

INCREASED RELEVANCE AND INFLUENCE OF FREE PRIOR INFORMED CONSENT, REDD, AND GREEN ECONOMY PRINCIPLES ON SUSTAINABLE COMMONS MANAGEMENT IN PERU

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ABSTRACT

This paper examines unique opportunities provided by international discourses and practices of the Green Economy approach and valuation of ecosystem services (as promoted under the international climate change regime) on the sustainable management of indigenous forests and lands in Peru. It examines the influence of epistemological changes prompted by the United Nations Framework Convention on Climate Change (UNFCCC) on the improved understanding and conceptualization of the role of forests and sound natural resource management; and how these changes at the international level have positively impacted traditional land rights in Peru.¹ It also analyses how increased development and financing of Reducing Emissions from Deforestation and Forest Degradation (REDD) processes and projects have enhanced the incorporation of interculturality into indigenous peoples' public policy in Peru.

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1. The United Nations Framework Convention on Climate Change (UNFCCC) came into force in 1994 with the aim of reducing greenhouse gases (GHGs) emissions into the atmosphere. The UNFCCC COPs have been organized since 1995 as part of the commitments of the UNFCCC. The Kyoto Protocol, although failed to come in to force, was, nevertheless, an important milestone whose failure to achieve still haunts us. The Kyoto Protocol ended in 2012 and the world seeks to establish a new solid and binding agreement climate change measures. For a list of UNFCCC COPs, see <www.cop20.pe/acerca-de-la-cop-20/> accessed June 15, 2015.

The paper traces the influence of these international frameworks and processes in Peru during the Humala administration (2011-2016)- which is a significant turn-around from the position in which the Garcia administration (2006-2011) left the country after the loss of thirty-four (34) Peruvians on the morning of 5 June 2009. Since 2011, the Humala administration and indigenous peoples have fostered a common path to develop public policies that protects the needs of Amazonian peoples, particularly indigenous peoples. It has also promoted policies and legal frameworks that halt deforestation and promote sound environmental development in the form of a Green Economy with low carbon emissions and zero net deforestation in the context of the mandate of the Conference of the Parties (COP) 19, 20 and the 21 to follow up by the end of 2015.²

This paper discusses the Peruvian experience, most especially how international demands for greater transparency in forest management led to the evolution of the Prior Consultation Law and Forestry (FPIC) Law in Peru. It reviews the growing relevance and influence of the Peruvian FPIC law, its impact on sustainable forest management, and the opportunities and practical challenges it portends for sustainable commons management in Peru.

Keywords: Peru, forests, green economy, FPIC, REDD, indigenous

1. INTRODUCTION

Almost 25 per cent of forested lands in the Peruvian Amazon have been titled to indigenous communities and even a larger percentage is under their management and control. Recent studies have shown deforestation rates in these indigenous territories are significantly below national average levels; thus, highlighting the role of indigenous peoples in managing their territories as commons.³ At the same time, the Peruvian government has been open to the possibility of implementing REDD+ schemes. International legal frameworks on REDD+ project have increasingly demanded that

2 International treaties are increasingly complex and require that party-States meet periodically to review progress in reaching of enforcing the goals of these treaties. These meetings are called Conference of the Parties (COP).

3 AIDSESP, 'AIDSESP pide al gobierno la titulación de los territorios indígenas amazónicos, en *Diario La República*', (April 26, 2015); CIFOR, 'REDD, Forest governance and rural livelihoods. The emerging agenda' (2011); A Djeumo,, *The Development of Community Forests in Cameroon: Origins, Current Situation and Constraints*, Rural Development Forestry Network, DFID network paper 25b, July.

national governments must recognize the importance of indigenous people in reducing deforestation and forest degradation, secure indigenous rights to land already titled, and to land that has yet to be titled, as well as adopt legal safeguards to prevent further encroachment or invasion from potential leakage of REDD+ activities from outside their territories.⁴

The growing need for indigenous peoples to protect and manage their land and resources coincide with the adoption of several international frameworks and instruments that promote Green Economy and REDD in the context of zero net deforestation, and low carbon emissions. Since the 1960s and, more emphatically, since 2001 and 2009, Amazonian indigenous peoples have demanded that national governments must: continue titling all native communities in the Amazon; grant forest use contracts over forested community lands; set up Territorial Reserves for non-contacted Indigenous Peoples or Indigenous Peoples in initial contact; solve the overlapping of protected areas and community lands; solve the overlapping of extractive industries over community lands; provide control monitoring, reporting, verification and sanctioning of territorial lands invasion; and establish crimes against functionaries dividing communal lands. The contention is that by catering for these needs, indigenous peoples can feed back investment into community based natural resource management and also private investments coexisting in dynamic property rights landscapes which contain public, private and communal property rights.⁵

Peru enacted its FPIC law in 2011 and started implementing it in 2013. The law and its regulations introduce the principles of interculturality, traditional knowledge, among others to respect, and include, indigenous people's rights and knowledge in the design of REDD+ activities and strategies. Peru's protected area service is also scheduled to review its communal reserves regime in 2015 in consultation with Amazonian indigenous peoples and other rural populations. This process will occur under the influence of the FPIC law and the experience of the drafting of the regulations of the forestry law, probably between 2015 and 2017.

Furthermore, REDD+ schemes that generally advocate land security, combating illegal land use change processes, conservation activities and sus-

4 Some similar but different arrangements of safeguards proposals for REDD have been developed by Social Carbon Methodology; Climate, Community and Biodiversity (CCBS); VER+ Standard; Voluntary Carbon Standard (VCS) and Gold Standard (GS CDM/VER)].

5 W Coward, 'Dynamic Landscapes of Property' (Keynote speech, IASCP Conference 2006, Bali) *The Common Property Resource Digest*.

tainable forest management have gained prominence in Peru. Peru is one of 8 countries leading the implementation of Sustainable Forest Management (SFM) and REDD+ schemes. With a broad indigenous people population base and considering their role in managing forests, it has become inescapable for the Peruvian government to adequately include and accommodate indigenous peoples in SFM and REDD+ processes.

SFM, REDD+ and other green economy processes have therefore prompted increased negotiation between the Peruvian government and indigenous peoples. Peru's Ministry of Environment (MINAM) is promoting a Forest Conservation National Program (FCNP) while applying for Forest Investments Program (FIP) and the Forest Carbon Partnership Facility (FCPF) funds to develop REDD+ in consultation and agreement with Amazonian indigenous peoples. Recent approval of an Ecosystem Services Law and the development of Amazonian Indigenous Peoples REDD+ (RIA in its Spanish acronym) proposal between the Coordinator of Indigenous Organizations of the Amazon Basin (COICA), the Interethnic Association for the Development of the Peruvian Rainforest (AIDES-EP) and the Native Federation of the Madre de Dios River and Tributaries (FENAMAD) are key processes in this direction. The San Martin's regional government aiming for a REDD+ regional program is leading another process. The San Martin regional government has also enacted policies towards a green economy low emission development model. Indigenous people's knowledge and managed lands can contribute to these interrelated processes but will require recognizing and valuing their potential impact. However, other projects of lesser extension also exist in Peru. These projects will be implemented under the influence of the FPIC law and the experience of the drafting of the regulations of the forestry law, which empowered indigenous peoples and other rural populations in public policy development.

In addition, since 2010, the Amazonian Regional Governments' Managers of Fisheries have been drafting a proposal for a new version of the Amazonian Fisheries Regulations. Their proposal includes management plans, conservation agreements, interculturality, socially inclusion for natural resource management, locally run fisheries committees to oversee regulation compliance and enforcement, among other innovative proposals, already implemented at international level and in some areas

of Peru.⁶ However, the Ministry of Production, responsible for public policies on fisheries has been boycotting this process and proposal, and has shown no understanding of the FPIC mandate in public policies and the need to consider the participation of indigenous peoples in these processes.

This paper discusses the Peruvian experience, most especially how international demands for greater transparency in forest management led to the evolution of the Prior Consultation Law and Forestry (FPIC) Law in Peru. It reviews the growing influence of the Peruvian FPIC law, its impact on sustainable forest management, and the opportunities and practical challenges it portends for sustainable commons management in Peru.

2. FINANCIAL INCENTIVES IN THE INTERNATIONAL ARENA

With the increased adoption of regional trade agreements, such as Free Trade Agreement (FTA), with the United States of America,⁷ efforts to ensure the traceability of wood origin, respect control measures, combat illegal logging, among others have been on the rise at regional and international levels. In Europe for example, the European Union promotes projects For Law Enforcement, Governance and Trade known (FLEGT) program, with the similar aim of promoting sound forest governance. These programs emphasize and support decade-long struggles by indigenous peoples to halt illegal logging, protect indigenous peoples lands and conserve forests through sustainable natural resources management.

Simultaneously and within the same period, international processes such as, the approach of payment for environmental services and reducing emissions from deforestation and degradation gained increased prominence at the international level. REDD programs implemented by the World Bank and the United Nations Program for Development also aim to

6 See E Castro, *et al*, *El estado de la pesca y el conocimiento bioecológico de los peces como herramienta para la gestión de la cuenca del río* (Instituto del Bien Común, Programa ProPachitea, Oxapampa 2007); Soria, Carlos and Vanessa Rodríguez, 'El marco legal formal y consuetudinario de la pesca de subsistencia en el río Pichis, Perú' in D Pinedo & C Soria, *El manejo de las pesquerías en los ríos tropicales de Sudamérica*, (Instituto del Bien Común - Mayol Ediciones, Bogotá, 2008) 143-204; L Collado, V. Rodríguez and A. Treneman, *Socio cultural diversity and ecological changes, complex scenery for community management of fishery in the Peruvian Amazonian* (Lima, Instituto del Bien Común 2010).

7 The FTA with the US was signed on 8 December 2005 in Washington DC It was ratified on 29 June 2006 by the Congress of Peru and 4 December 2007 by the US Congress.

promote legal, institutional, research and forest conservation programs in priority countries like Peru, Nigeria, Congo, Indonesia and others. These changes at the international level favor the funding of sustainable forest management projects in countries with legal regimes that protect indigenous forests and lands.

The costs of mitigating and adapting to climate change in developing countries are still being understood. A study by the World Bank estimates that \$70-100 billion dollars per year will be needed for adaptation and indicates that costs may be even higher. For mitigation, estimates indicate that US \$139-175 billion per year will be needed in 2030. Developing countries have advocated for a goal as high as US \$ 600 billion, or 1.5 per cent of developed nations' GDP.

In 2009, developed countries committed to provide Fast Start Finance (FSF) totaling USD \$30 billion between 2010 and 2012³ and to mobilize USD \$100 billion per year by 2020. Given the context above, this commitment should be viewed as a starting point, not an end goal. However, an explicit plan for scaling up to that level of financing remains elusive. Governments are struggling to effectively deliver their FSF commitments. Even more worrisome, little progress is being made to commit further public funding and to develop innovative financing methods that will reach the USD \$100 billion per year goal.

The Green Climate Fund (GCF) was established at UNFCCC COP16 in December 2010 as a mechanism under the UNFCCC to deliver adaptation and mitigation finance in developing countries. A Board will oversee the fund with balanced representation from both developing and developed countries. Its interim trustee is the World Bank, though the future role of the World Bank remains controversial. Many developing countries do not feel the Bank represents their interests. At the same time, the World Bank already has in place the financial architecture that could enable the GCF to begin functioning in the near term. The Fund will be designed to be directly accessible to developing nations through their own implementation entities, though the exact implementation mechanism is still unclear. Most importantly, the Fund does not have a fundraising role, and therefore will be ineffective without sufficient levels of financial flow, which have not yet been identified.

Generally, the main sources for green finances have been:

1. *The World Bank's Climate Investment Funds (CIFs)*: Funds to help developing countries progress in low-emissions and climate-resilient development, on a scale of USD \$6.5 billion as pledged by participating countries in 2008. The funds were created with a sunset clause that will phase them out with the establishment of a UNFCCC financial mechanism.
2. *The GEF's Least Developed Country Fund (LDCF) and Special Climate Change Fund (SCCF)*: The LDC Fund promotes adaptation efforts for the least developed countries, specifically by financing mainly the design, but also the implementation, of National Adaptation Programs of Action (NAPAs), on a total scale of USD \$415 million. The SCCF provides support for long- and short-term adaptation efforts and technology transfer in all developing country parties to the UNFCCC on a total scale of \$218 million. These funds will likely remain in place with the establishment of the Green Climate Fund.
3. *Adaptation Fund (AF)*: The Adaptation Fund was created within the Kyoto Protocol in order to provide funds for adaptation programs in developing countries. The Fund is financed with a small percentage of revenue from the trade of Certified Emission Reductions (CERs) allocated for the Clean Development Mechanism and other sources. Total value of assets stood at USD \$211 million as of 31 January 2011.
4. *REDD+ funding from UN-REDD, implemented by FAO, UNEP, and UNDP*: This supports governments in designing and implementing REDD+ initiatives, on a scale of USD \$150.84 million.

Some possible future sources include:

1. *International Maritime Shipping*: Regulating GHG emissions from the marine transportation sector could generate finance through levies, carbon offsetting, or the sale of allowances. This method could produce between USD \$2-19 billion per year.
2. *International Aviation*: A market-based mechanism, such as sectoral cap-and-trade, has been proposed to decrease aviation-related GHG emissions. It could also raise revenue; estimates project

- that such a mechanism could generate USD \$1-6 billion per year.
3. *Direct Budget Contribution*: Developed nations pledge a specific contribution to climate finance from their national budget. Developing countries prefer this method, though it depends on developed nations' willingness to make and meet pledges, which can vary greatly depending on the current political and economic climate. Currently, the scale of this source is reflected in the scale of Fast Start Finance—USD \$30 billion over 3 years.
 4. *Financial Transaction Tax (FTT)*: This source would impose a global .005 per cent tax on each trade of financial instruments such as currency and stocks. While implementing such a mechanism would require a device for global taxation and collection, estimates project that this could generate USD \$2-27 billion/year.
 5. *Special Drawing Rights (SDR)*: This source uses the financial mechanism of a foreign exchange reserve that is held in each country's name at the International Monetary Fund (IMF). Although not a currency, it may be traded for (and is priced against) major currencies. Countries pay and receive interest from the IMF depending on their allocation, which can change as countries trade SDRs or exchange them for currency; for example, if they trade in SDRs for currency, they will have to pay interest, while if their holdings rise above their allocation, they earn interest.

In the international economic context, a few billion dollars increasingly became available since 2011 for the development of carbon capture projects, however, the range of opportunities related to financing for ecosystem services is much higher and will only begin to take shape after COP 21 in Paris and further on time. The 19th Meeting of the COP in Warsaw, 20th meeting in Lima and the 21st meeting in Paris received the mandate to establish the necessary financial mechanisms to achieve the transition to an economic downturn in consumption of carbon and to help fund the fight against climate change. The COP 19 adopted the mechanism called Reducing Emissions from Deforestation and Degradation (REDD), which aims to help combat these factors in forest use change. A new global climate agreement is expected to be adopted in COP 21 in Paris. The Paris meeting must amongst other things adopt concrete decisions on REDD, if it is to remain effective and operate as a vehicle towards Green Economy.

Approaches promoted by the World Bank (WB), United Nations Environment Program (UNEP) and Organization for Economic Co-opera-

tion and Development (OECD)- ranging from Green Economy to Green Growth, require reducing subsidies from carbon consuming activities, and also to decrease emissions of greenhouse gases by reducing degradation and deforestation of forested areas. These institutions promote and fund the legal, institutional and financial changes needed for the development of the pilot projects in order to develop data, experience and implementation to test the suitability of REDD as a vehicle for the transition to a low carbon and low emissions economy with zero net deforestation. UNEP and the World Bank and the international cooperation are promoting REDD projects in 32 countries in the world.

In Warsaw, Poland, during COP 19, in 2013, the UNFCCC parties agreed the Warsaw Framework for REDD opening the door to unlock funds for countries to implement REDD + activities, conserving tropical forests, fighting against climate change and giving benefits to people and biodiversity. This Warsaw REDD framework contains a methodological rulebook with five key decisions such as reference levels (SPI) and monitoring, reporting and verification (MRV), which enables countries to advance in REDD implementation. Social and environmental safeguards have key importance to the sustainability of REDD + and shall be linked to results-based payments. REDD + node was established to facilitate transparency of information, for example, prevent cases of Pirates of Carbon. Also, the Green Climate Fund was designated as the entity to finance REDD.

A member of World Wildlife Fund team at COP 19, on 27 November 27 2013, stated

[...] We are pleased to see that the spirit of compromise prevailed as negotiators COP19 met last week to finalize the key elements of an international mechanism for reducing emissions from tropical deforestation and forest degradation (REDD +) - the second largest source of emissions that cause climate change. The complete package includes REDD + decision on methodological aspects needed to complete the design elements of REDD +, results-based funding and guidance on institutional arrangements.⁸

REDD + is now in the process of discussions under the UNFCCC in or-

8 WWF 2013, "COP19: Final Reflections" (November 27, 2013) <wwf.panda.org/what_we_do/footprint/forest_climate2/wwf_forest_and_climate_blog/> accessed June 12, 2015.

der to strengthen their contribution to tackling climate change and develop necessary actions, for example, through the Standing Committee of the Finance Committee. REDD + is now a formal mechanism in place with agreed rules for establishing reference levels, recognizing mitigation activities, institution building, ensuring safeguards and -above all- the creation of funding mechanisms based on performance. The final text of REDD + shall include an agreement on results-based financing, and also requests funding for all phases of REDD + from the provision, capacity building, pilot projects and so on. However, WWF also pointed that 'concrete steps to address pre 2020 ambition and an equitable agreement for 2015 be taken such as, an end to all dirty corporate sponsorship of UNFCCC climate talks and a guarantee of the right to freedom of expression and active participation by civil society organizations in the climate talks.'⁹

Furthermore, some REDD + donor nations such as Germany, Norway, the United Kingdom and the United States set up the initiative of the BioCarbon Fund for Sustainable Forest Landscape with a 280 million fund. WWF stated that the advances in the REDD + agenda at COP 19 will play a vital role in our fight against deforestation and climate change, but we still have important work to do in other benefits other than carbon sequestration, we need to think and develop approaches not based on the market and we need to consider important lessons learned from local REDD experiences.

The above mechanisms show that the world looks to the markets to help avert the climate crisis through cutting subsidies to carbon intensive activities, reorienting funding to education, health, sustainable public transport and others. Green Economy and Green Growth programs promoted by the Organization for Economic Cooperation and Development (OECD), World Bank, UNDP, among others provide normative basis for the world to maintain essential ecological processes, conserve biological diversity and ecosystems, ensure climate stability in the context of sustainable economic growth and foster improved quality of life of populations. Funding from carbon mitigation programs such as REDD+ bring fresh funds to conserve forests by promoting dialogue and helps to promote concerted policies of

9 WWF 2013 b, Last Chance: Change Needed for UN Climate Negotiations in Lima 2014 <www.worldwildlife.org/press-releases/last-chance-change-needed-for-un-climate-negotiations-in-lima-2014> accessed June 15, 2015.

good governance and environmental excellence, backed by local population involvement.

3. IMPACT OF FPIC ON FORESTRY LEGISLATION AND POLICY IN PERU

This increased international focus on FPIC, green economy, transparent REDD projects and policies have prompted an epistemological change and reversal by national authorities, private sector enterprises and financial institutions to promote greater sustainability in land use and resource extraction. This epistemological change of model opens spaces and opportunities for communal land owners and small-scale producers in rural areas to demand and establish better conditions in their interaction with the mercantilist economies of resource transfer nodes areas or the modern world market economies.

In 2008 and 2009 Amazonian indigenous peoples organized uprisings and blockades over highways, rivers and airports as well as some energy installations, such as Station 6 near Bagua to further demand for accountability and greater participation in forest management. On June 4, 2009 the Garcia administration through the Minister of Interior unsuccessfully attempted to clear the blockade leading to the killing of 34 people. The government was therefore forced to negotiate with the indigenous over the following 3 weeks. Twenty days after the horrendous killings, a dialogue between the Garcia administration and the Amazonian indigenous peoples was installed. This was a set up as four boards for dialogue to review: (a) what had happened in Bagua; (b) the forestry law (Law Decree 1090) and other law decrees which indigenous peoples demanded to repeal; (c) to draft a law proposal for FPIC; and (d) update Amazonian development plan prepared by indigenous peoples and the Paniagua administration (2000-2001) in 2001. The 2009 negotiation took over six months, which culminated in the enactment of Law 29763, the Forestry and Wildlife Law, and Law 29765, Law for Prior Consultation, in 2011.¹⁰

The new Forestry Law 29765 contains an important advance in the legislation by making references to the rights of non-indigenous rural populations and allows for them to obtain forest harvest rights. These populations are made up of colonists from all other areas of the country and from within the Amazon. In some regions such as San Martin and Loreto these settlements have been recognized as Peasant Communities [Comunidades Campesinas].

10 Peruvian laws can be searched and downloaded at <<http://www.leyes.congreso.gob.pe/>> accessed June 15, 2015.

The proposed regulations that went into consultation with indigenous peoples contained an innovative proposal of 'Community based Forestry Management' as 'The set of activities oriented to the sustainable use and conservation of the goods and services of forested ecosystems and other ecosystems of wild vegetation carried out by indigenous peoples, native communities and rural communities, riparian communities [*ribereños* in Spanish] and other local peoples. Community forest management is characterized by the diversification of uses for timber, non-timber, wildlife and other flora and fauna resources developed under individual business models or groups in partnership with companies and in different intensities of use from local markets to commercial enterprises.'¹¹

These are clear advances on community based natural resource management that answer to the demands of local peoples for governance on the forests and also attends the need of the international market to provide governance for the Green Economy in new areas of expansion of the valuation of natural capital. Until now the Peruvian State had rejected to cater regulations for rural populations such as the *mestizos*, *colonos*, and *ribereños*, which are different sub-varieties of migrants and the new cultures that they create when they mix with indigenous people's knowledge and management of resources and attempt to provide communal solutions to resource management problems. The Peruvian Amazonian fisheries regulations had formed Local Vigilance Committees made up of local fishermen. The proposal developed since 2010 by the Amazonian Regional Governments Managers of Fisheries proposes that these committees be made up of the concerned local population that lives in the river. Commercial fishing is accepted but under management plan over a section of river or lake. There has been some research showing consuetudinary management in the Pachitea River;¹² in the Pachitea and Ampiyacu rivers and in the Callería native communities.¹³

In the forestry area there have been some relevant experiences of timber production with FSC certification in the native communities of the Callería River, mixed management in Atalaya, native communities of the Purús River, reintroducing fauna to the river and harvesting Mahogany seeds, informal production of timber by men of the Ampiyacu River while the women trade on non-timber forest products and transforming them into handicrafts. In regards to eco-tourism, there are relatively successful experiences

11 Serfor 2014, General Regulations of the Forestry Law proposal, Annex I Glossary, Item 37 <<http://siar.regionamazonas.gob.pe/index.php?accion=verElemento&cidElementoInformacion=637&idformula=>> accessed June 15, 2015.

12 Soria and Rodriguez (n 6).

13 Collado, Rodriguez and Trenneman (n 6).

around the Inferno Native Community and Rainforests Expeditions since the early 1990s; the Machiguenga Hostal in the Manu National Park; and less successful experiences as the Yanesha Hostal in the San Matias San Carlos Protected Forests.

At the policy level, community based natural resources management in Peru needs to consolidate a specific core national legislation on support of community based natural resources management instead of a legislation dispersed over a number of laws and regulations. These processes shall help develop the local and regional legal framework. We need to overcome a policing scheme of control and surveillance and transit into an adaptive learning institutional public policy development in co-management, with local communities and other rural populations, in public and private lands, as part of dynamic and more complex landscapes. Landscapes, which require integrated management oriented to maximizing production but also to adapting and mitigating climate change and other needs of society and nature. We need to learn from the flexible enforcement used by commons managers favoring negotiation and compensation.¹⁴

The challenges of community based natural resources management at the institutional level are to empower local entrepreneurs managing natural resources be it communal or privately, as does the regulations for the forestry and fauna law in support of state action and monitoring and control bodies; advance the development of conservation agreements and managing shared benefits over resource exploitation in order to overcome problems of overlapping rights; focus on management results rather than rigid definition of concepts that limit the chances of success of adaptive co-management and other forms; and the development of a biotechnology institute to add value to natural resource trade beyond goods and ecosystem services.

Community based natural resources management experiences shall survive beyond the support of NGOs or the development cooperation in order to become a serious option; hence the need to develop partnerships with commercial operations. Community based natural resources management shall consolidate as a sustainable production alternative for low and medium intensity natural resources production with an inclusive effect on indigenous peoples and other rural populations. It is necessary to diversify the Peruvian government promotion and training for entrepreneurship to include a line of community based natural resources management.

Amazonian Indigenous Peoples have long demanded the Peruvian Gov-

14 Soria and Rodriguez (n 6).

ernment to title all indigenous peoples lands; grant forest use contracts to indigenous peoples forested lands; provide institutional and legal protection of indigenous lands; set up Territorial Reserves for non-contacted indigenous and indigenous peoples in initial contact; solve overlapping of indigenous lands with third party rights; and set up mechanisms of control and punishment for officials who divide indigenous peoples lands and territories. In this framework, organizations of indigenous peoples such as the Peruvian National Confederation of Amazonian Indigenous Peoples CONAP and AIDSESEP agreed with the Peruvian government a general framework for REDD projects. Peru is one of the first eight countries in the world that does. Amazonian indigenous organizations also negotiated during 2014 and 2015 the consultation process of the regulations of the Forest and Wildlife Law to indigenous peoples’.

Building a new paradigm such as, Green Economy, based on the utilization of environmental sustainability requires a change of values, rules and behaviors. This can occur through a mix of politics and education that can help make the economic paradigm shift towards sustainability happen. The recent approval in 2014 of the Ecosystem Services Law, the participatory development of the Draft Regulations of the Forestry and Wildlife Law, and the participatory drafting of Amazonian Fisheries Regulation are steps toward empowering community based natural resources management. However, there is a need to solve inconsistencies in the land tenure legal framework and ensure the sound interaction between for all forms of land ownership; that is public, private and communal, under the rule of law and the blessing of the market through social and environmental certification.

The institutional challenges ahead deal with the need for a fast judicial mechanism for complaints about involvement of tenure, environmental offenses and others; clear definition of co-responsibilities in an integrated system of multiple government stakeholders such as, MINAGRI, MINAM, the Interregional Amazonian Council (CIAM), the Regional Governments, amongst others; the effective implementation of state authority, supervision and help in rural areas; the integration of conservation policies with policies for economic growth in all levels of government.

The first practical implementation of the Law on Prior Consultation in Peru was in 2013 with broad local consultation on the approval of the Maijuna Regional Conservation Area. A second opportunity was the indigenous consultation processes for the award and licensing of oil block

169 in Ucayali, and other oil blocks, which followed. However, a first impasse between energy and mines authority and indigenous peoples around a similar process in oil block 192 was denounced on 2 May 2015.¹⁵ A third theme in the consultation process was the development of the Regulations of the Forestry and Wildlife Law. The proposed regulations were developed by an inter-sectoral government instance and then published in December 2013 to receive public input until February 2014. Since then the process of participatory review of contributions resulted in an adjustment of the text, which led to a final version by July 2014. This text was submitted to the consultation process with indigenous peoples from July to December 2014. An intersectoral group comprised of Ministry of Culture, Ministry of Agriculture and Irrigation, Ministry of Environment, Ministry of Production and the Interregional Amazonian Council led this process. By early 2015, the regulations made up of 7 different general thematic regulations, had the approval of indigenous peoples.

The development of regulations of the forestry law under the framework set by the prior consultation law is an unprecedented experience in Peru. The dialogue and negotiations in the drafting and preparation of the proposal helped reduce social conflict in the forest and diversify the opportunities for sustainable use of it. This is a significant advance in intercultural perspective and inclusion of indigenous peoples and other rural populations. The consolidation of democracy, progressive de-legitimization of bureaucratic authoritarianism, organizational processes of social and new 'identities' social movements have favored an 'empowerment' of the demands of social actors and groups that have emerged since the late 1960s in the Peruvian Amazon. This can be best seen in the processes of negotiation between indigenous peoples and the Peruvian government in many instances but particularly in 2001 and 2009. This has helped increase the impact of these processes on public policy by extending the hope of improving the quality of life of rural populations.

Thus, the Peruvian national political context has been positively influenced by the enactment of the Prior Consultation Law, which has set a significant change in the relationship between Indigenous Peoples and the Peruvian State. This law helps lay the foundation for intercultural dialogue in public policy development. The best example of this change is expressed in the fact that, while AIDSESEP leaders were being prosecuted by the judi-

15 Servindi, 'Perú: Se frustra reunión preparatoria para consulta en lote 192' at SERVINDI May 2nd, 2015 < <http://servindi.org/actualidad/129340> > accessed June 21, 2015.

ciary and the public attorney in the Regional Court in Bagua, its relationship with the executive had built up close ties around the need of the Humala administration of helping develop REDD schemes and the regulations of the forestry law. All of this requires agreement with indigenous peoples and the development of some necessary changes for land protection, forest conservations, carbon sequestration, law and order, which AIDSESP had long before identified as some 'preliminary issues'¹⁶ necessary for proper implementation of any forest law. Moreover, on the road to COP 20 The Ministry of Agriculture MINAGRI, Ministry of Environment MINAM and the Ministry of Production PRODUCE initiated studies to identify the nationally adequate measures for adaptation and mitigation of climate change.

In 2013 the Peruvian government and indigenous peoples agreed to implement REDD + projects and started working on the legal and institutional architecture to make it possible. In November 2013, during the Second Summit of the Coordinator of Indigenous Organizations of the Amazon Basin COICA, in Inirida, Colombia, the representatives of MINAM and COICA agreed to walk together towards COP 20 ensuring support for Amazonian Indigenous REDD + proposal. COICA and its organizations saw this as a means to financing secure land tenure, mechanisms for legal protection of land, forests and resources rights, conservation actions to maintain and keep forests, prevent unsustainable change of use, and finance sustainable activities in surrounding areas.

4. COICA AND THE AMAZONIAN INDIGENOUS PEOPLES REDD+ PROPOSAL

When development organizations such as UNEP, World Bank and the Food and Agricultural Organization of the United Nations (FAO) approach indigenous peoples in order to present REDD + proposals they are often met by resistance and divide between some indigenous peoples organizations. Some groups have rejected the idea of the financial market 'coming in support of the forests and climate' such as the Chilean and Mexican Indigenous Peoples Organizations while the Amazonian indigenous peoples were more prone to hear the UNEP, World Bank and FAO proposal of REDD + and prepare their own counterproposal. This divide was evident in the meeting of these parties in Lima, in August 2012, when NGO representatives invited by the Amazonian organizations to help

16 These preliminary issues were identified by the Post Bagua Board 2 on the review of the Forestry law and other decrees.

facilitate the meeting were suddenly requested to leave the room by the Chilean and Mexican representatives, who then went to reject the idea of negotiating green finances.¹⁷ The Confederation of Amazonian Indigenous Organizations of the Amazon Basin representatives instead invited their NGO allies to sit at the back of the room and quietly attend the meeting.

COICA had started allying with environmental NGOs back in the 1980s when IADB and WB funded projects were burning the Amazon in an Arch of Fire. By 1990, COICA cited the Big International US-based environmental NGOs to a meeting in Washington, DC, where they were presented with a statement declaring an alliance between environmental NGOs and Indigenous Peoples organizations on some of their common causes for the future of the Amazon. By 1992, the influence of these change meant that COICA went ahead to propose co-management of protected areas, which in Peru resulted in the set-up of the Communal Reserve category in the Protected Area Law of 1997. Since then, Amazonian indigenous peoples used this category of protected areas as a means to secure public lands of their traditional access in order to ensure resource-access for the well-being of the populations that live in the vicinity of these lands.¹⁸

COICA requested funds for REDD awareness to start discussing its own understanding of the REDD proposal, review its advantages, shortcomings, risks and opportunities, and convene NGO allies such as, the WWF, the Fundacion Futuro Latinoamericano, Rainforest Norway, among others, to help provide western scientific support to their indigenous peoples knowledge proposal. This move opened the door for COICA to access newly available REDD awareness funds and upscale its aims of safeguarding indigenous

17 To reduce greenhouse gas (GHG) emissions, increase its sequestration, and adapt to the harmful impacts of changing GHG levels, both developed and developing countries must carry climate change mitigation and adaptation measures. While efforts to achieve these goals have long-term benefits and are essential for the sustainability of life on earth, significant investment is required in the near term. Climate finance is an effort to support developing countries by providing funding from the developed world to assist these countries in mitigation and adaptation, and to embark on green development paths.

18 These arrangements can be seen in the El Sira Communal Reserve surrounded by native communities on both flanks; also in the cone-headed Purus Communal Reserve protecting the cone-bottom-shaped native communities of Purus; and in the boarder protected area arrangements in the Yanasha and in the Ashaninka and Machiguenga Communal Reserves. Detailed maps are available at <www.ibcperu.org/img/mapas/8112659144d80d71e663ce5.89102939.jpg> accessed June 15, 2015; the Purus Communal Reserve at <www.ibcperu.org/img/mapas/690160254d80d7c772a599.10793497.jpg> accessed June 15, 2015; the Ashaninka and Machiguenga Communal Reserves at <www.ibcperu.org/img/mapas/3381988584d80d338a66770.69863762.jpg> accessed June 15, 2015; and the Yanasha Communal Reserve at <www.ibcperu.org/img/mapas/10036472144d80d75dc2f1f2.79124320.jpg> accessed June 15, 2015.

territories through REDD finance. COICA decided to use these funds to re-address the REDD proposal and turn it into an opportunity to ensure sustainable forest management. COICA, firstly, rejected to locate REDD funds in the stock market, they preferred instead that funds were budgeted for REDD activities including the implementation of native communities Life Plans, which expresses their own expectancies over natural resource management in the present and future. Secondly, COICA expressed that carbon sequestration was only one of 24 environmental services provided by forests.

Thirdly, COICA advanced to request their 40 years old program of demarcating, titling, securing, protecting and sustainably managing their forests, lands rivers and heritage, expressed at the local level in the Native Community Life Plan [Plan de Vida de la Comunidad Nativa X], in the district, regional and national levels in their federations and organizations life plans who aim to ensure, the same old demands, but these time with environmental education programs, MRV, and green finances.¹⁹

The Amazonian Indigenous Peoples REDD approach (RIA) is an initiative that recognizes the value of the integrity of the environmental services provided by indigenous people's territories and forests. The approach goes beyond carbon capture and invites to the adoption of a comprehensive vision and a holistic approach to include other goods and services. This is a contribution to the construction of REDD + to prioritize the holistic management of forests and territories, to promote cooperation and propose alternatives to address climate change with equal participation of indigenous peoples mechanism. To achieve its objective, the project seeks to: a) assess and record accurately the contribution to the provision of ecosystem services and climate change mitigation of indigenous territories, b) implement key elements of Amazonian indigenous peoples approach to REDD + for demonstration purposes, and c) increase the capacity of COICA and its affiliates to influence the REDD + processes at all levels. Amazonian indigenous territories occupy 25 per cent of the Amazon basin, these forests could store between 30 and 46 million tons of carbon. The sustainable management of these territories by indigenous peoples offers great potential to mitigate climate change through REDD + and other forms yet to be defined in an intercultural dialogue. In order to include these areas into the national REDD + strategies of the three countries, it is a priority that the needs and proposals

19 COICA 2011, Alternativa de REDD+ Indígena. Territorios de vida plena para enfriar el planeta, Lima. AIDESEP 2015, AIDESEP pide al gobierno la titulación de los territorios indígenas amazónicos, en Diario La República, April 26 edition, Lima.

of indigenous peoples be discussed, researched in western science terms and incorporated into public policy.

Peru is now one of the eight major countries implementing sustainable forest management and REDD schemes. The promotion of REDD schemes requires land security, combating illegal change of land use, promoting activities for conservation and sustainable forest management. Peru is among the first countries to begin legal and institutional arrangements for REDD. This is a great opportunity for Peru's forests of various types. This is reflected in the existence of over 40 REDD projects in different regions of Peru, including two prioritized regions as San Martin and Madre de Dios. The Ministry of Environment (MINAM) of Peru is promoting a program of forest conservation, while it has submitted a proposal to the Forest Investment Program (FIP) and another to the Forest Carbon Program Fund (FCPF) to develop REDD in consultation and agreement with the Amazonian indigenous peoples.

The recent adoption in 2014 of a Law of Ecosystem Services and the development of the proposed Amazonian Indigenous Peoples REDD (RIA) proposed by COICA are hopeful signs of green finances coming to the region. While, for example, in Madre de Dios, indigenous peoples federations such as AIDSESP and FENAMAD are a driving force in developing experiences of REDD in native communities; on the other hand, in San Martin REDD is implemented with non-indigenous populations. There are also other 30 REDD projects of lesser extent in Peru. Recent events and processes considered could shed light on the experience and lessons learned in the legal and institutional architecture of Peru for REDD schemes.

The Emissions Reduction Project Investment Note (ER PIN) PERU was presented by MINAM on May 2014 to the Forest Carbon Partnership Facility (FCPF). The tenth meeting of the Carbon Fund in Bonn, Germany, during 16 to 19 June 2014, appreciated the proposal presented by Peru, in particular the sound analysis of drivers of deforestation, the ambitious scope of the program, the alignment with other relevant ongoing activities, and integration with national strategies and development plans. Peru was encouraged to present a revised ER-PIN to be considered for selection at CF11 considering, mainly to:

1. Provide more details about the proposed interventions, including on how they address identified drivers of deforestation and which actors will be involved in the implementation of interventions.
2. Demonstrate that readiness progress, in particular establishment of the MRV system, can be accelerated to meet the timescales required

- by the FCPF.
3. Provide information on the current status of biomass levels and how measurement will be refined during program development.
 4. Refine the analysis and estimates of forest degradation.
 5. Demonstrate how existing REDD+ projects and programs will be nested within the proposed ER Program, in particular related to accounting, benefit sharing, etc.
 6. Clarify whether the ER program development will analysis the risks of land use zoning and land tenure interventions, particularly their impact on land user relationships, paying special attention to Indigenous Peoples and other forest-dependent peoples. Demonstrate that risk mitigation measures have been or will be incorporated in program design.
 7. Describe proposed approaches for engagement and participation of Indigenous Peoples living in remote parts of the program area, in ER-Program preparation and implementation.
 8. Discuss in more detail the relation between benefit sharing and effective land resource rights.
 9. Provide additional details on how safeguards related to the ER Program are being and will be addressed during program preparation and implementation.

Arguably, the above observations to the PERU ER PIN stem mainly from the adoption of broad general discourses which lacked specific data and proven strategies.²⁰ A second limiting factor was the scarce development of ecosystem services and climate related legislation, and at the level of institutional arrangements. I propose that in order to share benefits with indigenous peoples the State must combat and regulate land use change; organize all levels of public authority at national level (MINAGRI, MINAM, Ministry Public, Police, SERFOR, others); regional level (integrated action and planning, unified registry), and local or communal level (communal assembly, forestry custodian).

According to the Peruvian NGO Law, Environment and Resources (DAR)²¹ the institutional arrangement for REDD in Peru are uncertain and

20 MINAM 2014, PERU ER PIN, presented to the 10 CF in Bonn, 2014.

21 Oblitas, Cecilia y Sébastien Snoeck, Comentarios De Derecho Ambiente Y Recursos Naturales (DAR) (2014) A La Propuesta Del Programa Reducción De Emisiones (ER-PIN) De Perú Presentada Al Fondo De Carbono (CF10) Del Fondo Cooperativo Para El Carbono Forestal (FCPF).

still generate doubts, for instance, in regards to citizen participation; there is no planning advanced for citizen participation in the Forest Investment Plan; no strategic environmental assessment has yet been considered; the ER-PIN mentions that the benefit distribution schemes are still under development. However, the recent approval of the Ecosystem Services Law might affect the access to benefits by non-titled native communities; the Peruvian Government must seriously commit to titling indigenous peoples lands; there is no clear link between activities and the additionality of the fund; there is no clear management and contingency plan for risks envisioned; and the co-benefits offered to local populations how they are to be set, for instance.

5. COP 20 PROCESS

The global economic context towards COP 20 was that oil had fallen 40 per cent since mid-June 2014. The Economist alluded to the United States' additional 4 million barrels to its national production, which reduced foreign demand, and helped flood the world market. The Organization of the Petroleum Exporting Countries (OPEC) discussed whether to cut production and decided not to leave a space open in the market for non-OPEC sources.²² Finally, OPEC decided to maintain production at 30 million barrels of oil per day. India announced in October that it would eliminate subsidies for fossil fuels. The US and China announced an agreement to reduce emissions of greenhouse gases GHG by 26 per cent by 2030. China offered to achieve a 20 per cent renewable energy production by 2020. Australia in the middle of the meeting of the OECD announced that it would take a significant extent on climate change, encouraging expectations. While the EU intends to move away from carbon, Russia is the second largest oil producer whose budget was being reduced with the fall of the price of oil and, furthermore, by the US and EU sanctions applied over their differences on Ukraine. In this context, the COP 20 began on 1 December, with a barrel of oil at US \$ 68, which was way down to US \$ 61 on Sunday the 14th.

The COP at its twentieth meeting (COP 20) held in Lima, from 1 to 12 December 2014, dealt with adaptation; mitigation; carbon reduction mechanisms; technology transfer and funding. It also built on mandates of previous COPs by focusing on: access to information on emissions of greenhouse gases (GHGs), national policies and best practices; national strategies and

22 Oil prices, *The Economist* (2015) <www.economist.com/topics/oil-prices> accessed June 12, 2015.

approaches for addressing GHG emissions and adapting impacts of climate change and to determine the provision of financial and technological support to developing countries and international cooperation to prepare for and adapt to the effects of climate change.

To elect the members of the presidency that directs the COP negotiations States are typically organized into five regional groups: Africa, Asia, Central and Eastern Europe, Latin America and the Caribbean, and Western Europe to Australia, Canada, USA, Iceland, Norway, Switzerland and New Zealand.²³ However, with the exception of the African group, these groups do not work as negotiation groups. In the UNFCCC negotiations, States are grouped based on their affinity on specific issues; as the Alliance of Small Island States (AOSIS); the Group of 77 and China (G77-China); the European Union or the Environmental Integrity Group. Peru participated in the group known as AILAC (Latin America and the Caribbean). Countries were grouped according to their thematic interests forming various partnerships in various topics. For example, at some point, Africa, Latin America and the G77 called for the definition of an overall financial goal for implementation of adaptation measures in their countries.

The long and exhausting negotiations did not end on 12 December, but on the morning of the 14th of December. Furthermore, the meeting failed to simplify the draft comprehensive agreement and resolve the great expectations on shared but differentiated responsibility for climate change between developed and developing countries. The US and EU position is summed up in the words of US Secretary of State, John Kerry, who noted that the bill was too high to be taken only by the developed countries, as the most vulnerable countries have not caused this crisis and consume resources even within the possibilities offered by national natural resource stocks and, therefore, require funding to develop actions to confront the climate crisis imposed on its territories and populations. Nicaragua and Uganda, to name a few countries, demanded that the poorer countries were affording the account of climate change. This view is shared by the small island states of the Pacific Asia, the Bolivarian Alliance for Our Americas (ALBA) countries, some Arab oil producers and the least developed countries (Haiti and others).

23 See UNFCCC, Summary of Key Outcomes, The 20th session of the Conference of the Parties and the 10th session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol, from 1 to 14 December in Lima, Peru. <<http://newsroom.unfccc.int/lima/lima-call-for-climate-action-puts-world-on-track-to-paris-2015/>> accessed 20 June 2015.

COP 20 had some positive results, such as: a) achieving the goal of the Green Climate Fund; b) the contribution of Latin America to increase the use of renewable energies, and c) Promoting REDD as a mechanism to reduce emissions. On the negative side: a) it was a COP very much on the hand of the interests of continuing burning fossil fuels, this is reflected in the lack of agreement on reducing emissions from now to 2020. This decision is very serious; thus bringing the weather to the brink of exceeding a temperature rise higher than to 2°C, which will generate weather catastrophes like we have not yet seen; b) the lack of clarity for financing climate action promises by 2020; c) the removal of references to loss and damage mechanisms that affect the most vulnerable countries, like Peru; d) the lack of definition on safeguards for REDD mechanisms particularly in relation to indigenous and other rural populations. Thus, the road to Paris is marked by the aim to draft a text of a global agreement, which can reflect the aspirations of the 196 countries. Lima made some progress but it is left to Paris 2015 to finalize the task.²⁴

At the national level, COP 20 opened opportunities to benefit from the mechanisms of the UNFCCC. For example, on adaptation, with about 4 million people living on the edges of poverty and social marginalization other factors Peru has a particular sensitivity to climate change. For this reason, in terms of adaptation we are a test lab, for example, climate related research on issues of water and food security.

6. DEVELOPING GREEN ECONOMY PROJECTS

If the current global economic and political development emphasis on the adoption of Green Economy approaches are to yield positive results, we must ask ourselves questions on how to overcome challenges of incorporating forests into the modern market either through REDD or other mechanisms of green finance. While nationally Peru has near 40 national REDD projects nationwide with funds from the voluntary market; 40 REDD+ projects are being designed and implemented. The most important of these are national projects (29), early initiatives (12), national programs (2) and regional initiatives (3). In terms of territory, there are a number of initiatives in Madre de Dios (12) and Ucayali (11).²⁵ These REDD projects involve corporations, as Disney or LAN; regional governments, as Madre de Dios and San Martin; NGOs as WWF, CI or AIDER. There are also indigenous

24 Ibid.

25 MINAM 2014 (n 19).

people's purpose specific funds, which in the case of Peru in 2014 before COP 20 was of US \$ 103 million available, then Norway announced the commitment of an additional \$ 300 million. Forests are articulated to the market through the mercantilist economy, which survived in the development paradigm from the XV to the XIX centuries.

There are some loggers under this epistemological framework fighting every meter in the forests with other social actors such as the non-contacted indigenous peoples. For the market to value environmental services there is a need to ensure that market expansion also lead the expansion of human rights of the populations with which they regard as part of a policy of inclusion for the harmonious and sustainable development, low in carbon and emissions and with zero net deforestation. In this context and in light of the political commitment and investment opportunities provided by the Green Economy and Environmental Services approaches there is a need to think of Peruvian landscapes that might be considered pilot projects with zero net deforestation, low carbon emissions, socially inclusive and contributing to the sustainability of the present and future generations.

The 10 million hectares of tropical forest conservation corridor Purus Manu - CCPM represent 13.5 per cent of the Peruvian Amazon. The area is home to an impressive socio-biodiversity. The presence of at least 10 indigenous peoples in isolation and initial contact and native communities is the first feature of this conservation mosaic.

This is the largest area of protected land in favor of indigenous peoples in isolation or initial contact. Here, two tributaries of the Amazon River are born; the Purus and the Yurúa Rivers and other smaller rivers such as, the Tahuamanu and Las Piedras.²⁶ Fifty per cent of this territory is made of protected natural areas while other forms of sustainable and non-sustainable management of tropical forest make up the remaining 50 per cent. The corridor contains the highest concentration of mahogany in the world; and one of the largest populations of giant otter in the Peruvian Amazon. It is the southern boundary of the river dolphin. The corridor is made up of:

1. 63 native communities and settlements of migrants from the Andes, the coast, the Amazon, and descendants of foreigners.
2. 4 territorial reserves for non-contacted indigenous peoples: the Murunahua; Nahua Nanti Kugapakori; Madre De Dios and Mash-

26 *ibid* 1.

co Piro territorial reserves; native communities territorial reserves and protected areas are inhabited by 15 different Amazonian indigenous peoples, and

3. 5 protected areas: the Amarakaeri Communal Reserve; the Purus Communal Reserve; the Alto Purus National Park; the Megantoni National Shrine and the Manu National Park.

This core is flanked by 86 timber concessions in two blocks; one Sepahua and one in Tahuamanu, occupying 14 per cent of the corridor; 34 non-timber forest concessions on 0.4 per cent of the corridor; and several conservation and ecotourism concessions over two per cent of the corridor. There are also mining concessions and the partial overlapping of some of these areas with 5 oil blocks; oil blocks 57, 88 and 188 in Ucayali and oil blocks 76 and 157 in Madre de Dios. Oil blocks 57 and 88, together with oil block 56, are the Camisea fields, all three together have an estimated gas potential of 15 trillion cubic feet (TCF).

The five oil blocks were at different stages of development, generating different impacts on protected areas and indigenous reserves for non-contacted indigenous peoples and on indigenous peoples in initial contact, even in areas outside such as the Machiguenga Communal Reserve, the Ashaninka Communal Reserve, the Otishi National Park and the Nahua, Kugakori, Nanti Territorial Reserve²⁷ and the Otishi National Park and the Megantoni National Shrine.²⁸

Biodiversity in the Western Amazon, known in our country as the Andean Amazon, a denomination of the Bolivian, Brazilian Colombian, Ecuadorian, Peruvian and Venezuelan Amazon is of utmost importance.²⁹ Finer warns specifically on the risks of oil development as much of the Colombian, Ecuadorian and Peruvian Amazon indigenous lands and protected areas have been overlapped with oil blocks.

27 Organización De Desarrollo De Pueblo Kakinte (ODPK) Ayuda Memoria Y Pronunciamientos de La Organización De Desarrollo De Pueblo kakinte-ODPK, Al Estado Peruano En El Transcurso del Año 2011 Frente Al Proyecto De Gas De Repsol lote 57 Su- perpuesto A Nuestro Pueblo Y Territorio kakinte, Satipo, 8 de Octubre de 2011 2 <<http://es.scribd.com/doc/69935131/ODPK-A-LA-OPI-NION-PUBLICA>> accessed May 15, 2015.

28 Servindi, Perú: Repsol encuentra gas en Parque Nacional Otishi y Santuario Megantoni (2012) 1 <<http://servindi.org/actualidad/71878>> accessed May 15, 2015.

29 M Finer, C. N. Jenkins, S. L. Pimm; B Keane and C Ross (2008) Oil and Gas Projects in the Western Amazon: Threats to Wilderness, Biodiversity, and Indigenous Peoples, PLoS ONE, 1 August 2008, Volume 3, Issue 8, e2932 3 <www.plosone.org> accessed May 15, 2015.

While the Western Amazon has been relatively marginally open by roads, all these new oil blocks will require internal and external paths to connect producing fields, pumping stations, pipelines and so on which can accelerate deforestation and unregulated land use change. The roads and highways are a catalyst of deforestation and address this, show the need to monitor this expansion of oil activity by assessing roads, consultation, the application of management tools as the initial Strategic Environmental Assessment and the situation of indigenous peoples in isolation and contact.³⁰

In this context, the South American Regional Integration Initiative (IIRSA)³¹ project with its inter-oceanic highways are major fronts of expansion of the national society which normally favor forest and resource degradation and deforestation through a un-regulated spatial occupation at the hands of individual actors, without proper management of collective and public dimensions of the land. The OECD and its governance proposal³² or a new social contract for a better and more democratic government on the planet and its resources present us with opportunities for various arrangements that enable dynamic landscape of various forms of ownership that could allow the coexistence of nature, its peoples and economies of production and services. The Purus Manu Conservation Corridor Manu is one of such areas that can help start thinking about this challenge. There are other large areas in the Peruvian Amazon such as the Ampiyacu-Putumayo mosaic; the Sierra del Divisor and Isconahua Reserves and many more with various millions hectares of protected land.

30 M Hiraoka and S. Yamamoto, 'Agricultural Development in the Upper Amazon of Ecuador' (1980) *Geographical Review* Vol. 70, No. 4; D Mahar 1990, *Government Policies and Deforestation in Brazil's Amazon Region* (1990) Washington, DC: The World Bank; J Uquillas, 'Colonization and Spontaneous Settlement in the Ecuadorian Amazon' in M. Schmink and C. H. Wood (eds) *Frontier Expansion in Amazonia*, pp. 276-277.

31 The South American Regional Integration Initiative (IIRSA) is an initiative of multimodal transport that will allow access to natural resources and markets in a way never before dreamed. The environmental and social impacts of this expansion into the last frontiers of South America will be faced by the more vulnerable indigenous peoples and rural populations.

32 See the proposal at <www.oecd.org/governance/> accessed June 20, 2015.

7. CONCLUSION

The international economic paradigm is shifting from naked resource extraction towards sustainability and the green economy. This move aligns with the intercultural approach enshrined in the Peruvian New Forest and Wildlife Law which advocates respect for the rights of indigenous peoples and participatory development in forestry and wildlife management. This public policy change provides opportunities for implementing a legal framework that addresses the diverse realities of indigenous peoples from non-contacted indigenous peoples through to the voluntary forest certification of some native communities managing their forests.

There are excellent opportunities in REDD and forest management as evidenced by recent progress made by the Peruvian government and indigenous peoples on both subjects. The green economy approach as promoted by OECD, UNDP and WB could provide adequate framework for the Peruvian government to consolidate the Amazonian Indigenous Peoples REDD+, known as RIA, proposals as well as to visualize the future development potential of forests in the Green Economy. To maximize these opportunities, there is a need to develop research at the level of conceptual models on the one hand, while on the other hand, it is necessary to identify within the country areas where pilot projects could be implemented under the green economy approach.

Commons such as forests, rivers and the atmosphere should be assessed and utilized with the full cooperation of all stakeholders that utilize them. It is therefore important to understand the characteristics of social groups that manage the resources.³³ The new environmental policy, the process of participatory development of the regulations of the forestry law is a recasting of the meta-values from an ecosystem and intercultural-aware perspective that will allow us to give content to the green economy from the South. Until 2014, the situation of community based natural resources management had been left to free initiative and goodwill, and has therefore faced difficulties and lack of support of indigenous communities in Peru.³⁴ From 2014 however, regulations of the forestry law give hope for legal change in support of community-based natural resources management. The context of UNFCCC COPs and REDD funds can help steer legal, institutional and social change

33 A Djeumo, *The Development of Community Forests in Cameroon: Origins, Current Situation and Constraints*, Rural Development Forestry Network (2001) DFID network paper 25b, July.

34 E Ostrom, *El Gobierno De Los Bienes Comunes*, (México 2000) Fondo de Cultura Económica.

in favor of the sustainability of forests and ecosystems. The next 10 years offer great hope and opportunities for community based natural resources management, while critical to the viability of a more equitable development in rural areas and populations.

Furthermore, there is a need for coherence and synergy of national and international approaches to participation and stakeholder engagement to avoid overlap. For example, at the national level in Peru, the processes of state reform, decentralization, and the negotiations in 2001 and 2009 between indigenous peoples and the State were the main vehicles to agree around a proposal of FPIC Law and Forestry Law. At the international level, vehicles that have been important to steer the national policy arena in support of respecting indigenous peoples rights in forest management have been advanced by UNEP and World Bank proposal for REDD. Given the fact that there are differences of scale and impact among national and international approaches and the forces that drive them, improved synergy and coherence would further help align national approaches towards reaching national and international sustainability goals.

Overall, recent legal developments in Peru demonstrate increased global awareness and search for better and more inclusive and sustainable communal forest and management of wildlife resources. These changes introduce principles such as multiculturalism, respect for traditional knowledge and indigenous view of the cosmos, the rights of other rural populations, including mechanisms, procedures and safeguards to enforce the intercultural forest management and respect for the rights of indigenous peoples. There is a need for sustenance and continuous implementation of the policy goals set out in the new laws to ensure that they are effectively implemented. For example, there is a need for proper staffing of SERFOR and GORES and continuous capacity development for policy leaders on best practices on intercultural aspects of sustainable forest and wildlife management. Policy leaders and administrators must also explore bio-commerce opportunities, public private partnerships and social/environmental certification to incorporate experiences of community based natural resources management into business and investment programs.