembly.

Finally, the government consented to sign an agreement with CIDOB in which “the political parties would introduce a new mechanism for the total reform of the Constitution, with the people’s participation” (but without specifying what this mechanism would consist of and without defining the space for indigenous participation), in order to organise an Extraordinary Congress after the elections and approve a Law on the Need for Reform, which would enable a total reform of the Bolivian Constitution.

For their part, representatives of the march continued with a new round of negotiations with the government and opposition political parties, calling for an Extraordinary Congress to organise the National Con-stituent Assembly before the national elections. In spite of an agreement signed with the marchers on 21 June by which “the law on the Need for Constitutional Reform would be restricted to articles 230 and following (referring to the reform procedure), incorporating a Constituent Assembly as another mechanism for popular participation”, the Extraordinary Congress has not been established.

Beyond the precise demands of the march, it is important to note that the process initiated by this 36-day mobilisation built an important bridge between the indigenous peoples of the lowland and those of the Andes and – possibly the main achievement – put the current political system up against a wall, showing up the traditional parties.

The clearest proof of this can be found in the recent national elections, in which the Bolivian electoral map changed drastically. Contrary to all expectations, the Aymara coca producer, Evo Morales, who heads the Movement to Socialism, MAS, gained more than 20% of the vote, coming second nationally and only one per cent behind the Liberal winner, Sánchez de Lozada. In the tropical area of Cochabamba, one of the main areas of coca production, the MAS gained a full 85% of the vote.

It should be recalled that Evo Morales was thrown out of the Bolivian parliament in January, accused of inciting the violent uprisings of peasant coca producers in Cochabamba, the root of which was the plan – funded by the United States - to eradicate coca production.

The Indigenous Pachacuti Movement of the Aymara leader, Felipe Quispe, gained 6% of the vote. In the western departments of the country - La Paz, Oruro and Potosí - the MAS-MIP victory was overwhelming. Whilst the Pachacuti Movement achieved six deputies, Evo Morales’ party gained 34 parliamentary members, senators and deputies combined. Indigenous parliamentary representation prior to the elections had totalled 4 deputies, excluding representatives found within the traditional parties.

According to Bolivian law, Congress must elect the President from out of the two leading candidates and whilst, as this issue goes to press, the President has still not been decided, all indications suggest that the traditional parties will back Sánchez de Lozada. In any case, the MAS victory has violently shaken the Bolivian power groups.

We thus find ourselves faced with a completely new political outlook, in which the “other Bolivia” now expects radical changes. The cancelling of the coca eradication programme, the restructuring of INRA and the promised constitutional reform should all form part of these changes.
THE AGRARIAN PROCESS IN BOLIVIA
Frustrations with the regulation of land titles

Background:
Unequal structure of land ownership

The Agrarian Reform adopted in Bolivia in 1953 was conceived from the perspective that that the land should be for those who work it and that free provision of land should be a peasant farmer’s right. In addition to proposing land redistribution via the appropriation and elimination of the latifundios (large estates), therefore focused on the use and productivity of land as a factor in its distribution and condemned idle and unproductive land use.

Some of these aims were partly achieved during the 39 years in which the Reform was in force. Idle estates in the valleys and the altiplano were in fact appropriated but, in contrast, this led to an excessive division of property. In the lowlands, however, the high concentration of land in the hands of a few continued, made possible through the irregularities and corruption that reigned within the institutions in charge of Agrarian Reform: the National Council for Agrarian Reform and the National Institute for Colonisation.

Whilst noting the contradictory statistics relating to land ownership, different information sources, both official and academic, were all agreed that it was fundamentally inequitable. According to Pablo Pacheco, based on official reports:

By 1993, approximately 26 million has. of State lands had been distributed to individual owners in the country’s lowlands, of which 22.8 million (87.6%) were provided to 78,000 medium and large-sized producers and 3.2 million has. (12.4%) to 76,000 small producers living in settlement areas.¹

The land title provision that led to the concentration of lands in the east was governed by political privilege and corruption, even leading to a superimposition of titles on top of each other within the same area (up to 7 titles on one piece of land).

The serious irregularities that took place justified the intervention of the Agrarian Reform institutions in November 1992 with the aim of carrying out an audit of the legal state of the different titles and agrarian procedures and drawing up an inventory of those that had been implemented correctly in order to leave those acquired irregularly with no validity. The intervention was also to define a new legal framework within which to reorganise the land distribution system and to proceed to a regulari-
sation of agricultural properties in order to eliminate all fraud committed under the previous system.

In 1996, a consensus was achieved between the government, representatives of the agricultural and livestock sector and the indigenous organisations around the establishment of this regulatory framework and, in October of that year, Law No. 1715 of the National Agrarian Reform Department was approved (INRA Law). The peasant farmers did not share this consensus, arguing that it was in violation of the constitutional provision to provide free lands to them.

The INRA Law ordered the regularisation of all agricultural lands within a period of 10 years from its promulgation in order to clarify their legal situation, to establish indigenous and peasant lands, and to cancel fraudulently obtained property titles. Maintaining the postulate of the land being for those who work it, the regularisation process also aimed to return properties not fulfilling an economic and social function, as well as to consolidate properties that, having been correctly obtained, were fulfilling such a function.

indigenous rights to land

The 1953 Agrarian Reform had ignored the existence of the indigenous peoples of the east, who were classed as Forest Tribes, placing them under state tutelage. During its validity, the indigenous peoples were forced to gain access to land ownership, in the best of cases, as peasant communities, and very few of them gained land titles. But more serious still was the fact that much of the land distributed by the agrarian reform institutions, including via various superimposed titles, was land occupied by indigenous peoples.

It was the indigenous peoples of Beni who first demanded their existence and rights in a march “For Land and Dignity”, which took place in 1990. As a result of this march, and up to 1992, they achieved recognition of the first indigenous territories (Arauca, Chimán, Sirionó, Pilón Lajas, Isiboro Sécure, Multiétnico, Yuqu with, Wenhayaken) by means of Supreme Decree, some of them however without specifying the area or its precise location.

In July 1991, ILO Convention 169 was approved in Bolivia by means of Law No. 1257. This was to become the first point of reference for recognition of the rights of indigenous peoples. In 1995, reforms to the Political Constitution of the State (CPE) were approved, expressly recognising the right of indigenous peoples to their Community Lands of Origin (TCO) and to the use and exclusive exploitation of the natural resources therein. From that point on began a process of legislative change, which was to introduce the indigenous rights established in the Constitution into different specific laws.

Through pressure exerted by the Second Indigenous March held in August 1996 during discussions on the bill, the INRA Law included the right of indigenous peoples to the titling of their lands of origin, assigning priority to this task over other legal mandates. In addition, it expressly recognised the territorial demands of these people (33 indigenous territories) and ordered their titling within a non-extendable period of ten months as from its date of approval. The titling of all these indigenous lands was subject, however, to implementation of the regularisation process in the respective areas, and would protect the legally acquired rights of individuals and possessions acquired more than two years prior to approval of the Law. It also ordered the immediate titling of territories recognised by Supreme Decree between 1990 and 1992 and their regularisation, the results of which could force the areas titled to be amended.

But, in July 1997, the regulations governing the Law were approved. The deadlines established for titling of indigenous lands (10 months in the Law) were automatically extended to more than 700 days. The process for
regularisation of land titles involved so many complicated stages that it then became clear that it would, in practice, be difficult to achieve the rights recognised in the Constitution and the land titling demands accepted by law.

The regulation of agricultural land titles

The regularisation of agricultural land titles was defined, by the regulations governing the Law, as a technical/legal procedure aimed at improving agrarian rights. Despite the fact that the Law did not explicitly establish it, the process of regularisation must be understood fundamentally as a social process aimed at recovering lands that have been illegally obtained, excessively stockpiled or are unproductive, for their subsequent redistribution to those who lack land. In the case of indigenous lands, it must be seen as a process aimed at formalising ownership rights over those lands, born of their ancestral occupation and recognised as original both by the Political Constitution and by the INRA Law itself.

Whilst it cannot be claimed that land regularisation is comparable to an Agrarian Reform, i.e. a process resolving all land ownership problems, it should in some way contribute to resolving the property and ownership conflicts, to modifying the current concentrated landholding structure and to guaranteeing the titling of indigenous and peasant lands. For this purpose, it is essential that its proceedings be dynamic, transparent and efficient. But the regulatory texts, far from guaranteeing these characteristics in order to facilitate fulfilment of these objectives, have become the greatest obstacle to their achievement.

The process of regularisation

Three methods for the process of regularisation of land titles in Bolivia were established by the regulatory texts governing the INRA Law: simple regularisation of individual and community properties; cadastral regularisation for areas of public interest, and the regularisation of indigenous lands (TCOs). The Law’s regulatory text provides for 11 stages to the process, basically the same for all three procedures:

- Submission of a request for regularisation or demand for titling.
- Acceptance or rejection of the request.
- Determining Resolution for the area to be regularised: establishes the definitive area in which the process will take place.
- Consideration of information within the office.
- Public Campaign: all interested parties informed of commencement of the process and the dates the field work will be undertaken.
- Field work: the properties and possessions claimed by individuals are measured and fulfilment of their Socio-Economic Function (use) verified.
- Technical/Legal Evaluation: the results of the field work on fulfilment of Socio-Economic Function are analysed and the legality of the documents presented by third parties in support of the rights being claimed are considered.
- Public Statement of Results or notifications: the results of the two previous stages are made public so that errors can be corrected.
- Final Resolutions: resolutions must be issued for each of the plots or rights claimed by individuals and for indigenous or peasant lands that are consolidated in favour of the claimants. Appeals may be made against these resolutions to the Agricultural Courts, in which case a court decision must be awaited and its decision fulfilled before moving on to the final stage.
- Declaration of Regularised Area.
- Issue of Final Titles.

The stages were explained in more detail by means of administrative provisions issued by INRA, indicating the steps that have to be fulfilled within each of the above, and making the process even slower. The regularisation of indigenous lands included additional stages, such as certification of the ethnic nature of the indigenous people making the claim and a study of spatial needs, to be undertaken by the Ministry for Peasant, Indigenous and Native Peoples’ Affairs, plus the georeferencing of the area demanded and its subsequent immobilisation to avoid the granting of new rights over the said area.

The formalities of and dynamism behind, the regularisation process are the responsibility of the corresponding regional offices but decisions are approved and adopted at national level, sometimes leading to contradictions that delay the process even more.

Even with all these difficulties imposed by the INRA Law’s regulatory text, it could still have been possible for the process to be achieved within the ample time period provided. But, in addition, INRA constantly issues technical rules for the application of the legal and regulatory provisions governing agrarian rights which, in the majority of cases, enable their fulfilment to be avoided or which facilitate the consolidation of plots that have been obtained fraudulently, in all cases to the detriment of indigenous and peasant rights. This means that the organisations affected constantly have to submit administrative and judicial complaints, and implement protests and social pressure for the rules to be cancelled or changed, forcibly paralysing the processes to avoid their application.

Among these technical rules, those relating to the way in which the function of the plots under regularisation is assessed, verification of the legality of the documents supporting the rights claimed, and regulations governing the number of animals for livestock farms can be particularly highlighted. One common denominator in these rules has been that they seek to extend individual
properties, to legitimise fraudulent documents and to consolidate properties with no productive function to justify this. Each time they hear about a new rule, the indigenous and peasant organisations take it to court. To no avail for, in most cases, the courts support the rules, however illegal and unconstitutional they may be. Finally, the organisations resort to social mobilisation to achieve their modification. But, once modified, the associations with an interest in these rules, their exclusive beneficiaries, implement their own mechanisms for pressure and, by other names and in other forms, the same rules are once more issued.

An example of this, to give but one, is the manual for infield verification of the activity of agricultural properties. Just days before the end of 1999, INRA's National Director approved a procedures manual for this purpose. In January 2000, the organisations demanding the Monte Verde territory and other indigenous organisations contested the manual, demanding that it should be agreed by the National Agrarian Commission, a body that brings together all the agricultural sectors of Bolivia. Despite the fact that the said Commission was agreed that a new manual should be issued, INRA only approved it under pressure from the Third Indigenous and Peasant March in July of that year. In September 2001, the Agricultural and Livestock Chamber of the East, justifying its demands by the economic crisis the country was suffering, managed to get the government to sign an agreement in which it undertook to adopt rules contradicting the agreements signed with the indigenous and peasant organisations one year earlier. The crisis unleashed by the explosion of conflicts throughout the country and various social mobilisations demanding cancellation of the said agreement prevented its fulfilment. However, on 31 October, INRA’s national management approved a new technical rule modifying the previous one, and the cycle began again.

This situation leads one to realise that, in Bolivia, there is no legitimate and representative institutional authority capable of guaranteeing order, and that the state's organic weakness enables the law of the strongest to operate on the ground. This has particularly been noted throughout 2001, when the conflicts over land appropriations began to incorporate armed violence against indigenous people and peasant farmers who were demanding the titling of their lands.

The legal and administrative obstacles, inefficiency, corruption and institutional weakness in which the agrarian process in Bolivia has developed are the cause of the meagre results obtained during the first five years of the Law, and of the explosion of violent conflicts over access to land that has come about, leading to tremendous frustration on the part of those who believed that, with the new Law, the corruption in land distribution that reigned during the Agrarian Reform system would be abolished and a new distribution would be achieved by which the rights of indigenous and native peoples and peasant communities would be fulfilled.

The results of the regularisation of agricultural land titles

The Third March for "Land, Territory and Natural Resources" organised by the indigenous, peasant and settler organisations of the east of the country in July 2000 was motivated by the obstacles observed in the regularisation process. Such obstacles showed that this process was leading more to a consolidation of illegal properties and unproductive estates than to a provision of lands for indigenous and peasant communities. Up to that point, around half a million hectares had been titled to indigenous peoples in the lowlands, whilst not one single metre had been titled in the highlands either to indigenous or peasant communities. This mobilisation showed the nation that land conflicts and disputes were appearing, disputes that were showing a tendency towards rapid deterioration in the Amazonia Norte, Santa Cruz and the Tarija Chaco, for which reason the rapid implementation of regularisation in those regions of the country was urged.

Notwithstanding the fact that, as a result, they then gained approval of rules by which to speed up the regularisation processes, amongst them the establishment of a one-year time span within which to conclude the regularisation of peasant and indigenous lands in the Norte Amazonico of the country and the Province of Gran Chaco in the Department of Tarija, plus a three-year time span for the Department of Santa Cruz, the processes continued at an overly slow pace.

Of Bolivia's total area of 109.8 million hectares, 103.3 million are rural lands which, in accordance with the INRA Law, must form the object of regularisation, for which the Law grants a ten-year period. With the first five years already passed, the regularisation process has not produced results to suggest that an end is in sight, far less the fulfilment of its objectives. As of March 2002, only 11% of all the lands to be regularised had undergone this procedure.

Table No. 1

<table>
<thead>
<tr>
<th>STATE OF REGULARISATION</th>
<th>Area in hectares</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural lands to be object of regularisation</td>
<td>103,297,981</td>
<td>100%</td>
</tr>
<tr>
<td>Area in the process of regularisation</td>
<td>27,937,343</td>
<td>27%</td>
</tr>
<tr>
<td>Regularised area</td>
<td>10,930,373</td>
<td>11%</td>
</tr>
<tr>
<td>Outstanding</td>
<td>64,229,427</td>
<td>62%</td>
</tr>
</tbody>
</table>

Source: INRA.
In the case of indigenous lands, the partial results are also very low, even more so if one considers the fact that the Law gave priority to their titling. In total, 92 demands for the titling of indigenous lands have been submitted, both in the lowlands and highlands, for an approximate area of 34,000,000 has. This area includes the requests accepted by Law in 1996, the Indigenous Territories recognised by Supreme Decree between 1990 and 1992, the requests for conversion of community properties to the system of indigenous territories provided for by the Law and the new requests presented subsequent to approval of Law 1715.

**Indigenous territories in the country’s lowlands**

Law 1715 of October 1996 expressly recognised the 16 requests from the indigenous organisations for the titling of 33 territories covering an area of 14,200,000 has in the lowlands (Amazonia, Gran Chaco, Chiquitania and Trópico). The Law grants a ten-month period for their regularisation and titling, a period that would come into effect as of October 1996.

Once the processes and proceedings provided for by the Law and regulations were initiated, the size of the demands recognised by the Law began to gradually decrease. In order to initiate the regularisation, INRA established an area of 11,762,000 has., 2,500,000 has. less than requested. A second reduction came about through the recommendation that, by the provisions of the regulatory text, it should be the state body responsible for indigenous affairs that determined how much space the indigenous “needed” for their development. One feature that characterises the recommendations made by the Vice-Minister for Indigenous and Native Peoples Affairs is that it recommends significant reductions in the indigenous territories in the Amazonia and Santa Cruz, where there are sufficient lands to consolidate their demands and yet it recommends increasing the areas in the region of the Chaco where the lands are totally stockpiled by cattle ranches.

The reductions in areas to be titled to indigenous people have continued as the processes have progressed, through the constant issuing of rules by INRA that enable the consolidation of illegally obtained individual plots. In 5 years of regularisation of these territories, thus far only 2,056,000 has. have been titled, equivalent to 17.4% of the
# Table No. 2

## INDIGENOUS LANDS RECOGNISED BY LAW 1715 (INRA)

<table>
<thead>
<tr>
<th>No.</th>
<th>TCO's DEMANDED</th>
<th>Department</th>
<th>Area Demanded (1)</th>
<th>Area Regularisation (2)</th>
<th>Area Titled (3)</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>CAVINEÑO</td>
<td>Beni</td>
<td>544,138</td>
<td>523,249</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>CHACOBO -</td>
<td>Beni</td>
<td>531,849</td>
<td>510,895</td>
<td></td>
</tr>
<tr>
<td></td>
<td>PACAHUARA</td>
<td>Pando - Beni</td>
<td>380,725</td>
<td>441,471</td>
<td>289,471</td>
</tr>
<tr>
<td>3</td>
<td>MULTIETNICO II</td>
<td>Pando</td>
<td>193,533</td>
<td>41,921</td>
<td>25,675</td>
</tr>
<tr>
<td>4</td>
<td>YAMINAHUJA -</td>
<td>Beni</td>
<td>713,415</td>
<td>505,776</td>
<td></td>
</tr>
<tr>
<td></td>
<td>MACHINERI</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>BAURE</td>
<td>Beni</td>
<td>810,673</td>
<td>651,840</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>CAYUBABA</td>
<td>Beni</td>
<td>1,345,693</td>
<td>1,227,363</td>
<td></td>
</tr>
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<td>7</td>
<td>ITONAMA</td>
<td>Beni</td>
<td>337,226</td>
<td>345,507</td>
<td></td>
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<tr>
<td>8</td>
<td>JOAQUINIANO</td>
<td>Beni</td>
<td>86,595</td>
<td>81,974</td>
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<tr>
<td>9</td>
<td>MORE</td>
<td>Beni</td>
<td>26,629</td>
<td>27,219</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>MOVIMA</td>
<td>Beni</td>
<td>194,000</td>
<td>116,436</td>
<td>96,808</td>
</tr>
<tr>
<td>11</td>
<td>MOSETENE</td>
<td>La Paz-</td>
<td>48,736</td>
<td>49,726</td>
<td>77,545</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Cochabamba</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>12</td>
<td>YURACARE</td>
<td>Santa Cruz</td>
<td>2,194,433</td>
<td>2,205,370</td>
<td>932,275</td>
</tr>
<tr>
<td>13</td>
<td>GUARAYO</td>
<td>Santa Cruz</td>
<td>296,162</td>
<td>290,788</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>LOMERIO</td>
<td>Santa Cruz</td>
<td>1,159,173</td>
<td>1,059,964</td>
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</tr>
<tr>
<td>15</td>
<td>MONTE VERDE</td>
<td>Santa Cruz</td>
<td>99,288</td>
<td>97,871</td>
<td>97,743</td>
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<tr>
<td>16</td>
<td>RINCON DEL</td>
<td>Santa Cruz</td>
<td>9,162</td>
<td></td>
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<tr>
<td></td>
<td>TIGRE*</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>17</td>
<td>SANTA</td>
<td>Santa Cruz</td>
<td>132,769</td>
<td>109,590</td>
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<tr>
<td></td>
<td>TERESITA*</td>
<td>Santa Cruz</td>
<td>1,987,287</td>
<td>1,951,782</td>
<td>163,459</td>
</tr>
<tr>
<td>18</td>
<td>TOBITIE*</td>
<td>Santa Cruz</td>
<td>12,300</td>
<td>11,679</td>
<td>7,116</td>
</tr>
<tr>
<td>19</td>
<td>ZAPOCO*</td>
<td>Santa Cruz</td>
<td>81,000</td>
<td>54,388</td>
<td>28,076</td>
</tr>
<tr>
<td>20</td>
<td>AVATIRI -</td>
<td>Chuquisaca</td>
<td>16,135</td>
<td>17,697</td>
<td>3,317</td>
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<td></td>
<td>HUACARETA</td>
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</tr>
<tr>
<td>21</td>
<td>AVATIRI -</td>
<td>Chuquisaca</td>
<td>13,850</td>
<td>9,162</td>
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<td></td>
<td>INGRE</td>
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<td></td>
</tr>
<tr>
<td>22</td>
<td>CHARAGUA</td>
<td>Santa Cruz</td>
<td>235,250</td>
<td>227,477</td>
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<tr>
<td></td>
<td>NORTE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>CHARAGUA</td>
<td>Santa Cruz</td>
<td>132,769</td>
<td>109,590</td>
<td></td>
</tr>
<tr>
<td></td>
<td>SUR</td>
<td>Santa Cruz</td>
<td>1,987,287</td>
<td>1,951,782</td>
<td>163,459</td>
</tr>
<tr>
<td>24</td>
<td>ISOISO</td>
<td>Santa Cruz</td>
<td>229,800</td>
<td>216,003</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>ITIKAGUASU</td>
<td>Tarija-Chuquisaca</td>
<td>12,300</td>
<td>11,679</td>
<td>7,116</td>
</tr>
<tr>
<td>26</td>
<td>ITIKAPARIRENDA</td>
<td>Chuquisaca</td>
<td>81,000</td>
<td>54,388</td>
<td>28,076</td>
</tr>
<tr>
<td>27</td>
<td>IPAGUASU</td>
<td>Santa Cruz</td>
<td>12,300</td>
<td>11,679</td>
<td>7,116</td>
</tr>
<tr>
<td>28</td>
<td>KAAGUASU</td>
<td>Santa Cruz</td>
<td>81,000</td>
<td>54,388</td>
<td>28,076</td>
</tr>
<tr>
<td>29</td>
<td>KAAMI</td>
<td>Santa Cruz</td>
<td>100,750</td>
<td>95,947</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>MACHARETI-</td>
<td>Chuquisaca</td>
<td>164,265</td>
<td>142,450</td>
<td></td>
</tr>
<tr>
<td></td>
<td>NANCAROINZA</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>31</td>
<td>TAKOVO MORA</td>
<td>Santa Cruz</td>
<td>54,743</td>
<td>51,366</td>
<td>24,840</td>
</tr>
<tr>
<td>32</td>
<td>TAPIETE</td>
<td>Tarija</td>
<td>356,697</td>
<td>272,451</td>
<td></td>
</tr>
<tr>
<td>33</td>
<td>YEMBIGUASU</td>
<td>Tarija</td>
<td>1,369,100</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TOTAL: 14,209,019


### Table No. 3

**TERRITORIES TITLED BY SUPREME DECREES**

<table>
<thead>
<tr>
<th>TCO</th>
<th>Department</th>
<th>Area recognised by S.D. (1)</th>
<th>Area Titled (2)</th>
<th>Area being regularised (3)</th>
<th>Area consolidated (4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Araona</td>
<td>La Paz</td>
<td>92,000</td>
<td>95,036</td>
<td>95,036</td>
<td>0</td>
</tr>
<tr>
<td>Pilón Lajas</td>
<td>Beni - La Paz</td>
<td>400,000</td>
<td>396,264</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Chimán</td>
<td>Beni</td>
<td>392,220</td>
<td>401,323</td>
<td>156,593</td>
<td>0</td>
</tr>
<tr>
<td>Multítnico</td>
<td>Beni</td>
<td>352,000</td>
<td>343,262</td>
<td>171,632</td>
<td>0</td>
</tr>
<tr>
<td>Isiboro Sécure</td>
<td>Beni</td>
<td>undefined size</td>
<td>1,236,296</td>
<td>30,970</td>
<td>25,114</td>
</tr>
<tr>
<td>Sirionó</td>
<td>Beni</td>
<td>undefined size</td>
<td>62,903</td>
<td>63,661</td>
<td>0</td>
</tr>
<tr>
<td>Yuqui</td>
<td>Cochabamba</td>
<td>115,000</td>
<td>127,204</td>
<td>122,240</td>
<td>0</td>
</tr>
<tr>
<td>Wenhayek</td>
<td>Tarija</td>
<td>195,639</td>
<td>197,849</td>
<td>197,849</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>1,546,859</strong></td>
<td><strong>2,860,139</strong></td>
<td><strong>837,981</strong></td>
<td><strong>25,114</strong></td>
</tr>
</tbody>
</table>

3) and (9) CEPIS.

### Table No. 4

**NEW TCO DEMANDS PRESENTED**

<table>
<thead>
<tr>
<th>No.</th>
<th>TCO</th>
<th>Department</th>
<th>Area Demanded</th>
<th>Area for regularisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Canichana</td>
<td>Beni</td>
<td>34,181</td>
<td>33,460</td>
</tr>
<tr>
<td>2</td>
<td>Tacana</td>
<td>La Paz</td>
<td>549,465</td>
<td>549,465</td>
</tr>
<tr>
<td>3</td>
<td>Tacana II</td>
<td>La Paz</td>
<td>454,469</td>
<td>454,469</td>
</tr>
<tr>
<td>4</td>
<td>Timi</td>
<td>Beni</td>
<td>98,389</td>
<td>98,389</td>
</tr>
<tr>
<td>5</td>
<td>Movima II</td>
<td>Beni</td>
<td>2,205,016</td>
<td>2,388,894</td>
</tr>
<tr>
<td>6</td>
<td>Pantanal</td>
<td>Santa Cruz</td>
<td>1,820,153</td>
<td>1,820,153</td>
</tr>
<tr>
<td>7</td>
<td>Otuquis</td>
<td>Santa Cruz-Beni</td>
<td>1,675,038</td>
<td>rejected</td>
</tr>
<tr>
<td>8</td>
<td>Bajo Paragua</td>
<td>Santa Cruz</td>
<td>366,952</td>
<td>383,827</td>
</tr>
<tr>
<td>9</td>
<td>Lecos Apolo</td>
<td>La Paz</td>
<td>654,137</td>
<td>654,137</td>
</tr>
<tr>
<td>10</td>
<td>Lecos Larecaja</td>
<td>La Paz</td>
<td>166,387</td>
<td>162,414</td>
</tr>
<tr>
<td>11</td>
<td>Guaraní</td>
<td>Tarija</td>
<td>353,225</td>
<td>353,225</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>8,377,411</strong></td>
<td><strong>6,898,433</strong></td>
</tr>
</tbody>
</table>


The total area to be regularised and 14% of the total area demanded. (See table No. 2)

The 8 indigenous territories that were recognised between 1990 and 1992 as a result of the "March for Land and Dignity" organised by the indigenous peoples of Beni in August 1990 are in an even worse state. The Supreme Decrees by which these territories were recognised did not establish title to the right of fee simple ownership on the part of the beneficiary indigenous peoples. Nor were they geographically demarcated and, in some cases, they did not specify the area that was recognised as indigenous lands. Law 1715 established that these territories had to be titled immediately but that they also had to be subject to the process of regularisation in order to safeguard the rights of third parties legally acquired prior to the issuance of the Supreme Decrees. The 8 territories were titled in 1997, covering an area of 2,860,000 has., but the regularisation process has only been initiated over an area of 837,981 has., culminating to date in the consolidation of only 25,114 has. within one of the territories, equivalent to less than 1% of the area titled and 3% of the area being regularised. (See table No. 3)

Following approval of Law 1715 or the INRA Law, 11 new requests for titling of indigenous lands have been presented in the lowlands. Of the total area of 8,377,000 has. demanded, INRA has decided to undertake a regularisation of 6,898,000 has., leaving 1,500,000 has. out of this process. The regularisation processes for these lands have only recently begun. (See table No. 4)

In addition to these territories, a request for conversion to the indigenous lands system has been presented in the lowlands for an area covering 63,608 has., for which the communities already have titles obtained under the previous system.
### Table No. 5

**INDIGENOUS REQUESTS IN THE HIGHLANDS**

<table>
<thead>
<tr>
<th>Department</th>
<th>Claimant</th>
<th>Area</th>
<th>Titled</th>
</tr>
</thead>
<tbody>
<tr>
<td>La Paz</td>
<td>Marka Camata</td>
<td>64,039</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ayllus Titikani – Takaka</td>
<td>1,810</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ayllu Janq’u Jaqi Abajo</td>
<td>6,500</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nacionalidad Indígena Urus de Irohito</td>
<td>54,5</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Jacha Suyu Pakajaquí</td>
<td>1,187,314</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Uruchipaya</td>
<td>166,946</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Urumurato</td>
<td>151,804</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Jacha Charangas</td>
<td>2,491,913</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Marka Pama Aullagas</td>
<td>110,384</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Suyo Jatun Killacas Asanajaquí</td>
<td>1,281,633</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cuerpo de Autoridades</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Originarias Saucari</td>
<td>274,562</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ayllu Tacagua</td>
<td>6,405</td>
<td></td>
</tr>
<tr>
<td>Oruro</td>
<td>Nor Lípez – CUPTCNLP</td>
<td>2,540,151</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ayllu Uma Uma</td>
<td>7,871</td>
<td></td>
</tr>
<tr>
<td>Potosí</td>
<td>Jatun Ayllu Yura</td>
<td>232,931</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Vacuyo Ayllu Andamarca</td>
<td>87,435</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ayllu Sikuya</td>
<td>14,469</td>
<td>12,683</td>
</tr>
<tr>
<td></td>
<td>Ayllly Panacachi</td>
<td>29,675</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Valdivieso</td>
<td>222,173</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Jatun Ayllu Pcoata</td>
<td>131,900</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Jatun Ayllu Urinsaya</td>
<td>18,451</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ayllu Chullpa</td>
<td>39,828</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ayllu Kirikiwi</td>
<td>68,588</td>
<td></td>
</tr>
<tr>
<td>Cochaamba</td>
<td>TOTAL</td>
<td>9,136,837</td>
<td>12,683</td>
</tr>
</tbody>
</table>

Source: INRA*

---

**Indigenous Territories in the highlands**

With regard to the indigenous lands of the altiplano and valleys, inhabited by the Quechua and Aymara peoples, these became eligible for community land titling by virtue of the Agrarian Reform Law of 1953. Their lands, however, are in large part made up of smallholdings and are highly degraded due to the low quality of the soils and the over-exploitation to which they have been subjected, which means that the lands titled are no longer a guarantee of the communities’ subsistence. To date, the communities of the altiplano have submitted new requests for indigenous lands covering an area of 9,136,000 has. Of these, only 12,683 has. have been titled, equivalent to 0.14% of the total requested. (See table No. 5)

It should be noted that most of the area requested is concentrated in the Departments of Oruro and Potosí, which explains why the *ayllus* or native peoples in these regions have preserved their areas of occupation and have survived the community assimilation or elimination policies, implemented by the different governments both during colonial times and the republican period, with greater strength. To this must be added the fact that the system of large estates never managed to develop significantly in these zones.

Finally, from the perspective of re-establishing their traditional *ayllus*, some communities have requested the conversion of their community lands into indigenous lands subject to the system provided in Law 1715 and the Political Constitution of the State. In total, requests for conversion of 74,656 has. to the indigenous lands system have been submitted. No decision has yet been taken regarding these requests. (See Table No. 6)

As can be seen from the previous tables, of the total indigenous lands established nationally for regularisation, only 2,158,000 has. have so far been consolidated in favour of the indigenous peoples, of which 63,000 has.
Table No. 6

REQUESTS FOR CONVERSION IN THE HIGHLANDS

<table>
<thead>
<tr>
<th>Department</th>
<th>Claimant</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>La Paz</td>
<td>Ayllu Achirjiri</td>
<td>762</td>
</tr>
<tr>
<td></td>
<td>Ayllu Calla Arriba</td>
<td>3,310</td>
</tr>
<tr>
<td></td>
<td>Ayllu Sulikatitii</td>
<td>8,786</td>
</tr>
<tr>
<td></td>
<td>Lawaquillo</td>
<td>8,786</td>
</tr>
<tr>
<td></td>
<td>Ayllu Sulikatitii Titiri</td>
<td>8,786</td>
</tr>
<tr>
<td></td>
<td>Ayllu Khonko</td>
<td>6,891</td>
</tr>
<tr>
<td></td>
<td>Liqui Liqui</td>
<td>6,891</td>
</tr>
<tr>
<td></td>
<td>Ayllu Qunchhu</td>
<td>6,891</td>
</tr>
<tr>
<td></td>
<td>Milluni</td>
<td>6,891</td>
</tr>
<tr>
<td></td>
<td>Ayllu Parina Arriba</td>
<td>4,196</td>
</tr>
<tr>
<td></td>
<td>Ayllu Parina Baja</td>
<td>7,553</td>
</tr>
<tr>
<td></td>
<td>Ayllu Titicani Challaya</td>
<td>2,812</td>
</tr>
<tr>
<td></td>
<td>Ayllu Titicani Tukari (Kupi)</td>
<td>3,740</td>
</tr>
<tr>
<td></td>
<td>Ayllu Cuipa</td>
<td>8,360</td>
</tr>
<tr>
<td></td>
<td>Ayllu Hucuri Milluni</td>
<td>8,377,411</td>
</tr>
<tr>
<td></td>
<td>Ancohauqui</td>
<td>1,013</td>
</tr>
<tr>
<td></td>
<td>Ayllu Pueblo Jesus de Machaca</td>
<td>1,970</td>
</tr>
<tr>
<td></td>
<td>Ayllu Qurga</td>
<td>3,823</td>
</tr>
<tr>
<td></td>
<td>Ayllu Yawriri</td>
<td>4,266</td>
</tr>
<tr>
<td></td>
<td>Comunidad Originaria de Chorocoma</td>
<td>1,497</td>
</tr>
</tbody>
</table>

**TOTAL** 74,656

Source: INRA.5

Table No. 7

CONSOLIDATED RESULTS OF THE REGULARISATION OF INDIGENOUS LANDS

<table>
<thead>
<tr>
<th>Indigenous Lands in the Lowlands</th>
<th>No.</th>
<th>Area requested</th>
<th>Area for regularisation</th>
<th>Area consolidated</th>
<th>Percentage/ Area regularisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reconicted by Law 1715</td>
<td>33</td>
<td>14,209,019</td>
<td>11,762,037</td>
<td>2,056,943</td>
<td>17.48</td>
</tr>
<tr>
<td>Reconicted by S.D.</td>
<td>8</td>
<td>2,860,139</td>
<td>2,860,139</td>
<td>25,114</td>
<td>0.87</td>
</tr>
<tr>
<td>New demands</td>
<td>11</td>
<td>8,377,411</td>
<td>6,898,433</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Request for conversion</td>
<td>1</td>
<td>63,608</td>
<td>63,608</td>
<td>63,608</td>
<td>100</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td>53</td>
<td>25,510,177</td>
<td>21,584,217</td>
<td>2,145,665</td>
<td>9.94</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indigenous Lands in the Highlands</th>
<th>No.</th>
<th>Area requested</th>
<th>Area for regularisation</th>
<th>Area consolidated</th>
<th>Percentage/ Area regularisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>New demands</td>
<td>23</td>
<td>9,136,837</td>
<td>9,136,837</td>
<td>12,683</td>
<td>0.14</td>
</tr>
<tr>
<td>Request for conversion</td>
<td>16</td>
<td>74,656</td>
<td>74,656</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td>39</td>
<td>9,211,493</td>
<td>9,211,493</td>
<td>12,683</td>
<td>0.14</td>
</tr>
</tbody>
</table>

**TOTAL TCO** 92 34,721,670 27,935,571 2,158,348 7.72

Land regularisation and land conflicts

The problems in the regularisation process were identified years ago and there have been numerous efforts on the part of the indigenous and peasant organisations to find a solution to them, particularly because, during 1999 and 2000, potential conflicts relating to land ownership in territories in which the regularisation process was progressing had already become evident. It was precisely this that led, in July 2000, to the indigenous, peasant and settler organisations of the lowlands organising a march to put pressure on the government to adopt measures by which to speed up procedures and make them more transparent, so that they could turn around the clearly meagre results. But efforts were in vain.

From September 2001 onwards, multiple land conflicts came out into the open in eastern Bolivia. One dispute followed another and, in some cases, were characterised by increasing violence, to such an extent that the question arose as to whether they could possibly be resolved within the current framework of legality and institutionality was raised.

The Monte Verde Indigenous Territory has shown the greatest indigenous resistance in terms of securing its territories, and this explains why it has become a symbol in the lowlands. The accumulated tensions between indigenous claimants and a network of people, protected within the local and national power spheres, seeking to sustain their supposed “rights” within this territory, led to actions against the indigenous leaders, their advisors and state civil servants attempting to intervene to protect the territory. Such local level actions on the part of dominant sectors began to appear when, through the action of indigenous organisations, the regularisation process produced favourable results for the indigenous peoples. These actions have hindered completion of the process even more, leaving it yet again in suspense for an indeterminate period of time. The situation of Monte Verde shows not only the disdain of local society towards the Chiquitano people’s territorial claim but also the lack of commitment and weakness of state institutions with regard to the protection of indigenous rights in general.

In other zones of the Department of Santa Cruz: a landowner took over land titled to a peasant community settled in the area for more than 15 years; an agro-industrial business invaded peasant lands, destroying their crops with heavy machinery; landowners, logging concession holders and oil companies speculating the land and exploiting its natural resources, contaminating the environment, began a crusade - under the banner of environmental conservation - to evict peasant farmers occupying lands that had previously been part of a forest reserve. In the northern Amazon, cattle ranchers attempting to take control of the best lands of the indigenous
Itonama people paralysed the regularisation process in order to evict the indigenous people from the lands that were of interest to them; and cattle ranchers and local power groups have also been exerting pressure on the indigenous Baures people to force them to renounce more than 50% of their claim, subsequently kidnapping indigenous leaders and INRA employees who were undertaking the regularisation, thus managing to paralyse the process.

All these conflicts, like the Monte Verde conflict, were in part caused by erroneous actions on the part of the relevant state institutions that favoured interests contrary to indigenous and peasant interests, despite the fact that the legitimacy and legality of their rights were fully proven. In virtually all situations that have occurred, the institutions resorted to the use of public force against the peasants, the legitimate owners of the disputed lands, bearing witness to a lack of impartiality in the handling of the conflicts.

Alongside this, the Civic Committees and some of the media opted for a campaign of misinformation, and the events that were taking place were presented in a favourable light for the local power groups, to the detriment of the peasant sector. The Civic Committees presented a regionalist, ecologist and even legal discourse to conceal their defence of landowning, logging and oil company interests, in addition demonstrating the racist and reactionary attitudes of some power sectors, lacking even a minimum democratic vocation with which to handle the issues transparently, objectively and responsibly.

The conflicts left several wounded and some peasants arrested with legal actions being brought against them whilst the aggressors enjoyed impunity, with the support of the official authorities.

The conflicts culminated in their worst expression in November with the Pananti massacre. A group of approximately 40 heavily armed paramilitaries entered lands which, abandoned years previously, had been occupied by groups of landless peasants since 2000, leaving 6 peasants and one estate owner dead and 21 peasants wounded. A military control post, located some 100 metres from where the events took place, did not intervene and legal investigations are directed at finding those responsible for the death of the estate owner, prosecuting a number of the survivors of the massacre, whilst those responsible for the massacre itself get off scot-free.

The inequities in the distribution of land, the existence of abandoned estates and the need for several thousand peasant farmers from different regions of the country to have access to land led to the organisation of the Landless Movement (MST) in the Gran Chaco Province of the Department of Tarija during 2000. In June of that year, 180 families organised into groups of landless peasants to occupy the “Pananti” lands, in addition to establishing other settlements on abandoned lands.

The formation of peasant camps on abandoned lands was answered with severe police repression and so, in 2000, the peasants of the MST organised a march for “Land and Dignity” that culminated in a government commitment to respect the settlements and implement land regularisation within the space of one year.

In October of that year, the peasant groups settled on the abandoned lands began to suffer harassment. Groups of landowners and armed mercenaries burnt down the Los Sotos peasant camp and shot several of its members, including women and children, leaving them wounded. In April, another attack took place against the “Nueva Esperanza” group, in an operation led by an ex-national deputy. The following month, the communities of “Salada Grande” and “Salada Chica” were attacked, with the support of the mounted police. These were people from the Chaco who had been settled in the area for several decades. Two new attacks took place against the Los Sotos group during May, and in October attacks began against the “Pananti” group. Eight people were wounded and a circle formed around the camp. In response, the military forces undertook operations to “control” the zone, repressing the peasants. The harassment ended with the massacre on 9 November.

Some conclusions

The link between the violence and the regularisation of land titles can clearly be seen in the case of Pananti. This is a plot of approximately 2,940 has. that was given in 1974 to a family who at that time were in close collaboration with the military regime; they abandoned it 8 years later. Regularisation of this plot need not have been long or costly, given the small size of the plot and the fact that it had been abandoned for more than five years. But it did not take place, in spite of the agreements signed between the MST and the government. When the peasant settlement appeared, so did a new owner and behind him a group of mercenaries arrived on the scene to evict the landless peasants by force and organised crime.

In the case of the Monte Verde Indigenous Territory, it is also clear that the delays in the regularisation process enabled the illegal entry of individuals onto the indigenous territory seeking to take it from them before INRA could finish the regularisation. The way in which the process took place increased their expectations of consolidating their new properties. Indigenous action to guarantee the progress of the procedure within the framework of their legal and constitutional rights showed that the results of the regularisation would not favour these expectations and it was at this point that the violence arose in order to try and win by force that which did not belong to them by law.

Given that the regularisation continues to stagnate and there exists no clear will on the part of the relevant institutions to move it forward speedily and transparently, land conflicts are intensifying, multiplying and becoming more complex. It is not merely a question of
isolated disputes over ownership and access to land. The poor results of the regularisation halfway through the legal time period for its implementation demonstrate the undeniable deficiencies in the application of the Law.

The context of violence in which the agrarian process is unfolding makes it imperative to rethink the process and the structural conditions that are preventing it from achieving its ultimate goals of regularising agrarian rights and eliminating the estate system in the east and the smallholder system in the west of the country by redistributing lands and enabling access on the part of indigenous and peasant peoples.

It will not, however, be possible in the current context, which is characterised by organised power groups who are willing to act, even by thuggery, to avoid effective land regularisation within a context of legality. The actions of the political, judicial and police authorities in the local sphere, clearly lacking impartiality in favour of these power groups, show that state reforms are aimed rather at consolidating these powers and, in contrast, at breaking up the social movements.

For their part, the social sectors are gradually losing faith in institutionality and legality, given that these are permanently sidestepped or ignored. The indigenous and peasant movement has the advantage of having consolidated its leading role as a social actor on the national scene but is currently affected by internal divisions. This has meant that the struggle for land and territory is taking place within a strictly local framework, with new strategies for the physical control of land and natural resources and encouragement to processes of occupation and reoccupation. Whilst this is determinant in the defence of their rights, it could lead to a lack of national perspective and a diffusion of the efforts to change the structure of a process that does not favour equity and democracy in terms of land access.

Under such circumstances, only two options appear possible: to build a solid consensus around structural transformations of the agrarian process or to leave the process to wear itself out, letting the disputes follow their own course of resolution.

If we decide on the first path, we have to envisage not only a redirection of the Bolivian agrarian process but also a reorganisation of the country and its public authorities. This project requires the full validity of a social state of law in which control mechanisms and supervision are effective, in which the organs of power are truly independent and do not work in the service of just one sector or group, in which decisions are taken according to the diverse nature of Bolivian society, in which the means of communication are put to the service of the country with all sectors having access so that we can build a mature and truthful public opinion.

In short, it is a question of approaching the process with responsibility, objectivity, democratic conviction and national commitment. The starting point for this is, of necessity, actual and not merely formal recognition of the fact that Bolivia is a multi-ethnic and pluricultural country and that the indigenous and native peoples have ancestral rights to their lands. The second step is to debate the land and territory issue with transparency, not only in the context of regularisation of lands and the INRA Law but more fundamentally, in the context of reforms to the Political Constitution of the State.

The second path is that which characterises current events. Power groups ready to protect illegality; a complicit state, lacking in will, decision and authority; and social sectors increasingly sceptical of the law, the state, dialogue and commitments.

Notes and references

2. Everything related to the process of regularisation, stages and flowcharts, can be found on the following web page: www.inra.gov.bo.
5. Ibid.

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THE REALITY OF THE REGULARISATION OF AGRICULTURAL LAND TITLES

THE TITLING PROCESS FOR THE MONTE VERDE INDIGENOUS TERRITORY

By Leonardo Tamburini and Ana Cecilia Betancur
In January 1995, the Indigenous Coordinating Bodies representing the Chiquitano communities of the former Jesuit settlements of San Javier and Concepción presented the President of the Republic with a request for the titling of the Monte Verde Territory, located in the Nuño de Chavez Province, department of Santa Cruz. In March 1996, after more than a year's silence in the face of constant indigenous demands, and when the first conflicts had already begun to appear due to attempts on the part of outsiders to illegally appropriate the area requested, the written request was at last formally received, the delay being put down to state bureaucracy.

The INRA Law: frustrated expectations

In October 1996, as a result of the second indigenous march for land and of the agreements reached between the National Agricultural and Livestock Confederation (CONFEAGRO), the government and the indigenous organisations, Law 1155 of the National Agrarian Reform Department (INRA Law) was promulgated. The new Law, in addition to providing the basic rules for regularising the many agricultural land titles that were fraudulently obtained over the previous 30 years or more, expressly recognised the territorial demands of the indigenous people as Native Community Lands (TCOs) and ordered their titling within a set period of 10 months, leaving aside rights legally acquired by private individuals within their boundaries. It also ordered the immobilisation of the lands thus recognised in order to prevent the recognition of rights within them.

But, during the first years of its validity, the law began to be overlooked. The prohibition on granting new rights on lands demanded by indigenous peoples was rapidly violated: in July 1997, the Forest Superintendence granted forestry rights to logging companies within the already recognised territories. In the case of Monte Verde, 3 forestry companies benefited from an area of more than 120,000 has. And only in October 1998 did INRA begin implementation of the required process of regularisation in order to determine the rights of individuals.

Now, more than three long years have passed and the titling of the Monte Verde territory has still not taken place, revealing the multiple interests that revolve around agricultural property, the corruption that has accompanied land distribution in Bolivia and a vision that does not recognise indigenous rights at any level of authority. The "regularisation of land titles", intended to compensate for the frauds committed and to grant property titles to indigenous and peasant farmers, has turned into a process of legitimisation of the fraudulent distribution of land, reducing to a minimum the possibility of access to land on the part of indigenous communities.

Background: the Agrarian Reform and land concentration in the East

The aim of the Agrarian Reform decreed in 1953 was to eliminate the large estates (latifundios), given that it was clear that there was an excessive concentration of lands in the hands of a few (in 1950, 4.5% of rural owners controlled 70% of the agricultural lands). After 40 years of application, this system had been partially modified (28% of beneficiaries held 53% of agricultural lands). In the highlands and the valleys, this brought about an excessive division of land, leading to a situation of unproductive smallholdings. However, the greater concentration of lands in large estates, also unproductive, could be seen in the lowlands. Of the 26 million hectares distributed, 87.6% went to medium and large sized holdings, while 12.4% was distributed to small producers in settlement areas (Herráiz and Pacheco, 2000).
From 1992 onwards, with the intervention of the National Council for Agrarian Reform (CNRA) and the National Settlers Institute (INC), the numerous irregularities and frauds that took place during the validity of the 1953 reform in terms of the distribution of agricultural land began to be noted. The agrarian civil servants, protected beneath a cloak of institutionality (lands were provided in return for exercising their role), falsified the judicial or administrative proceedings required for provision or allocation of land. But it had long been known that the distribution was corrupt and preferential, particularly during the de facto governments, for which reason regulations cancelling the allocation of state lands between July 1980 and October 1982 and the transfers carried out between 1971 and 1982 for areas of more than 50 has. had been issued.

In the mid-1980s, the recurrent complaints of corruption were the main reason for the Intervention, which was decreed in 1992 when irregularities in the provision of almost 100,000 has. in the Santa Cruz department to a Minister of State came to light.

One aim of the Intervention, among others, was to establish the irregularities or illegalities that had been committed during the agrarian reform, to identify the superimpositions, double titling and stockpiling of lands, to undertake a detailed register of rural properties and to dictate the use of the land. Many of these objectives were achieved: various land frauds were identified, proceedings were initiated against those responsible, leading even to imprisonment for some, registers of files were drawn up and, for the first time, more or less approximate figures of the land tenure situation in the country were obtained.5

The Intervention suspended the agricultural courts, the cornerstone of the previous system, bringing to an end the "legality" behind which corruption had so long sheltered. But this was not sufficient to put a stop to the fraud. The dismissed judges continued "working" independently and on their own behalf, using their stamps, official papers and all instruments of public office to continue to distribute lands. Various such files appeared for Monte Verde, signed by judges that had been criminally denounced by the Intervention.

As one of the Intervention's functions was to draw up a register of agricultural titles and procedures, it was not long before a registry book from INRA's Santa Cruz office went missing, on the pages of which were noted recently issued titles and files. Many of these papers, produced from 1992 onwards but bearing earlier dates (particularly the years 1980-1982) had even obtained certifications legally issued by INRA. What now enables them to be identified is that they did not have the official registry number given to correctly processed files, which is why they were given the name of "procedures without file numbers".

Many of the "new owners" entered the indigenous territory of Monte Verde using these supporting documents in order to occupy their recently acquired properties. This led to the Chiquitanos setting up "control posts" in 1998 to prevent further incursions. The complaints made and pressure applied by the indigenous people, and the ensuing press scandal, forced the government to implement procedures in order to gain the necessary resources with which to regularise the lands of Monte Verde. The reaction of the illegal owners affected led to the departure of the then National Director of INRA.

The regularisation of Monte Verde

The request for titling of Monte Verde was originally presented in early 1995 for an area covering 865,000 has. Once officially received in March 1996 and transferred to the Intervention so that legal proceedings could be initiated, this latter identified the existence of 21 private plots within the area requested, totalling approximately 70,000 has. The request of the Chiquitano indigenous peoples was increased in October 1996 to cover an area of 1,159,000 has, but INRA determined that this should be reduced to 1,059,964 has. in order to begin the process of regularisation and titling of the indigenous territory. At the end of 1997, INRA identified 26 private plots within its area.

It was only in 1998 that INRA formally began the process of regularisation, which includes numerous stages for the purposes of involving all those who claim rights within the indigenous lands. The process of regularisation of land title is generally a slow and complicated one, which seems to have been designed in such a way as to obstruct fulfilment of the main objective of the Law: to "regularise" agricultural properties. This can clearly be seen in the case of Monte Verde.

Whilst 26 private plots had been identified by INRA prior to commencing the regularisation process, by the time the first stages of the process had been completed, 174 plots had appeared which, on paper, comprised 70% of the total area over which the process was being undertaken. And this notwithstanding the fact that the Chiquitano organisations had almost completely put a stop to the entry of individuals onto their territory through control posts, once commencement of the regularisation had been announced. (See Table No.1)

In contradiction of the rules stating that plots that were neither owned nor in use should not be measured, INRA measured all the plots being claimed by individuals, covering an area of almost 500,000 has. The fact that they measured them created expectations amongst the private individuals in terms of their recognition and so they carried out more illegal clearing within the TCO, creating further conflict with the claimants. (See Table No.2)

According to a classification undertaken by INRA itself, of the private individuals claiming rights within the indigenous territory, 69 had to be rejected because of fraudulent documents, procedures or files and 3 because they were illegal de facto occupations. Of the remaining 88 plots that could prove correctly produced documen-
tary support, the undertaking of productive work had to be analysed, as this was the basic condition established in the Constitution by which agricultural land could be acquired or retained. If this condition was fulfilled in full, INRA would consolidate the properties of the claimant third parties. If not, they would revert to the claimant communities as TCO.

Instead of proceeding in accordance with current rules, INRA's national management issued new rules* that opened a door to both those who were supporting their claims with fraudulent documents and those not fulfilling the requirement for productivity, enabling them to consolidate the lands claimed in their favour.

Faced with this situation, the Coordinating Body of Ethnic Peoples of Santa Cruz (CEPSC) and the claimant Chiquitano organisations challenged the new rules and requested that INRA suspend their application, amending them by means of an agreement among all the sectors involved in the National Agrarian Commission (CAN). In response, the process of regularisation of Monte Verde was unjustly paralysed until June 2000, at which time the indigenous people therefore announced that they were undertaking a new march for land in which, amongst other things, they demanded and achieved the requested modification.

The final stage of regularisation: the moment of truth

The III Indigenous, Peasant and Settler March for Land, Terri-

<table>
<thead>
<tr>
<th>Period</th>
<th>Area</th>
<th>Date</th>
<th>Total Third Parties</th>
<th>Area in documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial request</td>
<td>865,900</td>
<td>May/96</td>
<td>21</td>
<td>71,189</td>
</tr>
<tr>
<td>Increase in request</td>
<td>1,159,173</td>
<td>Oct./96</td>
<td>29</td>
<td>139,074</td>
</tr>
<tr>
<td>Area to be regularised</td>
<td>1,059,964</td>
<td>Nov./97</td>
<td>26</td>
<td>137,719</td>
</tr>
<tr>
<td>Regularisation Process</td>
<td>1,059,964</td>
<td>Dec./99</td>
<td>160</td>
<td>770,904</td>
</tr>
</tbody>
</table>

Table No. 2

PLOTS CLAIMED BY THIRD PARTIES DURING THE REGULARISATION

<table>
<thead>
<tr>
<th>Class</th>
<th>No. of Plots</th>
<th>Area in documents</th>
<th>Area measured</th>
</tr>
</thead>
<tbody>
<tr>
<td>Titled</td>
<td>35</td>
<td>69,615</td>
<td>76,001</td>
</tr>
<tr>
<td>Being processed</td>
<td>39</td>
<td>85,607</td>
<td>83,148</td>
</tr>
<tr>
<td>Possessions</td>
<td>14</td>
<td>26,657</td>
<td>36,250</td>
</tr>
<tr>
<td>De facto occupations</td>
<td>3</td>
<td>3,603</td>
<td>6,886</td>
</tr>
<tr>
<td>Fraudulent titles and proceedings</td>
<td>69</td>
<td>585,421</td>
<td>295,612</td>
</tr>
<tr>
<td>TOTAL</td>
<td>160</td>
<td>770,904</td>
<td>497,897</td>
</tr>
</tbody>
</table>

Consolidation of forestry concessions and illegal properties via “conciliation”

According to the Resolution that granted the forestry concessions and to the recent judgement of the Supreme Court of Justice,* these had to
be reduced by whatever extent necessary in order to be titled as indigenous lands.

Within the context of conversations that took place between the government and peasant movement around the road blocks between September and October 2000, INRA’s Director came to an agreement with the indigenous peoples to issue a new resolution in which the areas allocated to forestry concessions would be decreed. But, once the peasant blocks were lifted, INRA categorically refused to do this.

The indigenous and peasant organisations that had marched in July of that year appealed to the Minister of the Presidency, who had signed the agreements and, upholding the Supreme Court’s decision and in spite of opposition from INRA, he ratified the obligation to title the indigenous territory up to the recommended area, re-allocating the forestry concessions. However, following negotiations on the part of the forestry companies through the National Forestry Chamber (whose president was one of the Monte Verde concessionaries), the Minister of the Presidency ignored the commitments undertaken and supported the consolidation of the concessions.

The indigenous people considered the possibility of mobilising once more to get the Supreme Court of Justice’s decision and the legislation fulfilled regarding the conditions governing agricultural land. But the INRA departmental office beat them to it, seeking to exempt part of what the third parties had “lost”, and convened everyone to an inceptly named “conciliation”. With the erroneous argument that the procedure implemented for the titling had been illegal, it forced the Chiquitano indigenous population to accept the conciliation. By then, the third parties had already challenged the resolution issued by INRA before the National Agricultural Court, arguing that the situation of the plots had not been resolved in advance.

At the conciliation, the legal and illegal third parties attended en masse and, under pressure, they forced the indigenous people to cede more than 20,000 has. of their territory, which these latter accepted in order to finally achieve their titling. The third party beneficiaries of the conciliations abandoned the appeal lodged with the Agricultural Court, and INRA’s National Director undertook a new commitment with the indigenous to issue the resolution which, in addition to incorporating the conciliations, was supposed to correct the legal deficiencies of the previous resolution and order compensation so that they would gain an area equivalent to that which had been the object of the regularisation process (1,059,964 has.) in exchange for leaving the forestry concessions intact.

The new allocation resolution was issued on 4 January 2001 but, to the surprise of the indigenous people, it included the same deficiencies as the previous one issued in September, as it did not legally resolve the situation of the individual plots claimed by private individuals, and it also presented other legal irregularities.
Table No. 3

ALLOCATION RESOLUTION 024/2001 IN FIGURES

<table>
<thead>
<tr>
<th>Class</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third party areas</td>
<td>137,046</td>
</tr>
<tr>
<td>TCO area available for allocation</td>
<td>856,538</td>
</tr>
<tr>
<td>Compensation to TCO from state area available*</td>
<td>199,320</td>
</tr>
<tr>
<td>Total Titling</td>
<td>1,055,859</td>
</tr>
</tbody>
</table>

* Area located to the north, and outside, of the requested TCO.

The resolution was not even notified, and so those third parties who had challenged the first resolution and who had not been favoured with “conciliations” had the opportunity to present a new appeal to the Constitutional Court, seeking to cancel the whole regularisation process. Once this appeal was accepted, the Monte Verde titling process was once more suspended.

The judiciary intervenes on behalf of the illegal land holders

The intervention of the courts of justice in the processes for titling of indigenous lands has been, to date, quite negative in terms of validating their constitutional rights.

In spite of the fact that the Constitutional Court’s task is precisely that of safeguarding order and the rights established by the Political Constitution of the State, in which indigenous and peasant rights are enshrined, this Court fails to understand the implications of this, far less to guarantee their respect. On the contrary, the Court’s pronouncements have contributed significantly and effectively to the struggle of the illegal third parties to take over indigenous lands.

In an initial ruling, the Court cancelled the provision shortening the processes for titling of indigenous lands. In a second ruling, which lacked legal basis, the Court cancelled an established regulation that INRA should declare that no fraudulent documents supporting the land claims of individuals on indigenous lands existed. With this, it opened the door to documents fabricated by ex-agricultural judges following their dismissal in 1992, of which around 70 were present within Monte Verde, to continue circulating indefinitely as valid.

To illegal third parties, the message from the constitutional rulings was clear, and a new wave of invasions onto the indigenous territory began in August 2001 with machinery, tools and labourers in tow in order to undertake the preparatory work for recognition of their properties. In one week, more than 400 has. were cleared.

For the Chiquitano, too, the message was a clear one: the “legal path”, as they called it, had finally been closed, with the closing in of the state powers around the preferential and corrupt distribution of agricultural property to the continuing benefit of those in positions of power. The communities therefore decided to re-establish the control posts in order to prevent access on the part of illegal third parties onto their territory and it was then that the violent reactions against the indigenous peoples and against a committee from the Forest Superintendence trying to undertake field inspections of the illegal clearings began.

In the face of the violence, the authorities’ response was to come to new agreements. At the request of the Cattle Ranchers’ Federation, the Prefecture and INRA’s departmental office, a new agreement was signed with the Coordinating Body of Ethnic Peoples of Santa Cruz and the Forest Superintendence in order to conclude the regularisation under the terms of the Law and to ensure the permanent functioning of the control posts under the supervision of the Forest Superintendence, in exchange for the indigenous people agreeing to re-instate the movement of individuals whilst controlling the entry of work tools.

Once the agreement was signed, and while each of the control posts (four in total) was being informed of this, a violent attack took place on 15 September at the offices of the Faimonka Indigenous Coordinating Body, in which a mob of angry individuals, some of them armed, brutally beat up and held for several hours one of the lawyers who was providing the communities with legal assistance. In spite of the fact that the agreement had been promoted and signed by them through the Cattle Ranchers’ Federation, they did not agree with its wording, as they had been hoping that this agreement would recognise their right to acquire the properties on which they had undertaken recent works.

The government gives a helping hand to those in disagreement

In the midst of a scandal due to the violence unleashed by the Monte Verde third parties, and the numerous conflicts over land tenure that were taking place throughout the country, the government signed an agreement with the Agricultural and Livestock Chamber of the East (CAO) and the Pro Santa Cruz Civic Committee in which it undertook to change the rules in order to consolidate their members’ agricultural lands.

The coincidence between the points of the agreement and the problems which, throughout the whole Monte Verde regularisation process have arisen between the indigenous peoples on the one hand and INRA and the illegal third parties on the other, is astonishing: modification of the technical rules for verification of work during regularisation, modification of the regulations governing livestock numbers in order to extend cattle ranches, establishment of regulations for a new regularisation process for properties titled or agreed prior to Law 1715 and during the García Meza dictatorship (it must be recalled that the titles fabricated by the ex-agricultural judges
carried dates from this period), a guarantee of respect for all types of “private property” by force, and the control of NGOs working with indigenous and peasant farmers.

This agreement, far from reassuring the third parties who were claiming properties within the indigenous territory of Monte Verde and all the beneficiaries of land distribution in Santa Cruz during the Agrarian Reform, grouped into the Civic Committee, encouraged them to undertake a public campaign calling for violence against the supposed peasant invaders of natural and forest reserves, and other “properties”. The results were only to be expected. The Yapacani Civic Committee, with the support of the police and the agricultural judges, undertook actions to evict the peasant farmers of La Enconada from their own lands, arguing that they were invaders from the El Choré Reserve. Later, on 9 November, a massacre of landless peasants took place in Yacuiba, with the result that seven died and some twenty were wounded, before the very eyes of the military and police authorities of the area, and to the applause of the region’s Civic Committee, the Santa Cruz Committee consolidated.

The Agricultural Court opens another floodgate to unproductive properties

In the midst of the instigations to violence against the peasant farmers, the criticisms of the agreement signed with the CAO and the vain efforts of the government to get the sectors to agree to participate in a Land Summit, the National Agricultural Court issued its judgement on the Monte Verde process, declaring the third party claims to be proven. This did not make much sense as they had already been satisfied by the judgements of the Constitutional Court. But the Agricultural Court added something more, that had not been requested by the claimants: additions to the field tests to verify works and, consequently, a re-evaluation of the plots requested by third parties.

Given that the stages provided in the procedure had been fulfilled to the letter, it was not very clear what the Court’s judgement referred to. But you do not have to have a very suspicious mind to see that it was a way of contributing to the consolidation of third party claims, as the Court considered their rights were greater than those of the indigenous. In fact, the judgement issued by the Court warned that the indigenous peoples had no rights over the land, only expectations, which it would be possible to satisfy once the properties claimed by individuals had been regularised.

This judgement was issued in October 2001 and the process for titling of the indigenous territory of Monte Verde, suspended since January of that year, has still not been resumed. The organisations’ efforts to reactivate it within the framework of current law have so far been in vain and it may be that it will not be revived until those opposed to its titling have managed to achieve new regulations favourable to their interests.

Some conclusions

The current dispute over this territory is focused – rather than on a certain number of hectares (which represent 50% of the indigenous territory) – on the legality of the procedures and a real recognition of indigenous rights.

Trying to explain the judicial framework to the process only makes it all the more unintelligible to anybody, even if they are experts in agrarian law. But the numerous administrative, political and judicial proceedings that have taken place over these last 4 years, and the figures given as partial results, demonstrate the fact that - deep down - the dominant sectors do not recognise indigenous rights and are not willing to allow them to title the lands that legally and justly belong to them.

According to the initial data, less than 30 private individuals held agrarian rights within the Monte Verde indigenous territory when the regularisation process began in 1997. However, in the resolutions that have to date been issued, these third parties have increased to 93. Of these, there are at least twenty with completely false documents.

But far from accepting these results, the third parties seem ready to go to the farthest extremes to gain much more than the 140,000 ha. they have thus far obtained, and the relevant institutions have given clear signs in favour of their claims. If, in the end, they end up consolidating the 500,000 ha. that INRA unjustly measured for them during his field visits, we would have a situation whereby, of the 1,060,000 ha. corresponding to them, the indigenous people would finally end up with the title to 440,000 has., once the 122,000 ha. of forestry concessions have been deducted.

The question we are left with is this: what sense is there in maintaining such long, costly and wastesome procedures, which include, moreover, the exercise of violence, to merely end up back where we started?

The case of Monte Verde is merely an illustration of what is happening in the process of regularisation of agricultural land titles that has been taking place in Bolivia since approval of Law 1715 in 1996.

One issue that must be highlighted is the failure to apply the law. Recognition of the indigenous territorial demands by the INRA Law has been no more than a mere formal declaration, as this recognition has brought no guarantee of the protection of those demands on the part of the different state bodies. The granting of forestry concessions on recognised indigenous lands, expressly prohibited by the Law, in spite of claiming the conditionality of the forest rights granted, highlights from the start the fact that the state institutions were not going to fulfill the newly approved regulations.

The deadlines and procedures provided by the INRA Law for the issuing of property titles and for commencement of processes guaranteeing the effective protection of lands claimed by the indigenous not only were not fulfilled but became considered to be mere fictions of the Law. The 10 months established in October 1996 for regulari-
sation and titling of indigenous lands became two years in the regulatory text, and even this has not been fulfilled.

What indigenous peoples theoretically achieved with the INRA Law in 1996 was wrested from them with the regulations issued in 1997, which established the procedures for the regularisation and titling of their lands. The rules and procedures, which appear to be very thorough and detailed, not only make the process an interminable one but also make it incomprehensible even to the most seasoned of lawyers. This enables INRA and any judicial authority to avoid fulfilling the Law, facilitating the adoption of arbitrary and preferential decisions.

In addition, the constant issuing of "technical rules" on the part of INRA’s national management in which, with grammatical subtlety on some occasions and open contradiction on others, it reverses the rules of play established by social consensus in the INRA Law, makes it difficult to imagine that the process of regularisation can be concluded within the next few years or that the indigenous peoples will achieve the titling of even half the lands that were recognised in 1996.

The indigenous struggles for land and territory, their fundamental rights, seem in vain. Since 1997, when the forestry concessions were granted, the organisations have been demanding fulfilment of the Law and respect of their rights. Successively, one after another, administrative or judicial proceedings appear that reduce the indigenous lands or avoid the titling of areas that are of interest to the peoples that be. After the concessions, there appeared studies and recommendations made by the Vice-Minister for Indigenous Affairs that defined how much land indigenous peoples needed. Then, the modification of the Regulation after a year of discussions between all sectors involved and a subsequent constant struggle against the Administrative Resolutions from INRA’s National Director approving "technical rules" that reversed the modifications.

The judgements of the High Courts, the violence exerted by the landholding powers and their agreements with senior government officials to guarantee their rights, have closed the path to the validity of indigenous rights.

All these factors have been determinant in the poor results of the regularisation process that was initiated for indigenous lands, although some interested parties try to attribute the results to legislative deficiencies. This has given rise to new suggestions to modify the Regulations, already amended twice in 2000. But the legal and technical discussions are a smokescreen that conceals the real problems: land continues to be a determining factor in the constitution of local and regional powers and these will not permit its adequate redistribution.

The regularisation process in Monte Verde and the multiple conflicts over land tenure that have arisen over the last year throughout the country show that Bolivian society is still far from accepting and recognising the dignity of indigenous peoples and yet farther still from recognising their territorial rights. It also demonstrates that there is no institutionality capable of guaranteeing the rights of citizens and that it is instead aimed at protecting the interests of those who have traditionally held power.

Notes and references

2. 85 concessions were granted by the Forest Superintendence in July 1997, covering an area of approximately 5.8 million hectares. 25 were superimposed on 8 indigenous territories, covering an area of 714,958 has.
6. A number of plots were presented for regularisation amalgamated into one, and so in the tables the total is 160.
7. This classification grouped together 54 procedures without file number, 7 falsified titles, 1 falsified file, 2 procedures whose files could not be found and 5 procedures implemented in the offices of the National Council for Agrarian Reform.
8. Administrative resolutions approved a manual by which to assess fulfillment of the Economic and Social Function and another to review the legality of the titles and procedures in support of their rights.
9. Supreme Judgement dated 5 May 2000. José Bailaba Parapaino representing the Board of Directors of the Indigenous Coordinating Body of the Communities of Concepción (CICC) and the Board of Directors of the Paiconca Indigenous Coordinating Body of San Javier (CPI-S) and Venendio Sacu Moroveschi, representing the Coordinating Body of Native Guarayos Peoples (COPNAG), against the State Prosecutor.
10. Constitutional Court. Constitutional Judgement No. 042/01, 15 June 2001. Dr. Elizabeth Itúñez de Salinas, Judge/Rapporteur. In an appeal requesting the reversal of a decision claimed to be violating the constitution lodged by third parties in the process of regularisation of the Guarani indigenous territory of Isoso.
12. In spite of the declaration of unconstitutionality of the Third Provisional Measure of Supreme Decree 25848, articles 177, 178, 179 and 367 of 'Supreme Decree 25763 (Regulations of INRA Law), all current, stipulate the cases for declaration of the non-existence of titles and procedures.

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IWGIA’s yearbook is issued every year in June. The yearbook covers recent developments and events in the indigenous world and provides an overview of the present situation. It contains articles by indigenous and non-indigenous activists and scholars.

The following topics are central to the book:

- progress and setbacks in indigenous peoples’ fight for self-determination
- recent developments in indigenous communities in most parts of the world
- updated information on international human rights work concerning indigenous peoples
- movements and changes in the indigenous organisational landscape
FOR THE SAFEGUARD OF INDIGENOUS TERRITORY AND PARTICIPATION

By Carlos Mamani Condori
As the 21st century dawns, the idea of change, pachakuti in the Andean Aymara and Quechua languages, is increasingly being considered an inevitable necessity by the indigenous families, communities and peoples as a whole that continue to maintain the politico-geographical identity of Qullasuyu.1

Qullasuyu, “the country of health”, has had a very important presence and status throughout the Andean region for thousands of years, particularly in the context of Tawantinsuyu.

With the imposition of colonial rule (which continues to this day under the guise of a republic) the quillas, and particularly the Aymara, played a leading role in the solid defence of their identity, collective rights and territory. Of the four suyus that make up Tawantinsuyu: Chinchaysuyu, Kuntisuyu, Antisuyu and Qullasuyu, only the quillas maintain and defend their identity, even putting forward a future societal project based on principles of reconstruction and restitution.

The country of the quillas (or collas/oyas as they are also known), is largely to be found under the jurisdicction of the Republic of Bolivia. Historically, it extends south as far as Tucumán (the term—tukuiman—in Quechua) and down to the Pacific Coast, which today falls partly in Chile and partly in Peru, then extending north to the very gates of the former imperial city of Cuzco. In spite of this, the struggle has been a united one. At the beginning of the 20th century, Kumimaki moved Aymara armies on both sides of the border between Puno and La Paz to defend the lands of the ayllu against the aggression of mistis estate owners (criollo or mestizo). One culture, one single form of music and dance, was developed and danced in Tirana (Chile), Puno (Peru) and the towns of Bolivia.

This article focuses on the situation of the quillas in Bolivia, particularly in terms of the political reforms that the State wholeheartedly embraced during the 1990s within a process of globalisation and structural adjustment.

Assimilation: one of the last expressions of colonialism

To understand the recent history of the indigenous peoples of Bolivia, we have to look at the changes in colonial policy that took place during the second half of the 20th century (1952) and which, with the incorporation of “the Indian” into the republic, disrupted the institutionality of a state that was based on racial discrimination, a conditional vote, and responsiveness to the interests of a limited group of privileged criollos.

This enormous mass of new citizens, of potential threat to criollo privilege and domination, necessitated an instrument of control, and so the “peasant union” was established on a massive scale. The state discourse and practice of assimilating the indigenous by means of both technical and socio-political progress was imposed by this organisation, according to the nationalist ideology that the indigenous had to be “dragged out” out of mediaeval times and into the 20th century, converting serf into citizen.

In such a context, indigenous people had no alternative but to memorise the Hispano criollo version of the past and become mestizos. It was the opening up of the education system to the Indians that brought about a crisis of transition between “de-Indianisation” and faithfulness to their identity. From 1952 until the end of the 1970s, a period of almost three decades, their silence was absolute. The indigenous people silently pursued their citizenship and their incorporation into the Bolivian nation, as stated in article 120 of decree Law No. 3937, promulgated in January 1955. Along with the peasant union, the army (via compulsory military service) became another instrument of Bolivian dogmatisation and “citizenisation”.

In spite of the ambitious postulate of “civilising” the Indian, dragging him out of his poverty via a process of acculturation, as stated in the aims of the Inter-American Indigenous Institute, the quillas resisted. And so, in spite of the Cold War, the Alliance for Progress, the rigours of a Spanish-speaking school system, the army barracks and the peasant union, the Indians raised their voices once more:

If you knew me and could not be with me, it is because you are ashamed of my race and only when I serve to inspire your nostalgia, do I serve your poetic aspirations.

Even if you followed me to the ends of the earth, you would never find this Indian proud of his grandiose past.
(Juan Condori Uruchi 1985)6

In fact, assimilation was no more than an ideological postulate the aim of which was to eradicate the indigenous peoples’ own languages and to “de-Indianise” them, without having any impact on the economic and social situation of the indigenous communities. Leaders such as Juan Condori Uruchi soon realised that servility (penguaje) vis-à-vis exploitation had now become political servility. The citizenship they had been granted served not to elect, not to participate in decision-making, in public administration or in all that a democratic system entails but only to vote for candidates who continued to be the q’aras (criollos), the caste of privileged bureaucratic caciques.

Pachakuti vs. State Reforms

This very specific backdrop sets the scene for the confrontation between the social and political world of the indigenous peoples which, in the purest of Andean political philosophy, now raises the need for pachakuti and the state’s efforts, in the face of the clear failure of its assimilation policy, to implement the reforms with which it still hopes to lay the bases of a nation state.

However, the reforms barely even represent a Band Aid for an old colonial structure corroded by the evils of caudillismo, authoritarianism and corruption. For the purposes of our presentation, the following are of interest to us:
• Law 1551, better known as the Law on Popular Participation, promulgated on 21 April 1994.
• Law 1715, also known as the INRA Law, promulgated on 18 October 1996.

Municipalisation or supposed “popular participation”

The apologists of municipalisation consider that it changed indigenous ways of participating, the political, social and geographic nature of their organisational structures, even the living conditions of the indigenous people and, if this last point were true, it would have been a miracle! However, in the Andes, where the population of most of the municipalities is entirely indigenous and where the Aymara have an unquestionable majority in cities such as La Paz, participation is still a myth and a fallacy, cheap propaganda on the part of political parties. Although, in rural municipalities, the councillors and mayors are phenotypically indigenous, in political practice they are a faithful and poor imitation of their party political bosses. In this respect, it is clear that the so-called party system is no more than a network of institutionalised patronage and client-based relations that subordinates mayors and councillors by means of a series of controls: technical advice, signing blanks sheets of paper, etc. It is thus quite clear that the word on the streets: “the only thing Popular Participation has done is to decentralise and popularise corruption” is true; for the corruption that was previously concentrated in a criollo-mestizo elite has, with municipalisation, extended to local leaders co-opted into a client/patron system.

In such a situation, it is difficult to perceive of any possible participation whilst this client/patron network continues to distort the democratic principles of citizenship and participation. In this context, indigenous management (democracy, decision-making, etc.) has been reduced to no more than the indigenous municipal districts. And although these were at first thought of as serious spaces for autonomy, with experience, they have proved to be no more than decentralised departments of the municipal bureaucracy, subject to the power of the mayor and, through him, that of the political caciques. In the municipalities in which indigenous municipal districts were established, the indigenous sub-mayors are officers dealing with public works who, in exchange for a minuscule remuneration, undertake the work of the municipal administration centralised in the town hall.

With the country’s municipalisation, the indigenous peoples’ natural organisations were considerably weakened, for they had the economic power of the mayors imposed upon them and, with this, interference from political parties. The result today is organisational fragmentation, the reappearance of caudillismo and the undisputed dominance of manipulation by the Ministry for Peasant and Native Indigenous Peoples’ Affairs (MACPIO), re-established under bizarre circumstances.

Now, with the reconstruction that is being undertaken by the indigenous peoples of Qullasuyu, the traditional geographic organisational structures, the ayllu, marqa and suyu, are once more emerging alongside the municipalities, the geographical boundaries of which are arbitrary and threaten the socio-
cultural integrity of the communities. The re-establishment of the mara as the peak of indigenous authority, responsible for the tasks of government and administrative management within this process, signifies a significant contribution to the country’s democratisation, particularly for the indigenous people, because their election and the way they are run are subject to the social control of the communities, making corruption less possible. With the re-establishment of the mara, it is possible to link the indigenous tradition of local administration with the need for state reforms, particularly with regard to the decentralisation of services: education, health, etc. However, it must be remembered that the maras form part of wider units, the suyu, which are in the middle of a process of territorial recognition.

**Law of indigenous lands and territory**

The country is the scene of an age-old clash over ownership and domination of the land, which is taking place between settlers (landowners, agro-industrial businesses, logging companies, warehouse owners, etc.) and indigenous people. Every so often, it ends with the loss of life of those defending their lands and rights, as in the case of Panantí in the south of the country, where seven landless peasants were massacred.

The land is the age-old property, possession and dominion of the indigenous peoples – who could claim the opposite? However, after the Spanish invasion of 1532, a foreign power proclaimed itself owner of the original dominions of our territory. Then, with the advent of liberalism and independence, the colonial dependencies were proclaimed sovereign states, and they once more appropriated our lands. Our elders were first forced to buy their own lands back from foreigners during the 16th century and, from then on, with almost regularity we have had to “buy back” the same lands over and over again as, over and over again, the very same settlers invalidate the titles granted.

Since 1997, the Aymara, Qichwa and Uru have been quite confused over Law 1715, the proclaimed aim of which is to “guarantee the right to own land”:

- If, through land regularisation, the aim of this law is to issue new land titles, then what of the old ones? Those that were bought from the Spanish Crown, that came about through the successive revisitas and composiciones, the titles issued by the republic (from the revisitas and the Agrarian Reform)?
- Are the lands being subjected to a process of regularisation not those traditionally owned since time immemorial and successively established by the Inca empire, the Spanish Crown and the Republic? During this time, the population has grown and the land is no longer sufficient for everyone.
- The community, the ayllu, has modernised and changed; its members are urban and rural people, or both at the same time, and so there are doubts as to the term “ownership”.

In spite of incorporating principles of justice and respect for indigenous peoples, drawing on ILO Convention 169 as its inspiration, this law remains restricted to the sphere of private
property and does not fully recognise the territorial rights of indigenous peoples, implying the continuation of a colonialis policy of extraction, particularly in terms of mineral and hydrocarbon resources.

Unlike the Law on Popular Participation, there is clear interest among indigenous peoples in its application, particularly the jilaqas, kurakas and mallkus authorities. The document “Atuskipasipxañi Proposal of the Ayllus, Markas and Suyus of the Republic” of the National Council of Ayllus and Markas of Qullasuyu (CONAMAQ) calls for:

1. Territory

- Respect for indigenous territorial control through the adoption of constitutional precepts and legal norms that give rise to a new geographic, political and administrative configuration in the country.
- Respect and fulfillment of the Political Constitution of the State in its article 171, Convention 169 (Law No. 1257) and Law No. 1715 on indigenous territories.
- Respect for the autonomous exercise of administration over indigenous territory according to the political and cultural configuration of the indigenous peoples, expressed in the departments of: Chanka, Qhara Qhara, Pakajacj, Karanga....
- The process of TCO regularisation must be a rapid one, subject only to the presentation of ‘composición’, ‘revisar’ or ‘ejecutorial’ titles from the Spanish Crown (contract of sale). TCO regularisation must be implemented directly by INRA and not through private companies.

2. Management and administration of native indigenous territories and land tenure

- The establishment, by means of the Political Constitution of the State, of indigenous territorial autonomy by which they can administer their own affairs.
- Respect for the territorial management rights of the native indigenous peoples, according to ILO Convention 169, the Convention on Biological Diversity, the Ramsar Convention, the Convention to Combat Desertification, etc.
- Revision of the departmental, provincial and canton-level politico-administrative boundaries according to the geographic organisation of the former suyus and markas, taking into account continuous and discontinuous territories. For this, a legislative proposal for the geographic reorganisation of the country must be drawn up.
- Equitable distribution of land establishing the same Small-sized Property area for Medium-sized Properties and Agricultural and Livestock Companies.

From this perspective, the indigenous organisations of the Andes are developing an organic strength, the result of which has been an acceptance of the territorial rights of the indigenous peoples on the part of the state.

The titling of these territories implies, first and foremost, the protection of indigenous property and indigenous control from the ever-latent danger of expropriation by transnational companies and the state, environmental contamination, predation, etc. Secondly, it is an initial step towards establishing indigenous management, the goal of which is development, poverty alleviation and elimination of the marginalisation to which both urban and rural indigenous people are today subjected, affecting their bonds of solidarity and cohesion with their community.

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<td>16. Nor López</td>
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<td>17. Ayllu Kirkiyawi</td>
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The ayllu and the proposal for restitution

In the Andes, the fact that the indigenous issue is now on the agenda is undoubtedly the result of an interactive effort between the Andean Oral History Workshop (THOA) and the Aymara Qhichwa communities which, after deeply criticizing the relations between indigenous peoples and the state, developed a process by which to reform indigenous institutionality. The process began with the ayllu (which forms the grassroots institution), then the marka and finally the suyu, which gave rise to the emergence of an indigenous movement, organised in the National Council of Ayllus and Markas of Qullasuyu. The aim of forming this National Council is to give back indigenous peoples their rights to:

- Identity
- Territory
• Self-determination
With the reformation of the ayllu, a significant step has been taken towards the restitution of collective rights. Assimilation through denial of the institutional and collective rights of indigenous peoples has been counteracted by means of a revaluation of their collective identity, revitalisation of traditional indigenous jurisdiction and, most importantly, the restitution of indigenous authorities within their jurisdictions. The malkus is once more the symbol of indigenous authority and power in the Andes, in Qullasuyu.

Notes and References
1 Revolution and Change, a world back-to-front, as the Qhichwa chronicler, Felipe Guaman Poma de Ayala, had defined some time earlier.
2 Qullasuyu is the historic name of the country which, with the fall of the Spanish colonial empire, was named Bolivia. In its Andean part, it is inhabited by three nations: Aymare, Qhichwa and Uru. Qullasuyu is a composite word deriving from Quilla, health, medicine, although Qullana also means the first, the biggest in relation to the other 3 suyu of Tawantinsuyu. Suyu means jurisdiction, country, Thus Tawantinsuyu means 4 (peru) suyu.
3 Suyu: ethno-geographical jurisdiction.
4 Qhichwa name of the head of the army in Peru, Pedro de Cueva.
5 Ayllu: geographical community formed on a tribal basis.
6 It was in 1976 that the young university students Juan Condori Uruchi wrote “We Aymare are an entire people” and not just a class; it was the beginning of a process of self-identification, criticism and resistance to assimilation. With Juan Condori Uruchi could be seen the first signs of a re-encounter with one’s self and a reconciliation with the past. The manuscript was supplied to us by the author and there is a version published in the Boletín Chichakuya No 19, of April 1985.
7 Andean term for servility, which derives from the custom of the Indian that looks after the door (puno).
8 See Ana Maria Loma (ed.) De la huida al impacto. La Participación Popular en municipios con población indígena, PIEB, La Paz, 2001, pp. XXIII.
9 We are referring to the support given by indigenous leaders, particularly Felipe Quispe, Executive Secretary of the Single Union Confederation of Peasant Workers of Bolivia, to the creation of a ministry that was traditionally used to manipulate and control the indigenous masses politically.
10 Malkus: Andean geographical jurisdiction grouping together a number of ayllus.
11 The perpetrators of this crime were estate owners and hired killers who also left in their wake 20 wounded, including women and children. The Ombudsman Ana María Campes declined that, “all the peasants were killed with a bullet to the heart”, meaning that they were hunted down by armed soldiers as if they were enemies or mere animals that have to be cleaned from the estate.
12 Revisit: colonial practice for controlling the population and lands (through a census), continued by the republican administration.
13 Composiciones – process whereby “unused” or “surplus” lands could be reallocated to Spaniards – trans. note.
14 Malkus: concept of indigenous power and authority, condor.
15 In this way, these claims accepted, and even titled, has been the result of the collective efforts of indigenous organizations and cooperation agencies, with the support of Oxfam America, the Inter-American Foundation, Ibis Denmark, Danida and the World Bank.

Carlos Mamani Condori is a historian and a member of “Taller de Historia Oral Andina”, THOA.
WE CHOOSE THE PATH OF DIALOGUE

Interview with Marcial Fabricano, President of the Coordinating Body of the Indigenous Peoples of Eastern Bolivia, CIDOB

The long road to land titling

Twelve years on from the First Indigenous March, and 6 years after promulgation of the INRA Law, how does CIDOB evaluate its struggle for titling of indigenous territories?

I can say with all sincerity that the indigenous movement in Bolivia never calculated how or when land titling would come to an end or what difficulties it would face along the way.

But what I can do is mention some of the events that have been significant in arriving at the situation we have today.

This whole issue of territorial demands arose from deep within the indigenous movement, without considering its possible scope. Can you imagine that, in 1990, just 300 individuals from different peoples met together to analyse the problems of land tenure and of the constant invasions of our living environment? The burning issues were the carve-up of lands in the Chimanes Forest and the Isiboro Secure, plus the lands of the Siriono people. We linked these three major issues, thus creating the rationale behind the 1990 March. As a result, we gained Supreme Decrees benefitting 8 territories.

But, later, the Decrees were challenged as unconstitutional, having no basis in law. It was for this reason that, from then on, we began to work towards gaining the legal protection of our demands, particularly with regard to our lands, as well as our legal status. In 1991, we had already begun to formulate our own draft Indigenous Law.

On 11 July 1991, ILO Convention 169 was ratified as the law of the Republic, and this became the first instrument to provide protection for indigenous rights. And, under this protection, we continued to defend the rights of the Supreme Decrees issued the previous year. By 1992/93, we were negotiating our draft law with the state, but a change in government was just around the corner and so it was not given the necessary consideration.

With a new government and, on the basis of our proposed Law, it was possible to begin amending other laws, such as the Educational Reform Law, the Law on Popular Participation and the Forestry Law.

In 1994, with the reform to the Constitution, we managed to introduce into article 171 the rights of indigenous peoples to territory, to our natural resources and to the legal status of our peoples, along with recognition of our own regulations. It could be said that indigenous peoples have only truly been Bolivian since 1994.

But this whole process culminated in 1996 with the discussion of a law that was to give legal security to our territories. I am referring, of course, to Law 1715, the INRA Law. These are all stages which, as you will see, we have been consolidating, albeit with great difficulty.

Application of the INRA Law

But fulfilment of the law was not so simple...

That’s true. After the law came its administrative regulations, and the process of applying the INRA Law has been more complex than we expected.

To the first territories recognised by Supreme Decree were added another 16 new demands that arose from the 1996 March and, according to the law, these territories were to be regularised and titled within a ten-month period. This is what the law declares. But those ten months have turned into ten years.

Of course, if we consider who the people who pass the laws are, who the people responsible for ensuring their fulfilment are, who the people who benefit from them are,
we can see that we are up against a difficult situation. We have always been marginalised, sidelined when it comes to applying laws, as in the case of the regularisation and titling of lands.

There are some sectors that are especially upset by the regularisation, that feel they are losing out with the legal reforms, because these sectors are accustomed to living at the cost of indigenous sacrifice.

There have been, and continue to be, difficulties in fulfilling this law and, to ensure fulfilment of this just cause, we need national and international support.

But are you happy with the results achieved to date?

We will never be happy until we come close to achieving the demands of our peoples. We asked for 30 million hectares and, of those 30, the state has responded by regularising 16 million. So far, a little more than 2 million have been titled. This is clearly progress, albeit slow, but indeed we do now hold some titles.

Constitutional reform

CIDOB has been proposing constitutional reform for some time now. Could you explain what this proposal consists of?

We want to act responsibly in terms of our peoples’ demands. We do not want to mix our demands with electoral propaganda.

We have drawn up a draft constitutional reform in which we state that indigenous peoples have the right to direct participation. This need not necessarily be via political parties but we should have direct representation. Constitutional reform must provide for a special system for indigenous peoples, one that gives us economic and social rights. And these rights must be made concrete via state policies.

New generation of leaders

From the outside, we get the impression that there is a deep internal struggle going on within CIDOB...

There is much discontent throughout the whole of Bolivia and the new generation is crying out for greater participation in state decision-making. The indigenous movement is not an isolated, static sector. There is a dynamic and a learning process at all levels of leadership. Those very leaders who started the movement are no longer on their own. Some of these founders are being overtaken by this new generation that wants to lead the movement. We are a movement that brings together different peoples from different regions. And these regions have different dynamics, which we do not consider to be divisions. It is thus a question of harmonising these dynamics. There is undoubtedly a new generation, with much potential, and which is capable of leading the movement. But we also have to fill other spaces outside of the indigenous organisations: we need representatives within the legislative, executive and judicial powers.

Alliances

What is CIDOB’s policy with regard to alliances with other social sectors? Unity between the indigenous peoples of the lowlands and the highland peasant farmers would still seem a difficult prospect.

From the beginning, we lowlands peoples have considered ourselves indigenous. The Andean peoples have preferred to identify themselves as peasants and have always objected to and renounced the term indigenous. But now, in this whole struggle that is taking place, the Andean peoples are beginning to accept the term indigenous and, if this continues, then I welcome it. I think it is very good that they have found their roots and we will undoubtedly support them in this.

But there has been tension. There are other social players who have supported the indigenous movement, and we recognise their solidarity but – and I say this with the greatest respect – we are not always agreed on the way in which our struggle should be approached, and then they wish to impose their positions on the movement.

In the 1996 March, the Andean peoples considered that the INRA Law was beneficial only to the peoples of the lowlands, which led to disagreement right in the middle of the mobilisation process. But support to the peasant farmers must not affect our consolidated rights. This is the case with regard to the request of some Andean sectors to cancel the INRA Law. We are open to studying it and changing it, but not simply eliminating it, just like that.

In any case, we can now see that the Council of Marca and Ayllus have made territorial demands in the highlands based on the INRA Law and already have two territories titled and, if there are more requests, the state will have to continue to respond to them.

In spite of all this, we can say that there is a clear rapprochement with CONAMAQ and we will always be at their side, supporting their demands.

But of course our methods are different. The Quechua and Aymara world chose to organise into unions and opted for a far more radical form of struggle, with blockades, strikes and the like. That is their strategy and we respect them for it. Our position, as the indigenous movement, is one of dialogue, for all inhabitants of Bolivia have rights.

May 2002. Interview with Alejandro Parellada - IWGIA.
A SUPERIMPOSITION OF LANDS OR A SUPERIMPOSITION OF INTERESTS?

By Juan Carlos Rojas Calizaya
There is no indigenous territory with an oil concession superimposed on it that has not come into conflict or undertaken negotiations with the concessionary oil companies. However, this is as recent phenomenon, occurring over the last five years or so, and it has been accentuated by the privatisation of the YPFB (Bolivian State Oilfields), which handed over - by means of contracts - the existing deposits within the whole area of hydrocarbon potential.

Background

Ever since the first deposits were discovered in 1926 near Camiri, oil has contributed resources to the Bolivian state. It has mobilised many interests, and led to military and trade wars, but it has not resulted in development for the producing regions, whose conditions of marginalisation, in many cases, have changed but little.

Shortly after oil was discovered, given the potential detected, the Standard Oil and Koyal Dutch Shell companies immersed Bolivia and Paraguay in a war (1932 - 1935) in which both countries were the losers and the companies were the winners. The situation of the Guarani-speaking Izoceno people was curiously unjust as they were forced to participate in this war but were considered enemies by both sides because of their language and physical features. The YPFB was created on 21 December 1936 and the oil concessions were expropriated in March 1937, achieving self-sufficiency in fuel by 1954. Paradoxically, it was at this time that the "open doors" policy was proclaimed, endorsed by the Davenport Code, opening the doors once more to foreign companies. In 1969, oil was re-nationalised, in spite of opposition from the US government in Washington, only to be nationalised once more on 5 December 1996, as part of the new theatre for energy. This led to concessions being granted and the arrival of oil companies. Various studies exist on this privatisation process and these have highlighted its shortcomings, contradictions and illegitimacies.

During the time of the state oil company, it contributed two things: a supply of cheap energy for the domestic market and the creation of income through royalties and exports. In its latter days, given the fall in mineral prices, this was one of the mainstays of the General Treasury (TGN), even sustaining the structural reform process and the privatisation of state companies or, to put it another way, funding its own death. On the other hand, it was subject to political manoeuvring on the part of the different governments, and its nature as an enclave economy left it cocooned, with few links to its immediate environment. It was for this reason that, in union circles, the oil companies were known as the "worker aristocracy".

During the time of oil discovery and state intervention, the indigenous communities had no argument with oil exploitation; its presence was considered something normal. Normal because there had existed on some indigenous territories, as far back as memory stretched, sources of the thick liquid that they used for their oil lamps and which, later, was transported by pipes which, in an accident, let the much valued liquid escape. But it was also normal because it was what the YPFB imposed: they did not ask before entering a territory or community, they simply entered because they were the state oil company. They did what any oil company does: cut paths, level areas, transport machinery, bring in contingents of workers, hunt wild animals and scatter rubbish. It was considered normal because the impact was focused on specific points, because it contributed to the TGN, because there was no environmental awareness and because there was no organisation to stand up to it.

While the privatisation of YPFB was taking place, the Bolivian energy sector was being reshaped with the discovery of gas reserves. The indigenous organisations were also developing, as was their platform of demands. In this context, a new scenario of conflict and negotiation between the oil companies and the indigenous peoples was appearing, in which the state would be a mere spectator.

In search of the Land without Evil, the Holy Hills, or the Door to Heaven

What gave rise to the indigenous peoples' decision to stand up to the oil companies?

The overwhelming response is: their territory. For the Mojeno, the most precious goods are land and freedom, for which they have marched on several occasions, and at different times, in search of the Holy Hills. The Guarani take on the iyamboe being (without owner) as part of their nde reko (way of being), which is developed in a certain space by those who maintain the dream of finding their imarasi (Land without Evil). The Chiquitanos are constantly searching for their turu yape (Indian refuge), a space in which they will be free from the pressures of the Whites, who have hounded them ever since the arrival of the Spaniards.

In all of these cases, it relates to an eternal search for the place of abundance, happiness and enjoyment, a place where they can realise their dreams, develop their capacities, relate freely and fully to those beings who are part of their world vision. This search must culminate in a concrete space. These days, this is closely related to their demands for territory as these are the few spaces in which they can dream of such lands. Given the constant pressure on their territories and natural resources, this search is expressed in the defence of their territories.

The territories are integral for the indigenous peoples - the territories are the soil and what is above and below it. The Bolivian state separates these things out, making a law for each resource, and in spite of the fact that the indigenous movement have tried to recover the quality of territory through their proposal for an Indigenous Law, this has not been possible.
There is no indigenous territory with an oil concession superimposed on it that has not come into conflict or undertaken negotiations with the concessionary oil companies. However, this is as recent a phenomenon, occurring over the last five years or so, and it has been accentuated by the privatisation of the YPFB (Bolivian State Oilfields), which handed over, by means of contracts, the existing deposits within the whole area of hydrocarbon potential.

Background

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During the time of the state oil company, it contributed two things: a supply of cheap energy for the domestic market and the creation of income through royalties and exports. In its latter days, given the fall in mineral prices, this was one of the mainstays of the General Treasury (TCN), even sustaining the structural reform processes and the privatisation of state companies or, to put it another way, funding its own death. On the other hand, it was subject to political manoeuvring on the part of the different governments, and its nature as an enclave economy left it cocooned, with few links to its immediate environment. It was for this reason that, in union circles, the oil companies were known as the "worker aristocracy".

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to make the package more attractive to the private companies.

It was within this context that the production fields were put out to tender and established and probable reserves in Bolivia transferred. As of 31 January 1999, 89 shared risk contracts had been signed, of which 52 were contracts deriving from the YPFB privatisation process, 22 from the conversion of previous operation or association contracts and 15 from tenders for the new hydrocarbon areas. In other words, Bolivia now has a new map (see annex). As the area of hydrocarbon potential has been sectioned into blocks that have been given as concessions to oil companies. Obviously, this proposal for tendering in blocks took no account of the existence of indigenous territories or national parks, as can be seen from the table in page 41.

When the indigenous peoples complained to the companies or the government about this, the response was that their action was based on article 136 of the Political Constitution of the State (CPE), which states that, "along with the goods to which the Law gives this quality, the soil and subsoil with all their natural wealth are the original dominion of the state..." A strange way of enforcing the constitution for Bolivians, a constitution that was not enforced during the process of privatisation, given that neither the article mentioned nor subsequent articles speaking of natural resources and their benefits for national development were considered.

This authoritarian attitude, using the Constitution or laws to justify it, is a constant feature in the history of relations between the state and indigenous peoples. The state does not take into consideration the existence of peoples and communities when there are "higher interests" at stake, although it formally recognises their rights through laws such as Law 1257, which endorses ILO Convention 169. This law establishes the principle of consulting the peoples on decisions or projects affecting
them. In this case, such was the magnitude of the problem and the interests at stake that the state forgot once more about the indigenous peoples with territories already recognised or in the process of titling.

The history of the oil companies on indigenous territories

The area of greatest oil potential crosses the Bolivian territory from north to south spanning part of Pando, the north of La Paz, the south-west of Beni, the tropical region of Cochabamba, the west and south Santa Cruz, and the Chaco region of Chuquisaca and Tarija. Paradoxically, it is also the area in which the greatest number of indigenous Native Community Lands are to be found, lands that are in the process of regularisation. It is also a region of national parks and biodiversity reserves. It is thus logical that natural wealth should be found in the subsoil of this region, along with an abundant flora and fauna, and indigenous peoples with all the wealth they represent. For whatever purpose, it is a natural symbiosis. The indigenous peoples have lived on these lands since time immemorial. Then, others arrived who were to change their history to such an extent that they now appear to be the foreigners on these lands. All kinds of people came: Spanish adventurers, missionaries of various orders, conquering armies heading prefectures or other authorities, cattle farmers, rubber and nut farmers, traffickers in forest animals, legal and illegal loggers and, lastly, oil companies. They were all interested in using the indigenous labour force and in exploiting the natural resources, without worrying overly about the effects they were causing to the environment or the indigenous communities.

When the privatisation process came to a head with the oil company concessions (1996), the state had already recognised the ownership of 5 indigenous territories (1990-1993) along with the titling of 17 other indigenous territories (1996) by means of approval of the INRA Law. So whilst, on the one hand, it was giving part of the national territory to oil companies in concessions, it was as the same time recognising the right of indigenous peoples to gain ownership of their territories. This is the main argument indigenous peoples possess in the face of the oil
The Superimposition of Indigenous Community Lands and Oil Concessions

<table>
<thead>
<tr>
<th>Name of the TCO</th>
<th>To be regularised</th>
<th>Superimposed</th>
<th>% superimposed</th>
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<tbody>
<tr>
<td>Assembly of Guaraní People (APG)</td>
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<tr>
<td>Itupaguasu</td>
<td>54,387</td>
<td>233</td>
<td>0.4</td>
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<tr>
<td>Takov Mora</td>
<td>272,450</td>
<td>71,244</td>
<td>26.1</td>
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<tr>
<td>Kaaguasu</td>
<td>131,217</td>
<td>131,217</td>
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<td>Kaami</td>
<td>95,947</td>
<td>95,947</td>
<td>100.0</td>
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<td>Charagua Norte</td>
<td>227,476</td>
<td>119,878</td>
<td>52.7</td>
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<tr>
<td>Charagua Sur</td>
<td>109,589</td>
<td>62,537</td>
<td>57.1</td>
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<td>Hí Karaparirenda</td>
<td>11,678</td>
<td>1,590</td>
<td>13.6</td>
</tr>
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<td>Machareti Nancaroiza</td>
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<td>66,401</td>
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<td>Avatri Ingre</td>
<td>17,697</td>
<td>9,162</td>
<td>51.8</td>
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<td>Avatiri Huacaretá</td>
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<td>Híkaguazu</td>
<td>216,002</td>
<td>200,152</td>
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<tr>
<td>Isoso</td>
<td>1,957,782</td>
<td>594,021</td>
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<tr>
<td>Weenhayek</td>
<td>195,639</td>
<td>129,816</td>
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<tr>
<td>Tapiete</td>
<td>51,366</td>
<td>11,659</td>
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<table>
<thead>
<tr>
<th>Coordinating Body of Indigenous Peoples of Beni (CPIB)</th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>Movima II</td>
<td>2,360,478</td>
<td>20,571</td>
<td>0.9</td>
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<tr>
<td>Chimán Indigenous Territory</td>
<td>401,419</td>
<td>149,106</td>
<td>37.1</td>
</tr>
<tr>
<td>Territory of the Isiboro Sécure</td>
<td>1,236,205</td>
<td>223,718</td>
<td>18.1</td>
</tr>
<tr>
<td>National Park</td>
<td>396,264</td>
<td>234,624</td>
<td>59.2</td>
</tr>
<tr>
<td>Pílon Lajas</td>
<td>343,262</td>
<td>14,847</td>
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</table>

<table>
<thead>
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<th>Coordinating Body of the Indigenous Peoples of La Paz (CPILAP)</th>
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<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Tacana</td>
<td>549,464</td>
<td>148,574</td>
<td>27.0</td>
</tr>
</tbody>
</table>

Source: CPTI 2002

companies, an argument that deep down responds to their world vision of free spaces to create and recreate their cultures and to project themselves as peoples. Obviously, the state, because of the reforms taking place, became a virtual spectator in the process.

For this reason, the history of negotiation and conflict with oil companies is a recent one but not, for all that, any less complicated. Information suggests that the first experiences of such contact took place in TIPNIS and in Isoso. In TIPNIS, this was with Repsol, and they made significant progress in terms of agreeing the formulation of Regulations for the Consultation of Indigenous peoples. In Isoso, they managed to get the company responsible for the gas pipeline to Puerto Suárez to agree to strengthen the Foundation managing the Kaa Iya Park, along with the institutional strengthening of the Captaincy of Alto and Bajo Isoso.

The styles were different, as were the results. Whilst some took company workers hostage and forced meetings with the government authorities, concluding the signing of agreements that are still pending, others developed a more diplomatic style that led them to achieve certain demands at the company level. Both, being rather isola-
it was in a position to make a stand, the seismic exploration had already been concluded. What the organisation was able to do was commence initial contact with the company in writing, which led to a meeting in which the company argued the legality of its activities and its “interest” in collaborating on some of the communities’ needs. Finally, the captain presented the company with a request for 23 short wave radios for the communities. They never got a reply but the captain knew that the company would return because of its contract with the state. This is the background to the process of negotiation and conflict between the Guaraní people and the oil companies.

The next year, Pluspetrol returned to sink the first exploratory well, Tajibo XI, near the Igmiri community in the Charagua norte TCO. It returned in its old style, with all its equipment, ignoring the local authorities and traditional forms of organisation. First, it had to accept that it was within an indigenous territory and that there were traditional authorities. Various meetings were held to try to reach an agreement but the company’s attitude remained the same. The captain would present a request for funding part of their Development Plan and the response was always negative. Finally, the organisation decided to take over the well in order to end the delays and obtain a response, action that was prevented 100 metres from the well by the presence of government representatives and CIDOB. This action led to the negotiations long on another hue leading, after several months, to the signing of an agreement on the basis of a Plan presented by the organisation, which included the regularisation of their TCO, the extension of their offices, the provision of educational and other materials to the tune of US$170,000, all as part of the exploratory phase establishing that, when the well entered production, another agreement would be signed.

In December 2001, the process that had commenced a year previously and which was already showing results was accelerated. It was a blockade of the Salinas-Santa Cruz highway that forced, firstly, the consolidation of a Negotiation Committee for the Guaraní people to include the state and, secondly, the Transierra company to negotiate the right of way for the GASYRG gas pipeline 20 metres wide and 377.5 km long crossing the TCOs and Guaraní zones of Takovo Mora, Isoso, Charagua norte, Parapitiguasu, Machareti, Villamontes and Yacuiba. The Guaraní position was based on: the fact that they were the owners of the territory, the need to prevent possible environmental impact, the need for their participation in projects of regional impact and the need to obtain financial resources with which to undertake development projects.

At a crucial stage in the negotiation, the proposals clashed. Transierra was proposing 500$US/ha for lands not in conflict and 300 $US/ha for lands in conflict and APG was proposing 4,000 $US/ha. As there were 7 territories in conflict, the proposals were modified in each territory according to the specific nature of each one. At one point in the negotiations, a uniform proposal was presented for all the territories and they began to talk of a Plan for Relations and Community Support (PRAC) instead of the Guaraní Integrated Development Plan, which was a way of reducing the amounts to be paid. Finally, an agreement was reached that establishes the payment of a right of way of 2,000 $US/ha, plus US$150,000 for each territory’s PRAC, making a total of US$1,966,560 for the 983.28 has. over which the GASYRG is to be built and US$1,050,000 for the 7 corresponding PRACs. This agreement has already been signed and came into effect on 23 April 2002.

The case of the Mojeño

On 22 November 1965, by means of Supreme Decree No. 07401, the Isiboro Sécure National Park was created as a way of halting the migration of settlers. On 24 September 1990, as a result of the March for Territory and Dignity, it was recognised as an indigenous territory by means of Supreme Decree No. 2260, together with 4 other indigenous territories. Since then it has been known as the Indigenous Territory of the Isiboro Sécure National Park (TIPNIS).

In 1994, Repsol signed a contract with the Bolivian government for the 30-year exploitation of the Sécure Block. This block covers 771,000 has. and stretches over two departments, being superimposed on TIPNIS, the Multi-ethnic Indigenous Territory (TIM), the Chimán Indigenous Territory (TICH), the Permanent Forest of Chimán Production and the Eva Eva-Mosetenes Basin Protection Area. The environmental audit was undertaken by an American company, Arthur D. Little. The Study for the Evaluation of Environmental Impact (EEIA) was copied virtually word for word, from a neighbouring concession, by the companies Furgi McCelland and SEPRO. This was approved by the Ministry for the Environment and Sustainable Development some time after exploration work had already begun.

In 1995, the company’s work was in full swing, riding roughshod over everything in its path. The indigenous people decided to state their objection to this attitude. It was the XIII Meeting of Corregidores and Representatives of TIPNIS (February) that officially issued its objection to the operations, which were being undertaken without consulting the indigenous people, and they requested a meeting with the company in order to discuss the issue. They received no response and the workers’ attitude did not change so, in June, an Extraordinary Meeting of the Corregidores and Representatives decided to apply pressure in order to paralyse the company’s works. In July, they intervened directly in the camps and took the workers hostage. A few days later, a meeting was held in Trinidad with the participation of government representatives, the YPFB, the company and indigenous leaders in which agreements were signed by which the indigenous people’s right to be consulted regarding any oil activity was endorsed. These documents should have become legal regulations. The communities gained promises of support, medicines and school materials. This chapter of the story ended on the Cochabamba side in an
inability to use agricultural plots, the contamination of the rivers and the indiscriminate felling of trees.

Another chapter opened in January 1998 in Beni, ending in Cochabamba in March. The company negotiated with the Regional Indigenous Organisation of Beni (an organisation that emerged following the TIPNIS crisis) and an agreement was achieved ratifying its previous commitments, fulfilling the laws, providing 4 short wave radios, 2 high school places anywhere in Bolivia, resources to train indigenous people and to build a camp for the indigenous park guards. The agreement was not kept. This led to a reaction on the Cochabamba side, where they blockaded the camp and the Cochabamba-Santa Cruz highway. This resulted in several deaths and gave rise to the war against coca farmers under the banner of eradicating coca. This did not perturb Repsol, who continued working with no change in its attitude. In July 1998, the TIPNIS park guards denounced the failure of the company to fulfil the agreement, having withdrawn without implementing its Plan for Restoration and Withdrawal.

In May 2000, Repsol announced to the authorities and "representative" institutions of Trinidad (in which there was, in fact, no indigenous representation) that they were investing 45 million dollars in the drilling of an exploratory well in the Eva Eva mountain range. This was with the indulgence of the authorities. They requested special permission from the authorities for the initiation of activities and warned that anyone opposing the works would be socially sanctioned. This was the formal start of another chapter. In actual fact, they had already entered the TIM and TICH in order to locate the exact site of the well to be drilled, a task that was facilitated by the Chimán of the Naranjal community who, as distinguished hunters, knew the area better than anyone. With this information, they convinced the leader of the Tsimane Grand Council to sign, on 11 April, an Agreement of Rights, which granted the "single and invariable sum of US$1500 for 11 has. occupied". This agreement was held up as a sign of the Consultation Process in order to gain the government's authorisation, and it sealed the company's conduct in this new stage.

The arrival of contingents of workers and machinery mobilised the TIM leadership to formally request the Vice-Ministry for the Environment to suspend the works, given that no environmental licence existed and that no consultation had been undertaken with the TIM communities. This led to a visit from the sector's national authorities and indigenous representatives. Nonetheless, this did not help much given that the Ministry for Sustainable Development decided that there was no reason to suspend the works given that the consultation had been undertaken. The TIM's corregidores met in a Workshop Seminar (June) in which information was provided on the
scope of the company’s work and its background. A statement was issued in which they ratified the suspension of activities until a public consultation could be organised with the corregidores of the 17 communities of the TIM and they declared themselves in a state of emergency, insofar as they were within the area of influence of the company’s works.

The company was not perturbed; instead it began an offensive with the urban populations in such a way that it gained the support of the San Bonifacio and San Ignacio de Moxos organisations and institutions. In this latter case, it even managed to prohibit entry into the area of operations unless permission had been gained from the company or the Town Hall. Between July 2000 and May 2001, a committee of TIM and TIMI sub-districts undertook inspection visits of the well drilling camp, enabling them to monitor it. They took this opportunity to denounce diesel spillages, the hunting of wild animals, the ejection of waste into the surrounding streams, the failure to contract local people, and the provision of presents to Chimán families with a settler mentality. The only brothel in living memory was opened in San Ignacio, and remained open until the last of the company’s workers left. The only people who were happy with Repsol’s presence were the boarding houses, eating and entertainment places, plus some grocery stores. The municipal authorities were happy too, given the treatment they received from the company. After drilling more than 5,800 metres they found good quality oil, but at insufficient pressure and so they decided to withdraw. At that time they gave away some of the materials to neighbouring communities and to the San Ignacio Town Hall.

At the end of 2001, as part of the consultations for approval of the EEIA for 2D seismic exploration, a meeting was held with TIPNIS and CPIB with the aim of undertaking works in the community of Oroomoro. At that time, the indigenous peoples denounced unfilled commitments and agreed to continue the negotiations. A Record of the Meeting was subsequently drafted and signed by all those present. The company attended no further meetings and presented this Record as part of the Social Consultation for the stated EEIA. They subsequently visited the offices of the TIM to undertake the social consultation, where the leaders indicated to them that a Meeting of Corregidores was the appropriate body for consultation. The company said it was prepared to fund such a meeting. It never contacted the TIM leadership again and, to this day, has not been seen in the area.

**Some lessons**

They may seem isolated events but they are all part of the same wider issue. Privatisation has minimised the possibilities for state action, leaving the oil companies as the main players and putting pressure on the indigenous and other social sectors to become involved through the force of events.

The companies more or less all act in the same way: failing to respect Bolivian laws, giving backhandlers to obtain authorisations not permitted by the regulations, completely failing to respect the indigenous owners of the territories on which their concessions are superimposed, approaching the state to ensure implementation of their contracts despite the fact that the run counter to the population’s wishes, failing to fulfil agreements, demonstrating a settler mentality that respects neither the cultures nor the organisational forms of the people. In general, their attitude at state level is designed to obtain permanent advantages in order to gain greater profit at less investment, and this attitude is replicated in the different regions, whilst their relations with indigenous peoples are tinged with racism.

The state’s attitude is a contemplative one, with “natural” inclinations in favour of the companies. In all the negotiation processes, it has championed fulfilment of regulations and contracts, it has persuaded the indigenous to reduce the quality of their demands and the tone of their warnings. Only rarely has it taken on the task of ensuring fulfilment of laws recognising indigenous rights.

The different conducts of the indigenous organisations are extremely diverse, as indeed are the indigenous peoples. From radical positions that require de facto action at community level to conciliatory positions, signing national-level agreements with the companies with no consultation. There is a great lack of information, and much naivety and timidity on the part of some leaders, whilst others see in it an opportunity for personal gain. Awareness is on the increase, with attitudes changing from the contemplative to the proactive; from isolated reactions to the implementation of strategies of wider impact; from the presentation of needs to the presentation of Development Plans; from demanding participation to achieving a consensus around demanding participation in profits.

There is one issue outstanding: the contradiction inherent in requesting compensation for something that one knows will not be replaced. It is tantamount to selling the resources of the territory, and is closely related to an awareness of the environment and sustainable development.

Although the protagonists in this story are indigenous, there are also other local players with their own perceptions and interests, such as the Town Halls, Civic Committees, traders, etc. Experience shows that, as allies, they can strengthen indigenous positions but, as opponents, they virtually wipe them out.

International opinion carries some weight because the companies have their head offices in Europe or the USA and they are concerned about their image at this level, which could favour or damage their interests. In our case, the issue over which external opinion has had the most influence is that of the gas pipeline to Cuiaba (Brazil). A strategy of lobbying on an international level has borne fruit and must be put to adequate and appropriate use.

**Agenda outstanding**

There are, nonetheless, various issues outstanding:

- It seems strange that it has not been possible to agree and approve a proposal for Regulations governing
Oil Operations in TCOs since 1996. The position has changed over time, hence occupying the time of government advisors and indigenous organisations, from one of requesting the right to consultation to one of demanding the right to participation in the benefits of oil activity. It is essential that TCOs should have this legal instrument as more of them gradually gain title.

- The right to consultation and participation in benefits requires other regulations to be modified: the Hydrocarbons Law, which should incorporate this concept and establish it; the Law on the Environment, which should incorporate the concept of participation and social control over activities affecting ecosystems; the Political Constitution of the State, which should recognise indigenous autonomy as expressed in the territories. In other words, the advances in indigenous proposals must be recognised by the state.

- The need to identify mechanisms that force the companies to fulfil agreements they sign with indigenous organisations and establish sanctions for failure to do so.

- The need to strengthen the capacity of indigenous organisations to negotiate with, and make proposals to, the oil companies and the state, persuading them of the need to defend territory and resources.

- A need for coordination between local and national actions. They are complementary spaces because they are a part of the same process.

- The need to reject the attempt to convert 2 Supreme Decrees (nos. 26365 and 26366), already approved, into Law. These would increase the length of concessions by a further 15 years, without obliging the companies to return areas not being exploited within the time periods provided. With this proposal to amend the Hydrocarbons Law, the companies would hold concessions for 65 years, with all the consequent damage this would entail.

- The need to reject the companies’ attempts to purchase the titles to plots in order to preserve their investments, because it is not legal and because it could become the door by which they try to consolidate concessions in their favour.

- The need to ask the national authorities to participate in decision-making fora for the sale of gas and the allocation of the resources arising from it so that benefits actually reach the communities.

- The need to strengthen an environmental awareness among the communities, based on age-old wisdom, as part of the consolidation of their territories, the strengthening of their organisations and the revitalisation of their cultures.

Note and references

1 Corregidor- similar to a mayor, within a canton – trans. note.


Juan Carlos Rojas Calizaya is a teacher by profession. He has lived with the Guaraní people for 6 years and with the Mojíaño people for 2 years. He is currently the Regional Director of CIPCA Beni.
...It is not enough for the women to be organised, we have to formulate a strategy for their participation. This participation will enable them to be true people, true women, recognised for their role in the uniting defence of our culture. It is thanks to them that we are Aztecas and that we will continue to be Aztecas. As long as our sisters are able to organise and gain strength, our identity and culture are assured...

Inaugural words to CIMIC Congress—Bonifacio Barrientos, Capitán Grande

The Captains of Upper and Lower Izozog, CABI, is the traditional representative body of the indigenous Guaraní Izocéños, organised in 25 communities comprising more than 8,000 inhabitants of the Chaco in the Department of Santa Cruz, in south-west Bolivia. Within its structure can be found the Inter-Communal Body of Women of the Captains of Izozog, CIMIC.

The Guaraní Izocéño women that make up CIMIC live in large families, accompanied by their children, their children’s wives and their grandchildren, all helping with the daily household chores, looking after the children, cooking, weaving and other tasks. Every day, they go to the chacos to bring food (cassava, maize, sweet potato...) with which to prepare meals for their family, they fetch water and firewood, and their youngest children accompany them on these tasks.

They also wash and skin the animals that the men hunt in the countryside, dividing the meat up and sharing it with their closest relatives and, indeed, the whole community. When the time is right, they go fishing with the children. They catch the fish and some of them prepare it for cooking. Others dry it in the oven or in the sun in order to preserve it for longer periods of time.

They educate and send their children to school and, when it is not harvest time in the fields, they weave hammocks, vokos, carpets and other artefacts.

By Zulema Barahona and Felicia Barrientos

The women of Izozog work at home and are involved in production activities but they do not always participate in the community meetings and assemblies; the men attend these. And yet this was not always the case. Previously, women would attend the meetings because their dreams and predictions were listened to and respected by the authorities and by the men. Now, people do not much believe in dreams any more and so the women have had to find another way of making their interests heard within the village.

And so they began to organise, initially with the support of the Catholic church, which organised women’s clubs where they could weave, embroider and learn to cook. Then the Evangelist missionaries also organised other groups of women because they did not want to see women dancing and playing in other groups.

It was within this context that some women organised the First Women’s Congress in 1979, the year in which CIMIC (the Inter-Communal Body of Women of the Captains of Izozog) was established.

Years on, community captains are now elected and, with the support of NGOs, women’s groups are being formed in all the communities. They run community stores, they have plots on which to grow vegetables, there are groups of weavers working together plus various other activities.

Reasons why the women have to organise

Among the problems of the women of CIMIC, the following can be mentioned:

- The low monetary incomes of indigenous people and settlers in rural areas; they are the lowest in the country. On the other hand, mortality rates are among the highest, to which must be added the extremely high levels of illiteracy among the indigenous people, which are even higher among indigenous women (CIMIC Congress).
- Many women do not have birth certificates or identity cards proving their citizenship. Although the Bolivian government has decreed a maternal and child health care system, the women are not aware of their rights and so do not go to the hospitals to seek medical help during childbirth. The laws on domestic violence and the INRA Law are virtually unknown to women, who are often subjected to violence within the family.
There are more illiterate women than men, more sick women than men, far fewer women leaders than men. And yet we are the sector that works the hardest in terms of child reproduction, production and community work. And, to cap it all, this situation is not recognised: we are described as being unproductive, non-working and ignorant (Felicia Barrientos).

How do the Izozog women see themselves?

As an illustration, we will draw on the report from a workshop on men's and women's roles in which, through role play activities, men and women reflected on what it meant to be a man or a woman in the Izozog way of being:

- Being a man means being the father of the family, hunter, farmer, breadwinner, provider of the household's food.

Within this context, the men and women said that a man could also hold a position within a community or regional authority, or be a professional (lawyer, soldier, engineer, doctor, graduate, etc.).

- Being a woman means being the mother of the family, fisherwoman, children's teacher, responsible for the home, for collecting firewood and water, and for cooking.

Within this context, the men and women suggested that the women "would like to be" professionals and community authorities. However, on considering this point in more depth, it became clear that women often drop out of school at a young age, are often illiterate and monolingual (they only speak their native language). These were seen as significant barriers to women's aspirations. What was most curious about this exercise was the fact that, although women clearly make a great contribution to production activities (sowing, working in the fields, harvesting), this was neither mentioned nor recognised by either the men or the women. In the best of cases, and when the facilitator raised the issue, both groups minimised the women's contribution in the fields saying that it "helped the men a little" (Barahona, May 2000).

CIMCI today

CIMCI is an important bearer, creator and defender of the Izozo Yandero (way of being), and brings together women representatives from the communities to deal with women's problems and defend women's interests in a collective and organised way.

CIMCI is a space that has been won by the women of Izozo in which to exercise their rights as people with capacities and opportunities equal to men and, as such, it is a political and strategic instrument with which the Izozo women can reduce the inequality that exists between men and women in terms of opportunities and political positions.

CIMCI is a school, in which the women learn amongst themselves how to participate, talk, take decisions and provide for their needs; and it is recognised and subject to the Captaining of Izozo, CABI. But it is a hard task, it is often difficult to make the men and women understand why it is important that we women should learn to participate a little more each day.

Through their increased strength and presence, the Guaraní Izozo women have negotiated with their organisations in order to get their demands prioritised within strategic plans. The following can be mentioned by way of example:

- In the final phase of implementation: the International Work Group for Indigenous Affairs (IWGIA) is providing CIMCI with funding to train community and inter-community captains. This is producing significant results in the area of women's leadership (project prepared and requested by the CIMCI women themselves).
- In its pilot phase: the Kaa-Iya Project (funded by USAID and WCS) is supporting six women's groups in small-scale production projects for fish meal, Cupex coffee, and honey production from native bees, three products the management requirements of which make them attractive to women (in fact, these activities were prioritised by the women themselves).
- CIMCI has raised the idea of holding a Women's Congress for the whole of eastern Bolivia with other less organised indigenous women's organisations in order to analyse the situation of women's participation within their mother organisation, the Indigenous Coordinating Body of the Bolivian East (CIDOB). Like other regional organisations, CIDOB has a "gender" department within its structure but its role and functions are not clearly defined and not always supportive of women.

Notes

1 Izozo - people of Izozog - trans. note.
2 Cháe: small pit cultivated with food crops such as maize, cassava or beans.

Felicia Barrientos is President of the CIMI and Zulma Barahona is adviser in the same organization.
INDIGENOUS TERRITORIAL MANAGEMENT: TWO-PRONGED TERRITORIAL CONTROL

By Alcides Vadillo Pinto
Indigenous territorial management

Some of the indigenous peoples of the east already hold the title to their Native Community Lands (TCOs) and, with this, arises the question: so what now? How can we approach territorial management and development planning in such a way as to guarantee the sustainable management of natural resources, improvements in the people’s living conditions, a strengthening of identity and a strengthening of the indigenous organisations and territorial management, to name but a few concerns. It is in this context that discussions have begun on indigenous territorial management, from the simple organisation of land use to those that propose it as an instrument with which to consolidate indigenous peoples’ autonomy. This debate has reached the national level with the proposal for TCO recognition and implementation of indigenous territorial management in the Bolivian highlands.

In this context, and on the basis of experience gained during several months’ work in the TCOs of Guarayo, Chiquitano de Lomerio and Mosetenes, these reflections have been based around two fundamental aspects: 1) territory and 2) authority. The form and content of proposals for indigenous territorial management will depend on the ways in which these two aspects are combined.

Territory

Territory has been, and continues to be, one of the main demands of indigenous peoples and, undoubtedly, the most controversial and debated of all, particularly between the period from the march for “territory and dignity” (1990) up until the approval of the INRA Law (1996), passing via the constitutional reform (1994), which enabled a wide process of discussion by which to specify its scope and content.

During this period (1990 to 1996), the demand for indigenous territories was rejected, the argument being that, politically, this would put the unity of the nation in danger and that, legally, it was unconstitutional.  

This situation forced the indigenous movement to make an initial conceptual clarification, specifying that territories were not being considered from the point of view of Public International Law, in which the territory is a constituent element of the state and, together with the population, government, legal regulations and sovereignty, makes up the international requirements for the existence and recognition of a state but from the point of view of Internal Public Law, in which the concept of territory has the administrative connotation of a resource. In other words, it was not the exercise of national sovereignty that was being claimed but the titling of property, of the land and the natural resources existing on it, guaranteeing the right to use, enjoy and dispose of it in accordance with the provisions of ILO Convention 169, recognising their authority within and administration of this territorial space.

Indigenous peoples’ territory and legislative developments

During this conceptual debate, the indigenous movement made it quite clear that, from their point of view, territory signified the geographic area over which they exercised a cultural influence, and over which they claimed political control and property rights pertaining to all the natural resources existing in that space. For them, their territory was fundamental to their way of life, guaranteeing the survival of indigenous societies and cultures.

For indigenous people, the concept of territory involves two aspects: 1) exercise of the right of property over the land and its natural resources and 2) exercise of the power or authority of political administration within that space.

In the first case, we are talking of property rights and, in the second, of administrative jurisdiction and power. In the first case, we are talking of territory for a people and, in the second, of authority over a territory. In the context of the legal system, these two aspects are governed by different laws.

For these two aspects to be viable and operative within the context of the Political Constitution of the State and other national laws, they were developed separately. Some laws were enacted creating public administration bodies who hold jurisdiction and authority and others, very different, were enacted to govern property rights over land and natural resources. Subsequent legislation (Law on Popular Participation, Forest Law, INRA Law, etc.) forms part of a strategy to achieve both of these aspects, separately but united in the same subject of law, which is the ethnic social organization representing them.

From indigenous territories to TCOs

The concept of territory, developed in CIDOB’s proposed indigenous law and in ILO Convention 169, was the reference point for recognition of indigenous territories, under the constitutional concept of Native Community Lands. Article 3 of INRA Law III, states:

The rights of indigenous and native peoples and communities to their native community lands are guaranteed, taking into account the economic, social and cultural implications, and the use and sustainable exploitation of renewable natural resources, in accordance with the provisions of article 171 of the Political Constitution of the State. The native community lands comprises the concept of indigenous territory, in accordance with the definition established in part two of Convention 169 of the International Labour Organisation, ratified by means of Law 1257 on 11 July 1991.

In the process of implementing the INRA Law, recognition of the Native Community Lands, TCOs, has become a concept different from that of indigenous territories and, by replacing it, the original right of indigenous peoples...
nomadic groups, although some of them lead a purely nomadic existence. However, as the colonial and republican periods developed, both population and territory slowly became surrounded by active invasion on the part of institutes from the west. A large number of the indigenous peoples of the lowlands were reduced to living in Christian missions, Catholic or Evangelical, where the strategy for population control was based on organisation into small villages or communities with little or no relationship between them, even though they belonged to the same indigenous people. This was fundamental in the perception of the geographical space as traditional habitat, it was also decisive in the forming of traditional authorities.

In time, and as a consequence of the expansion of the agricultural frontier, development and social mobility, these missionary communities came to form urban centres of human settlement, made up of ranch owners, their workers, traders and migrants from different regions of the country and the surrounding areas, who were previously part of the missions. They became large estates displacing the indigenous from their “traditional” places.

has been replaced by a technical study of Spatial Needs, undertaken by the Vice-Ministry for Indigenous Affairs and Native Peoples. This takes into account certain criteria such as the numbers of indigenous people, their methods of production, the existing natural resources and the productive potential of the area claimed. Depending on the results, a territorial area will be recommended for the claimant indigenous people. Alongside this, INRA takes into consideration the area noted for spatial needs and recognises as TCO whatever lands are available. These often end up being far from the places of settlement of the indigenous inhabitants. Of course it is not a question of perverse minds seeking to dislocate the indigenous peoples or displace them to new places of refuge but of concrete realities, in this case, the availability of state lands they aim to “guarantee”, through legal recognition. The result of this process is that we have one territory as traditional habitat and another as titled TCO. But, in addition, there is also a third territory, the municipal administrative jurisdiction. We thus have three geographical areas, none of the boundaries of which coincide.

Territory as property (TCOs)
In article 171 of Section Three on the Agrarian and Peasant System, the Political Constitution of the State recognises the right of indigenous peoples to their native community lands. I highlight its location in the constitution in order to emphasise that the TCOs are a form of agricultural land ownership, as understood by article 3 of the INRA Law, which recognises and guarantees the different types of agricultural property, including in part III—the native community lands. In this respect, there is no possibility of having TCOs on urban lands.

It is noteworthy that those writing on the issue of indigenous territorial management place a great deal of emphasis on what the TCOs are not but very little on what they actually are. The TCOs are a form of agricultural land ownership, although they do enjoy certain special features: they are titled in favour of indigenous villages and communities; they cannot be returned to the previous owner, transferred, mortgaged, seized or acquired by prescription. The distribution and redistribution for individual and family use and exploitation within the collectively titled native community and communal lands are governed by the rules of the community, in accordance with their traditional customs, aspects that distinguish them substantially from other forms of property, and which enable indigenous territorial management.

Territory as administrative jurisdiction
Both the jurisdiction and the authority that public bodies exercises are born of law, they are of a public nature, dogmatic, enforceable and of obligatory fulfilment on the part of all inhabitants within that territorial jurisdiction. These attributes are held by all state organs, bodies created
by the state to which the state delegates or transfers power. Under this concept, there is no breakdown in the territorial unity of the state, only public administration bodies exercising jurisdiction and powers established by law.

In this respect, the Political Constitution of the State recognises that the territory of the Republic is divided politically into departments, provinces, province sections and cantons. In article 109 it lays down the functions of the Prefects and the fact that these appoint, and are responsible for, the sub-prefects in the provinces and corregidores in the cantons. Article 203 notes that each municipality is of a continuous territorial jurisdiction determined by law, and article 12 of the Law on Popular Participation establishes that the territorial jurisdiction of the municipal governments is the province section. This is the way in which the state has been organised in terms of its territorial administration. Any other proposals necessarily require reforms to the Constitution.

We agree that the indigenous territories – yes, territories, not TCOs – must include recognition of administrative powers (powers of public administration) with a certain level of autonomy, and for this purpose the following must be defined:

- Who will be the administrative authority?
- How will it be formed?
- For what purposes? (powers or attributions)
- Over what territorial area? (jurisdiction)

Authority and public administration

This is the other element that indigenous peoples claim as part of the concept of territory. Conceptual clarifications of a legal nature are needed in relation to this issue. When an indigenous organisation or its traditional authorities are legally recognised, they are given the capacity to act on behalf of their members or representatives (grassroots territorial organisations, associations, cooperatives, etc.). When the law creates a public institution, it grants it jurisdiction and powers to act on behalf of the state.

The ethical justification for exercising power is based in the honesty of the work, in relation to achieving the specific aim of a political community: the common good. This common good is that of all those being “administered”, not just one social sector. In this respect, any authority that takes on powers of public administration over an indigenous territory or TCO, recognised as an administrative jurisdiction, will act on behalf of the state and not of the indigenous people and will exercise its authority and power over all the inhabitants (the “administered”) living within that territorial jurisdiction (both indigenous and non-indigenous, men and women). It is the authority for all and will seek the common good of the whole population not of one social sector. With that criterion, in order to guarantee the freedoms and rights of individuals, the state has created various control mechanisms to which the authority is subject (Watchdog Committees, Municipal Councils, National Congress, Comptroller’s Office, Constitutional Court, Ombudsman, etc.). Another factor we have to clarify is that administrative autonomy does not exist according to the quality of people, their culture or ethnic belonging. Any public body assumes powers (born of law), according to the subject, for example, public universities, relevant judges, etc. or according to the territory, for example, the Prefectures and Municipalities. Consequently, for the exercise of authority and administration, public bodies will be
formed covering the whole territory over which they exercise jurisdiction and covering the whole population living in that territorial jurisdiction, indigenous or not.

With these legal factors clarified, it is important to define what it is hoped will be gained, what the political objective is that is being sought through the formation of indigenous administrative territorial bodies. The following are some of the possible aims:

a) To achieve correspondence between the boundaries of indigenous land ownership (TCOs) and administrative jurisdiction (municipal government), for better territorial management.

b) To establish mechanisms by which to access public resources, in order to encourage the development of indigenous peoples.

c) To preserve the models of political organisation of the indigenous peoples.

d) To recognise and strengthen the systems of traditional office and authority of the indigenous peoples.

To date, two proposals have been put forward in response to these suggestions: 1) the formation of Indigenous Municipal Districts and 2) the formation of Indigenous Municipalities, both within the framework of the municipal sphere.

Indigenous Municipal Districts

The Law on Popular Participation (LPP) recognises the indigenous peoples and their different forms of organisation and representation (Art. 3 LPP). It grants them legal status, a necessary and inevitable step if we are to talk of rights, the only reality the law understands being the order of people and things, the enjoyment of rights and their exercise being the prerogative of the former. Everyone already knows that the administrative territorial organisation in Bolivia neither considers nor respects the existence of indigenous peoples, far less their native territories.

Within the existing legal framework and politico-economic model, the Law on Popular Participation proposes possible solutions to the indigenous peoples’ demands for exercise of power and authority within their territories through the Indigenous Municipal Districts, which seek to respond to the issues raised in subsections b), c) and d) above.

The Indigenous Municipal Districts (DMI) enable the indigenous authorities to assume, via delegation from the Municipal Government of the Section, the direct administration of services transferred to the Town Halls, the administration of their territory and implementation of projects approved by the District becoming, essentially a public administration body for the development
planning of their communities or villages, strengthening indigenous peoples' models of political organisation and traditional authorities.

Seen from the perspective of indigenous territorial management, the Indigenous Municipal Districts have the following features:

- The jurisdiction needs to be closely related to the ethnic population and its social organisation;
- Its forms of election and representation are respected;
- The traditional authority takes on the functions of the sub-mayor of the Municipal District;
- They are decentralised bodies of municipal government, autonomy thus lying with the municipal government.

Ana Maria Lema has undertaken an analysis of the formation and functioning of DMIs in the municipalities of Urubicha, Gutiérrez and Villa Montes and the following table demonstrates their strengths and weaknesses:

<table>
<thead>
<tr>
<th>STRENGTHS AND OPPORTUNITIES</th>
<th>WEAKNESSES AND THREATS</th>
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<tbody>
<tr>
<td>Strengthening of indigenous organisation (Kaiependi Captaincy)</td>
<td>There are no indigenous development plans (Urubicha and Villa Montes)</td>
</tr>
<tr>
<td>A reference for the municipal government in terms of dealing with indigenous issues</td>
<td>There are frequent changes of sub-mayor (Kaiependi)</td>
</tr>
<tr>
<td>Strengthening of the communities' self-esteem (Yaguará)</td>
<td>The sub-mayor is a mere town hall official, sometimes appointed by the karai³ (Villa Montes)</td>
</tr>
<tr>
<td>Existence of 2 indigenous development plans (PDDI) in Gutiérrez.</td>
<td>The scope of the role is not known and the concept not recognised (Urubicha and Villa Montes)</td>
</tr>
<tr>
<td>Confidence in the institutions supporting the district (Kaiependi)</td>
<td>There is overlap between the sub-mayor and the captain (Villa Montes)</td>
</tr>
<tr>
<td>In the case of large sections such as Urubicha and Villa Montes, the districts facilitate territorial management</td>
<td>Little experience of municipal management (Urubicha, Gutiérrez and Villa Montes)</td>
</tr>
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<td></td>
<td>Lack of institutional support once the DMIs are created</td>
</tr>
<tr>
<td></td>
<td>The municipal government does not allocate resources to the district (Villa Montes)</td>
</tr>
<tr>
<td></td>
<td>Political interest of the municipal government in controlling the DMI</td>
</tr>
</tbody>
</table>


In this study, Ana M. Lema highlights the following as the key problems of the DMI:

- A lack of clarity in the role of the indigenous sub-mayors;
- The differences of language between the official state language and indigenous languages, a situation that is complicated even more by the use of complex terms and concepts, a language that the indigenous peoples not only have to understand, without speaking it, but also to apply and reproduce and, in addition, they are forced to express themselves through a culture-specific role;
- Finally, the other big problem is the management of financial resources:

Various aspects are involved here:

- The fact that a person such as a sub-mayor receives a salary from the town hall, whilst the rest of the community and authorities do not, may lead to internal conflict.
- In addition, people expect to physically see how the money is managed, to see it and count it. It is difficult to understand that this money is in invisible and distant bank accounts. The mayor is expected to undertake the works directly with the resources and no-one is used to municipal bureaucracy (tenders and contracts).
- Resource management is a double-edged sword because although indigenous participation means
accessing municipal government resources, it is necessary to know how to use them correctly, and this is not simple.\textsuperscript{14}

The Indigenous Municipalities

Given the limitations of the concept of DMI, the indigenous and peasant organisations have formulated a proposal for the recognition of Indigenous Municipalities as public administration bodies.\textsuperscript{15} From the moment you use the term municipalities, these have to be governed by the municipal system of the Political Constitution of the State (CPE), and so they would have the following features:

Government (Art. 200 CPE)

- The government and administration of municipalities is the responsibility of autonomous Municipal Governments and... (Art. 200, I. CPE)
- The Municipal Government is run by a Council and a Mayor (Art. 200, III. CPE)
- The Councillors are elected by universal, direct and secret vote for a five-year period, according to the system of proportional representation determined by Law. (Art. 200, IV. CPE)
- The candidates for the posts of Mayor and Councillors are proposed by the political parties (Art. 200, V. CPE)

Powers (Art. 205 CPE)

- The Law determines the organisation and powers of the Municipal Government (Art. 205 CPE)
- There can be no differences between municipalities, as all are equal in rank (Art. 200, I. CPE)

Jurisdiction (Art. 203 CPE)

- Every municipality has a continuous territorial jurisdiction determined by Law (Art. 203 CPE).

The special features of the possible Indigenous Municipalities would be determined by the territorial jurisdiction, and this would comprise the whole of a TCO, without fragmenting it; insofar as it has territorial continuity.\textsuperscript{16} In terms of the population, this would be all those who are living within the territory, indigenous or not, who have rights as people being "administered" and political rights as citizens.

The importance of the indigenous municipality is that it enables direct access to public resources, with a wide level of administrative autonomy. However, it must be remembered that the whole population living within its territory are involved in the municipal government, indigenous or not, as they exercise the rights of citizens (political participation). In addition to this, there is the intermediation of political parties. This gives rise to doubts as to whether future municipal governments would continue to be indigenous or run in an indigenous way. Indigenous peoples' models of political organisation and the structure of posts are another aspect of the debate that has been left to one side.

Indigenous Territorial Bodies

Related to the above proposal, CIDOB has proposed that the TCO's\textsuperscript{17} should be recognised as administrative bodies, without further developing or explaining this. If this type of proposal is undertaken via the municipal path (TCO = indigenous municipality), we are coming dangerously close to a situation whereby TCOs that are today owned by an indigenous people would become municipally-owned.

It is important to seek greater consistency and unity between the municipal boundaries and those of the TCOs, and to recognise or build mechanisms enabling access to public resources for indigenous territorial management, but this does not mean bringing the exercise of TCO property rights under the umbrella of a state administrative body, even if this does bear the name of town council, ayllus, sub-district or whatever. Once recognised as a public administration body, it would act on behalf of the state and not of the indigenous people.

By way of conclusion

- Indigenous Territorial Management has been proposed, by CIDOB,\textsuperscript{18} in order to implement a process of political, economic and social development on the part of the indigenous peoples and, thus far, we are all in agreement. But when we try to see how this would work, different criteria and proposals emerge. The first conclusion we must draw is that we must come to no hasty conclusions on such an important issue, in which the territorial control and survival of indigenous peoples' traditional organisations is at stake.
- The debate on indigenous political participation at local level has been raised. There are the current mechanisms (Municipal Governments, Watchdog Committees, Indigenous Municipal Districts). The recognition and creation of Indigenous Municipalities is being sought; recognition of the TCOs as administrative bodies. This is an aspect that not even the indigenous movement itself is clear on, far less the state, and so there is a need to create as many opportunities for analysis and debate as possible.
- If there is insufficient clarity on the political objectives being sought, it is easy to end up with integrationist proposals based on the "modernisation of the Indian" in order to transform him/her into an efficient producer and consumer. We have to take care not to fall into the trap of proposing the simple integration of indigenous people into the economic
system, into a republican politico-administrative system, into the nation and, now, into globalisation. And yet the opposite could also occur, denying the reality of the State and market and proposing a return to Tiahuanantinsuyo, denying the state’s historical and multicultural reality, proposing ethnic confrontation with no possible solution.

- It is important to seek greater consistency and unity between the municipal boundaries and those of the TCOs, and to recognise or build mechanisms enabling access to public resources for indigenous territorial management, but this does not mean bringing the exercise of TCO property rights under the umbrella of a state administrative body. Indigenous territorial management must be two-pronged: on the one hand, a traditional organisation assuming the property right and control of the TCO and, on the other, the recognition of their own bodies or levels of public administration, which receive and administer public resources and exercise a level of state authority.

- For all indigenous peoples, the issue of public administration is a new one; it demands new roles, new skills and new abilities. The leaders will be taking on new roles, and so they cannot remain at a traditional or cultural level. It is important to strengthen the skills of the indigenous organisations and their leaders so that they are able to exercise authority and correct administration.

- For the indigenous peoples of the lowlands, the priority is recognition and consolidation of their TCOs, which are permanently under threat from agricultural companies, cattle ranches, logging companies, oil companies and settlers. For the indigenous peoples of the highlands, however, the priority is exercising political administration over the traditional territories under their possession and control.

- There are significant social and productive sectors whose territorial expansion and profit expectations have been hindered by the TCOs. They see the indigenous people as an obstacle to their development, and racial discrimination is on the increase. For this reason, Indigenous Territorial Management needs to strengthen an increased awareness of their territoriality, a knowledge of their rights, of the ownership of their TCOs, of the exercise of power and control over their native community lands. Any proposal, be it of a political or economic nature, must be consistent with achieving the ownership and consolidation of indigenous territories.

The issue of indigenous territorial management is a new one and there are different criteria and trends being expressed within the organisations, government authorities and advisors and friends of the indigenous movement. This makes an open, frank and honest debate on these issues all the more urgent.

**Notes and references**

1. In 1993, with these arguments, the Committee for Indigenous Communities of the Chamber of Deputies rejected the proposed Indigenous Law, which was presented by CIDOB and accompanied by a petition of more than 100,000 signatures of support.
2. ILO Convention 169, section II, articles 13 to 19.
3. CIDOB: “Proyecto de ley de pueblos indígenas del Oriente, Choco y Amazonía de Bolivia.”
5. Article 261 of Supreme Decree 25848 of 18 July 2000, regulating the INRA Law.
6. El indígena y su territorio son uno solo, Pedro García and others, published by COICA and OXFAM AMERICA.
8. INRA Law, art. 3, III.
10. “Corregidor” – similar to a mayor but governing a canton or small district – trans. note.
11. In line with article 6 of the Law of Municipalities.
15. René Orellana, above mentioned work, is referring to the proposal made by CIDOB, CSUTCB and CSCB, in 1999, under the title of “Municipios Indígenas, Campesinos Originarios”.
16. CPE, Art. 203 “Every municipality has a continuous territorial jurisdiction determined by Law”.

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THE PATH TO AUTONOMY: INDIGENOUS MUNICIPALITIES AND STATE PLURALISATION

By René Orellana H.
On 20 April 1994, the Law on Popular Participation (LPP) was promulgated in Bolivia. This introduced fundamental changes to the state institutions, establishing a standard municipal model throughout the whole of the country. This model was based on the conversion of province sections into municipalities, the delegation of new responsibilities to the municipal governments (formed of a Mayor at the head of a Town Hall and a Municipal Council as the legislative body) plus the creation of a new organ of social control called the Watchdog Committee (comprising one delegate per Municipal District or Canton).

A dysfunctional municipal model

In the end, this standardised municipal model was qualified by the introduction of the concept of Indigenous Municipal Districts in those areas where "differentiated Socio-Cultural Units" existed. In this way, the state and the so-called political class tried institutionally to express the multicultural and indigenous reality of Bolivia.

The problem is that this model has only with difficulty functioned and, rather than leading to a scenario of indigenous autonomy in which self-management was to become a reality, geographical units have been created that are fragmented by other conventional divisions. Each fragment, which in actual fact does not exist in the social reality, is forced to form itself into an indigenous district and become a part of the various processes of social control (becoming part of the different Watchdog Committees) and the different Municipal Governments, thus having to battle against different alliances of political forces and wills with regard their indigenous demands.

Proof of this can be seen in the fact that, in Bolivia, the different Community Lands of Origin (Tierras Comunitarias de Origen – TCO – the legal name given in Bolivia to the indigenous territories) are divided up in the following way: 3 TCOs falling within one municipal jurisdiction

14 TCOs straddling 2 municipal jurisdictions
3 TCOs straddling 3 municipal jurisdictions
8 TCOs straddling 2 provinces
3 TCOs straddling 3 provinces
4 TCOs straddling 4 provinces

In view of this, the indigenous and peasant organisations of Bolivia had already proposed, back in 1996, the creation of the concept of Indigenous Municipalities, during the debate on Agrarian Legislation.

Indigenous and peasant demands and proposals

The territorial construct of the native peasant and indigenous communities and peoples, and their processes of political, cultural and economic management, along with their social institutions, expressed in rules and in methods of conflict resolution, must not be underestimated in the territorial organisation. Quite the contrary, they have to be embraced as: i) capacity and potential within the framework of ethnic management units, with the possibility of being promoted and strengthened in development terms, given an identity by being provided with a level of autonomy; ii) administrative and normative structures capable of sustaining self-management processes and of being viable, if provided with a level of autonomy; iii) social capital that offers a fundamental support to development.

These elements, essential to the development of a management system with a certain degree of independence from the local authorities, have no great prospects if the state subsumes them in a logic of territorial destructuring that will (probably), in the long-term, bring about functional municipal processes but at a high cost: the weakening and destruction of social capacities that form significant capital in the construction of a multi-ethnic state.

If the state does not capitalise on the territorial logic of
ethnic society, claiming responsibility for a republican and colonial history that repressed the social and cultural forms of local government, and does not creatively design, through intercultural dialogue and consultation, a plural institutional system, it will be denying its own social reality and, undoubtedly, laying the path for conflict.

**How can self-management be strengthened?**

Through a state model that is sufficiently plural to admit the socio-territorial forms of indigenous and native peoples and communities as special and differentiated entities, granting them a share in political and administrative autonomy. One of the forms through which the state can achieve this is the municipality.

The indigenous municipalities would be, to put it in the language of the LPP, Special and Differentiated Administrative (not municipal) Districts, in which public services would be offered, and within which units of census, electoral constituencies and planning units would be formed. We are talking of geographical units for ethnic planning and development, in other words, spaces for economic, social, cultural and environmental planning and, consequently, spaces for social investment.

The following are some of the essential variables that make up an ethnic unit with these features:

a) Social institutions for the administration of justice, and conflict resolution in general.

b) Rules and regulations relating to natural resources, defining the management, access, ownership and control of different resources (land, forests, trees, forest life etc).

c) Rules and regulations, related to the above, organizing or arranging the space according to the population and its productive and reproductive dynamic.

d) Social norms relating to the intersubjectivity that governs or organizes daily life.

e) Authorities and structures of responsibility that define powers of leadership, representation, administration, management and resolution.

f) Their own participatory methods of communal planning.

g) Forms of environmental management that are in line with the sustainable exploitation of the environment and its biodiversity.

h) Types of communal, intercommunal and inter-ethnic government that form political and organisational units.

i) Communal management of natural resources.

**Native Peasant Indigenous Municipalities: background to the proposal**

In January 1998, the Confederation of Indigenous Peoples of Bolivia (CIDOB), the Confederation of Peasant Workers of Bolivia (CSUTCB) and the Confederative Union of Bolivian Settlers (CSCB) approved a joint proposal for amendments to the
Organic Law of Municipalities. This proposal had been in the pipeline throughout 1997, several drafts having been discussed at a series of indigenous and peasant events. The proposal was in response to a request raised during the 1996 indigenous march and which had also appeared in an agreement between the government and CIDOB, signed on 12 September 1996. It was thus not a new issue. Quite the contrary, it was a social demand with a significant basis: the indigenous-peasant mobilisation of 1996, which ended in the approval of the Law of the National Agrarian Reform Department and a series of agreements and accords in which joint work issues were specified in relation to the social demands.

The issue arose once more during the mobilisation organised by the Bolivian Workers’ Union (COB) from February to April 1998. Among the different demands put forward by the CSJTCB were precisely the amendments to the Organic Law of Municipalities, creating Indigenous Municipalities.

In addition, on 7 October 1998, the Senate Commission for Popular Participation received the indigenous leaders in a public hearing. It listened to their proposals and promised to consider them, without entering into further debate on the matter. On 27 April 1999, when the final version of the Law of Municipalities had almost been finalised, the Confederations presented their proposal once more, with regard to the corresponding articles.

What is clear is that the memorandum of agreement, the 1996 agreement, public audiences and other negotiations were just some of the many symbolic acts that raise their heads at times of social conflict to validate already defined bills of law. What happened next came as no surprise: the Senate committee in charge of finalising the proposal for amendments to the Law of Municipalities continued its work without paying the slightest attention to the proposals relating to the creation of Indigenous Municipalities, finally approving the law on 28 October 1999.

The Indigenous-Peasant Proposal: analysis and limitations

First, a formal issue: the indigenous and peasant document was initially proposed as a special chapter to be introduced within a section of the law. It was a body of articles organised under various headings and considering different facets of this special municipal concept.

The first striking element of the proposal is the name given to this special type of municipality: Native Peasant Indigenous. It seems, at first sight, to relate to a highly explosive concept, difficult to absorb.

The concept of Native Peasant Indigenous Municipality, then, was to enable the creation of indigenous municipalities (in the lowlands), native peasant municipalities (in the west) or indigenous AND native peasant municipalities in areas shared by settlers and indigenous people. This nuance (AND/OR), which can be found in various parts of the proposal, is intended to reflect these three possibilities. However, this last possibility, that is, the creation of joint indigenous/settler municipalities, would almost certainly be conditional upon a lack of territorial disputes between the two. This is a situation that seems difficult to envisage given the existence of innumerable conflicts of this nature.

There are considerable differences between the settlers and the indigenous peoples, and these sometimes create antagonisms and tense relations between the two. The indigenous Yuracarés of the Rio Chapare, for example, who live alongside settlers who are highly organised due to the coca conflict in that area, have had bitter clashes on several occasions because of the sporadic entry of hundreds of settlers onto their territory. This has created a kind of border, with a physically visible division. Another scene of conflict between settlers and indigenous people is the Parque Isiboro Sécure Indigenous Territory (TIPNIS). The possibility, however, is there, and it is not impossible to imagine that very localised alliances could arise, depending on the ethnic groups and the nature of the settlers, particularly among those who hold community properties and have a long history of settlement in the area, as this determines certain sustainable perceptions and practices with regard to the forest and its resources.

On the aims

Among the aims of this municipality can be found the promotion of the integrated development of the territory which, in our opinion, should be a fundamental objective, for reasons already stated. An indigenous territory divided between different municipal jurisdictions, although formed into districts and united, would find it difficult to achieve any kind of integrated development.

Another important aim is environmental conservation. And this is not just rhetoric. Many indigenous territories, titled, requested or simply inhabited and/or used for different purposes, are superimposed in part or in full on protected areas and it is precisely here that the concept of special municipalities can considerably facilitate the processes for social management of conservation, ensuring that planning is of an integrated nature, according to the special features of the area.

However, on this point there is some controversy that needs to be resolved:

- The doctrinaire concept of protected areas does not seem to have changed much in the minds of the public policy engineers or in environmental spheres. These people continue to think of such areas as uninhabited spaces that must be maintained as such, encouraging the expulsion of populations (all the more so if they are defined as peasants and not as indigenous peoples) or the minimisation of their role and, in contrast, encouraging private exploitation...
through activities of ecotourism (hotel construction etc.), scientific research and bioprospecting with visible commercial aims. Most of these activities are to the benefit of one of the new profitable activities, biotechnology, granting Concessions of Use for this purpose and signing contracts with private bodies (including NGOs), behind the backs of the communities that use and/or inhabit these areas.

- The regulatory limitations that not only prevent social management but also restrict the municipalities to observation and control, with few of the attributes of the Watchdog Committees, creating "Management Committees" (now called Administrative Councils) in the Protected Areas.
- The legal inconsistencies, which reveal the contrast between rules that are effectively the result of conflict and social pressure and those that are really the aim of the current politicians. One of them is precisely that which refers to the compatibility or not of Protected Areas with Indigenous Territories, and which places limits on their direct management by local people.
- The obstacles are now not only to protected area management on the part of indigenous, peasant and native communities and peoples. There are also obstacles to accessing the natural resources existing within them, limiting activities of exploitation.

**On jurisdiction and competence**

The proposal establishes that the jurisdiction of the native peasant indigenous municipality shall be the province section, also establishing that, for this purpose, the boundaries of the province sections or provinces would be modified where appropriate.

Here, the proposal conforms with the current politico-administrative order in order to ensure its viability; in other words, it does not suggest ignoring the divisions imposed by the politico-administrative order but rather amending them so that they can be made more flexible, in particular, in territories where the formation of special municipalities is considered a possibility.

However, this could be a problem insofar as the province sections and provinces are created by law, which would make the process of creating new municipal sections a long one. Nonetheless, it must at this point be noted that there are no clear constitutional restrictions (in the constitution modified in 1995) that prevent the creation of municipalities, even though they may not be province sections. It may thus still be possible to consider the creation of this type of special municipality, dispensing with a redefinition of the sectional, provincial or departmental boundaries. Many indigenous territories that are located in more than one department could thus become viable.

The best thing would be to declare those indigenous territories (titled, demanded or not, as native community lands) that fulfill the necessary conditions for forming municipalities as special jurisdictions, a sort of special entity. This is something that has occurred in Colombia where, through significant will on the part of the state, indigenous territorial entities have been created.

The basis for the creation of this municipal concept is the socio-cultural unit, the fundamental pillar of the Law on Popular Participation. We are talking of ethnic units that are organised within a geographical space and which form a management unit. This basis manifests itself in two forms: native community lands and "other own or borrowed forms of territorial organisation". It consequently relates to lands requested or titled as TCOs or Indigenous, peasant or native socio-territorial forms that have some form of expression of property (collective property) or ownership (according to their own culture of ownership) but that reflect processes of a territorialisation of the space, via social institutions, for the purposes of accessing, controlling and managing natural re-
sources, for jurisdictional purposes or for conflict resolution and for politico-organisational purposes in general. The ayllus, captaincies, indigenous corregimientos (districts) etc. fall within this framework.

These territorial jurisdictions would comprise spaces for the exploitation and productive economic management of natural resources, spaces related to conservation—we have already mentioned the protected areas—and spaces related to religious and cultural dimensions, the settlements and villages.

One issue taken into consideration in the municipalisation is demography, and herein lies a limitation. In the lowlands, there are thought to be considerable areas of land occupied and used by small indigenous populations and, consequently, to insist on a rule that puts a lower threshold of 5,000 inhabitants on the creation of municipalities would prevent many indigenous territories with significant management capacity from creating their own municipalities. For this reason, it is suggested that, on the basis of considerations of spatial occupation and geographical density, the indigenous populations of the lowlands of Bolivia should be able to form their own municipalities provided they have a minimum of 2,000 inhabitants. The peasant delegates attending the workshop in December 1997 (at which the final version of the proposal was drawn up) agreed, nonetheless, that in other regions of Bolivia the requirement for 5,000 inhabitants should stand unmodified.

Given the small population of some of the municipalities, their access to revenue collected on a tax-sharing basis is limited and so there is a need to develop intermunicipal agreements by means of the concept of "associations" of municipalities. The indigenous municipalities would be in a similar situation if their population were less than 5,000 inhabitants. However, an important clarification needs to be made on this point: one possible way of resolving the restricted access to tax revenue is the creation of a special fund for this type of municipality. This could be a source of income. Another source could come from the ecotourist and ethnotourist potentiality of many of the indigenous territories, in addition to other environmental services related to environmental conservation and protection, under social management.

The indigenous municipality could promote processes for the commercial exploitation of certain resources, some of them timber-based, conditional upon the administrative restrictions necessary and essential to guaranteeing their sustainability.

In addition, a kind of royalty or right could be retained within these municipalities for extractive mining or oil operations or other industrial activity, or through contracts signed with scientific researchers or bioprospection operators. This would be in addition to signing agreements that give a return through the development of certain public works (such as the construction of gas or oil pipelines).

The municipal governments in this type of municipality would have special areas of competence, including:

- Developing participatory processes for integrated planning.
- Environmental supervision and the monitoring of extractive and industrial activities, should these exist within their territorial jurisdiction.
- Developing ethno-linguistic and educational programmes to strengthen cultural identity; controlling the educational process socially.
- Facilitating the community administration of justice and their own processes of conflict resolution.
- Developing and supporting associative and community productive initiatives.

On municipal government and social ethnic organisation

Fiere, two important features must be noted:

1) The municipal government of this kind of municipality would be formed in the same way as any other, and the components of the Municipal Council would be elected in the same way as any other, in other words, by universal, direct and secret vote, for a period of five years.

2) The party system would prevail in the election of councillors.

On this issue, the debate on indigenous municipalities has become highly topical and has been qualified by several proposals:

- That the mayors should be elected through the people's own communal ways, that is, general assembly or meeting, acclaim and consensus.
- That the authorities or direct social representatives of the indigenous, peasant and native peoples and/or communities should become the mayors and councillors and, together with the rest of the social authorities, form a kind of autonomous government within the municipal framework. This would equate to municipalising the natural authorities, nationalising them and incorporating them into a hierarchical system within the institutional structure of the state, with the risk of affirming their roles and attributes.
- That there should not necessarily be mayors and councillors but that the communities should elect authorities in the form they consider most appropriate, either through their own processes, borrowed processes or others created for such purposes.
- That, to be elected a councillor, any person may present him or herself without the need to be linked to a party or to have to use one as a front.
• That, whilst it is important to remain within the lines of the constitution in terms of the party system, a system should be created that would enable the existence of departmental parties, in other words, certain parties only at the departmental level, with certain requirements (membership records, etc.) that prevent their authorisation at national level. In this way, the indigenous people could form their own parties without being obliged to organise under the banner of a political party that opens its doors only on certain conditions.

This proposal, providing certain autonomist freedoms within the small space offered by the straitjacket of the Constitution, seeks initially to create a concept of special municipalities that could, within the context of legal reforms, subsequently extend the possibilities for autonomy.

However, this municipal government would not have the same freedom as any other government of an ordinary municipality. It would be strictly subject, with regard to decision-making on vital aspects in which acts of corruption could be committed, to social decisions. The municipal councils would require the approval and agreement of the indigenous, peasant and native organisations before they could issue resolutions and decisions of censure against the mayor, create municipal districts or approve plans and budgets.

In the case of a motion for constructive censure (vote of no confidence), the municipal council would have to request the approval of the social organisations in the municipality for the removal of a mayor, and for the election of his/her successor. In addition, this council would have to consider, without restriction, complaints from the indigenous, peasant and native organisations regarding administrative mismanagement.

For the purposes of social control, debate and expression of opinion, the indigenous, peasant and native representative organisations of the municipality would appoint two people as spokespersons and representatives before the municipal council. These people, the bearers of social opinion, would participate in council sessions with the right to speak in the debate.

The essence of the proposal is to bring civil society (local) considerably closer to the public authority (local) without municipalising social organisation but by increasing the representative social organisations’ powers of supervision and decision-making. The municipal institutions and civil society would continue to maintain some distance. It is thus not a question of a municipality in which the traditional authorities are recognised as municipal authorities but of a municipality in which local civil society has a hand in the way in which the municipal government is run. This would undoubtedly limit the possibilities for corruption that are inherent in a clearly elitist and supra-social power system.

Final reflections

The self-management of indigenous society will not be possible unless certain degrees and levels of autonomy are made possible. Those societies whose territorial base is fractured and geographically divided will not be able to govern themselves, not only because of the conventional boundaries but because of official institutions that govern the political and administrative dynamic, determining the course of development and consequently the future of certain indigenous or peasant communities or villages.

To grant a level of autonomy to indigenous and peasant communities through the creation of special and differentiated municipalities and municipal districts could enable socio-territorial units to be built based on normative and organisational social institutions, understood as social capital, as fundamental established capacity on which to sustain local processes of development with identity. It is a question of designing a state project that builds democracy by institutionalising local democracies, learning from below, from its mosaic of diversity, coming closer to the population and ceding, in this process, a share of power to civil society.

The idea of state pluralisation thus proposes a break with hegemonic thinking, a break with the prevailing paradigms that society understands on the basis of certain indicators, certain concepts that challenge our reality on the basis of a certain language and in a certain analytical direction. For this reason, it is no surprise that, in the methodological designs for research and baseline assessments with which to deepen the current development and state model, the conceptual frameworks, the variables and the indicators should be drawn up from the point of view of the positive impacts and the advantages of reform. A break with hegemonic thinking that leads us to reflect on a model of a plural state thus requires us to think back-to-front, turning the indicators and variables upside down, turning concepts on their head and establishing an open dialogue, an inter-ethnic, cultural, discursive dialogue, diversifying our language, enabling us to question, to take part in a debate with diversity.

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IWGIA’s aims and activities

The International Work Group for Indigenous Affairs - IWGIA - is a non-profit, politically independent, international membership organisation.

IWGIA co-operates with indigenous peoples all over the world and supports their struggle for human rights and self-determination, their right to control of land and resources, their cultural integrity, and their right to development. The aim of IWGIA is to defend and endorse the rights of indigenous peoples in concurrence with their own efforts and desires. An important goal is to give indigenous peoples the possibility of organising themselves and to open up channels for indigenous peoples’ own organisations to claim their rights.

IWGIA works at local, regional and international levels to further the understanding and knowledge of, and the involvement in, the cause of indigenous peoples.

The activities of IWGIA include: publications, human rights work, networking, conferences, campaigns and projects.

For more information about IWGIA’s activities please, check our website at: www.iwgia.org

Publications

IWGIA publishes a yearbook, The Indigenous World/El Mundo Indígena - and a quarterly journal Indigenous Affairs/Asuntos Indígenas. Furthermore, a number of books thematically focussing on indigenous issues are published each year.

Suggestions for and contributions to IWGIA’s publications are welcome and should be submitted to the editors in charge.

IWGIA’s publications can be ordered through our website: www.iwgia.org, by e-mail: iwgia@iwgia.org or by fax: +45 35 27 05 07.

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IWGIA and RAIPON, 2002 - ISBN 87-90730-53-6, ISSN 0105-4503

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IWGIA and Forest Peoples Program (FPP), 2002

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