

Is the Formalization of Collective Tenure Rights Supporting Sustainable Indigenous Livelihoods? Insights from *Comunidades Nativas* in the Peruvian Amazon



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ABSTRACT

After decades of activism by Indigenous Peoples and their allies, the need to formalize Indigenous land rights has received increasing global attention as a strategy to address climate change. Research has highlighted the compatibility between community forest management regimes and carbon sequestration, reiterating the essential role that securing Indigenous land tenure must play in forest-based climate change mitigation strategies. Based on research conducted in six Indigenous *Comunidades Nativas* with formal collective titles in Peruvian Amazonia, this article argues that titling alone is not enough to ensure that Indigenous Peoples are supported and enabled to access their recognized rights and play a central role in addressing the climate crisis. Indigenous Awajún and Asháninka informants discussed challenges with accessing suitable livelihoods, excessive restrictions on timber harvest, land conflicts with smallholder migrant farmers and extractive concessions, unclear conflict resolution mechanisms, and policies that assume a communal governance model that differs from actual Indigenous leadership roles and institutions. All of these challenges put pressure on community members, creating incentives for unsustainable land and resource use, and undermining their abilities to protect their forests. Although Peru has included *Comunidades Nativas* and other co-managed areas in the mitigation actions toward its Nationally Determined Contribution to the Paris Agreement, it must re-examine its titling reforms, and the way that *Comunidades'* land and resource access is regulated and weakened. This will allow for titling in practice to live up to its promise in theory as a strategy for promoting equity and mitigating climate change.

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INTRODUCTION

There is growing evidence of the central role that Indigenous Peoples can play and have played in the global response to the climate emergency, a role they have long argued for (Espinoza and Feather, 2011). Research shows that maintaining forested areas under community management regimes reduces deforestation more than other land management arrangements, including protected areas (Garnett et al., 2018; RRI, 2017; Schleicher et al., 2017). Secure collective land rights allow communities to better protect their forests, and studies have also emphasized the compatibility of Indigenous Peoples' environmental management practices with carbon sequestration and conservation (Blackman et al., 2017; RRI, 2018; Yeh and Bryan, 2015). These findings align with the emphasis placed on Indigenous Peoples' environmental stewardship in global discussions regarding the climate crisis (FAO and FILAC, 2021; IPCC, 2019). Yet, despite their important role in addressing the climate emergency, Indigenous Peoples are one of the constituencies that have contributed the least to climate change, while bearing some of its worst direct and indirect impacts, and high costs from forest-based 'solutions' (Marino and Ribot, 2012).

Over the past few decades there has been an expansion of policies towards recognizing collective land rights for Indigenous Peoples (Agrawal and Ostrom, 2001; Stocks, 2005). Major initiatives have mobilized to demarcate and title collective territories for Indigenous Peoples, especially given calls to regularize tenure before the introduction of global 'nature-based solutions' in their ancestral territories (Dooley and Stabinsk, 2018; Larson, 2011; RRI, 2017). Some countries have included community and co-managed areas in national policies and in their Nationally Determined Contributions (NDCs) to the Paris Agreement (RRI, 2016). The rationale is that if Indigenous Peoples can continue their stewardship practices with secure territorial rights, this will benefit national and global climate change mitigation strategies.

Titling, however, is not a silver bullet for sustainable forest management, despite it often being discussed as such (for critiques, see Larson et al., 2016 and Monterroso et al., 2019). Throughout Latin America, the legal recognition of collective territories is driven by the Indigenous movement and its allies pressuring governments to recognize Indigenous rights in the face of legal and illegal land and resource dispossession by the state, companies, and other actors (Chuecas Cabrera, 2007; Global Witness, 2020). Indigenous movements continue to advocate for the formalization of Indigenous Peoples' rights to land and resources as the most important mechanism to secure their rights and livelihoods (Seymour et al., 2014). Yet as formalization expands, analysts have

emphasized the challenges that arise for communities once titling is completed (Larson and Lewis-Mendoza, 2012; Monterroso et al., 2019). Some analysts have noted that tenure reforms and other regulations on Indigenous territories have restricted the livelihoods Indigenous Peoples can pursue, including limitations on access to resources, the granting of extractive concessions on titled Indigenous lands, and the failure to resolve overlapping land claims (see Monterroso et al., 2019 for a review). Laws governing access to land and forests are often designed without taking into consideration the priorities, institutions, and resource use of local communities and reforms do not always enable resilient livelihoods at a time when Indigenous Peoples need cash incomes to subsist (Sarmiento Barletti, 2016). As a result, informal practices remain widespread, and local people are often unjustly penalized (Duffy, 2010; Maryudi and Myers, 2018). Even when communities have their land rights legally recognized, government actions that undermine those rights can lead to deforestation, at an even higher rate than under other regimes (Stevens et al., 2014). The global discourse, while broadly promoting Indigenous commons management, can lead to essentializing policies that do not reflect the diversity of Indigenous Peoples' identities, beliefs, and livelihoods, and that do not account for the national political conditions that shape Indigenous commons management (Monterroso et al., 2019; Wily, 2011; Yeh and Bryan, 2015).

In this article we aim to explore whether the titling of Indigenous territories is supporting Indigenous Peoples' abilities to effectively conserve forests in the Peruvian Amazon. We seek to understand if the global emphasis on titling to improve the success of climate strategies – which rests discursively on Indigenous environmental stewardship and management practices – is leading to forest protection and secure Indigenous livelihoods. To that end, this article explores how the inhabitants of *Comunidades Nativas* (Native Communities), the titled Indigenous collective territories in the Peruvian Amazon, perceive their livelihood options and manage their territories under the framework framed by relevant laws. Peru, with the second largest share of the Amazon, is a prime setting for this exploration. On one hand, it has publicly aligned with the conservation and development discourse around formalizing and securing Indigenous land rights; it has recognized *Comunidades*, signed international agreements for Indigenous rights, and included community-held land in its Nationally Determined Contributions to the Paris Agreement.¹ On the other hand, it has passed laws, policies, and rollbacks – concurrent with titling – that have limited communities' abilities to access tangible benefits from formalization (Monterroso et al., 2019). Actions undermining Indigenous land tenure include the individualization of collective land, an anti-

Comunidad discourse put forth by some government and private actors, and the expansion of extractive projects in Indigenous territories; the latter are central to Peru's development agenda. Furthermore, although 1300 communities have been titled since 1974, over 600 communities (around 5.5 million ha) are pending (Notess et al., 2018). Despite considerable international funding for titling projects, progress has been underwhelming, partly because titling remains legally, politically, and technically cumbersome (Notess et al., 2020).

To understand if the global discourse on titling as a means to enable secure Indigenous livelihoods and forest conservation aligns with the effects of titling practice, the article presents the results from interviews carried out in three indigenous Awajún and three indigenous Asháninka *Comunidades*. Interviews sought to understand our interlocutors' perspectives on their livelihood options and territorial management practices in the context of the *Comunidad*. In our results, we synthesized the challenges recounted by our informants into three key areas: livelihoods, conflicts over resources, and representation in communal governance. Interviews revealed that restrictions in *Comunidades* and pressure by development policies in the Amazon create incentives for unsustainable land and resource use in *Comunidades*, and undermine Indigenous People's abilities to protect their forests, while the government continues to penalize them instead of adapting regulations to on-the-ground practices and needs. We conclude by arguing that although Peru has included *Comunidades* in its climate ambitions, it must re-examine the way it regulates *Comunidades*' land and resource access and supports Indigenous livelihoods to fulfil its potential to promote equity and mitigate climate change.

THE COMUNIDAD AND ITS CHALLENGES

Monterroso et al. (2017) have identified three transition periods in the history of the legal recognition of Indigenous territories in Peru that are helpful to understand the recent political history of *Comunidades*. The first transition period (1969–1979) is marked by the passing of the Law of Native Communities and Promotion of Agriculture in the Upper and Lower Amazon in 1974. The law recognized Indigenous Amazonian Peoples as entitled to legal protection and rights over collective territories (see Larson et al., 2018 for the history of tenure reform in Peru). The law would initiate the recognition of *Comunidades*, granting them inalienable collective rights over areas that included forests and that could not lapse nor be seized. However, *Comunidades* were designed following an Andean model, requiring a settled

and condensed communal structure, organized around agriculture, of Peoples who did not practice agriculture at the same scale, and often lived in semi-nomadic patterns, dispersed throughout their territories (Greene, 2009). The law also imposed a governance system, centralized in a *Comunidad's* President (its legal representative) and a decision-making Communal Assembly, on Peoples that were known for having no centralized leadership or structured collective decision-making practices (Clastres, 1977; Sarmiento Barletti, 2017). Early critics described the titling process as 'institutionalized dispossession' (Chirif, 1980), since most ancestral territories were left outside *Comunidades* (Barclay and Santos Granero, 1980). Subsequent reforms and amendments of the 1974 Law undermined some of the tangible benefits from titling; in 1978, the Law was updated to withdraw the recognition of collective ownership of forests, placing them under government control. This created a distinction between agricultural and forested land within a *Comunidad's* territory, formalizing the ownership of forests as state property (Monterroso et al., 2017). This meant that although *Comunidades* held property rights over agricultural land, they entered usufruct contracts with the government to log, or else risk being fined (Hvalkof, 1998; Monterroso and Larson, 2018). Legal timber extraction became a long, expensive, and confusing process, creating incentives for *Comunidad* inhabitants to sell timber through informal means or through exploitative contracts with timber companies (IBC, 2016; Sarmiento Barletti, 2016a).

The second transition period (1980–2009) is marked by a shift away from the formalization of collective rights to a focus on individual property rights as part of the government's promotion of development through agriculture and resource extraction. The government titled *Comunidades* throughout the 1980s, yet also encouraged the colonization of the Amazon by people of Andean origin, and the expansion of cattle ranching, logging, and hydrocarbon exploration (Hvalkof, 1998). The emerging multiplicity of government institutions responsible for the titling of *Comunidades* at national and regional level led to challenges for Indigenous Peoples, who found it harder to comply with procedures and to understand how to engage with government offices at different levels. Furthermore, *Comunidades* lost their inalienable condition in 1993 as part of reforms to liberalize the land market, and the government would also henceforth administer the rights to resources in *Comunidades'* subsoil (Galvada, 2016). In 1995, the Law of Investment in Agricultural Lands allowed the state to redefine 'unproductive' and 'abandoned' lands in *Comunidades*, which could then be expropriated (Smith et al., 2003). In 2000, the Law of Forests and Wildlife introduced a legal framework to further regulate

the forestry sector and control deforestation, yet the law's support for sustainable timber extraction did 'not take into account the de facto institutional arrangements that truly support the industry' (Sears and Pinedo-Vasquez, 2011). Economic development policies and discourses have continuously challenged the reforms for collective Indigenous rights to land and forests (Monterroso et al., 2017). Regulatory frameworks favor investors; it is much easier for the private sector to gain rights over a section of forest than it is for Indigenous Peoples (Notess et al., 2018).

The third transition period (2009-onwards) is marked by a return to an interest in reclaiming collective tenure rights in the wake of clashes between Indigenous protesters and the police outside the town of Bagua that led to 33 deaths (Galvada, 2016; Villagan Muñoz, 2013). The tragic events created momentum in the Indigenous movement and among government agencies for a transition towards rights recognition that included titling *Comunidades* but also passing of the Law of Prior Consultation, among other policies. The emphasis on territorial rights was supported by international agreements related to Peru's climate change goals (e.g., the Joint Declaration of Intent with Norway and Germany)² and large-scale titling efforts funded by multilateral institutions. Despite progress in titling, Peru still continues to pursue an extractive-led development agenda. By 2010, almost 50% of Peru's Amazon fell within one of 52 hydrocarbon concessions, compared with only 7.1% in 2003; 46 of those concessions overlapped *Comunidades* (Finer and Orta-Martinez, 2010). Protected areas have also overlapped *Comunidades'* territories, often limiting forest access (Dooley et al., 2018; Valqui et al., 2015). Still, between 2006–2011, Indigenous territories in the Peruvian Amazon reduced deforestation twice as much as protected areas with similar ecological conditions and accessibility (FAO and FILAC, 2021).

Is the *Comunidad* supporting Indigenous Peoples' contribution to reduced deforestation and climate change mitigation, as per global discourses? To explore these issues, we present research in six *Comunidades* in the San Martín and Ucayali regions of the Peruvian Amazon. We synthesized challenges faced by our informants into three key areas: livelihoods, conflicts over resources, and participation and representation in communal governance. Although based on fieldwork in Peru, our results are in wider conversation with similar processes in Latin America and beyond.

METHODS AND CASE STUDIES

Research was carried out between June–October 2019 in three Awajún *Comunidades* in San Martín and three Asháninka *Comunidades* in Ucayali (see [Table 1](#)); all of them were titled. Awajún and Asháninka peoples are the two most numerous Indigenous Amazonian societies in Peru, with 65,828 and 112,492 people respectively (INEI, 2017). Traditional Awajún and Asháninka settlement patterns were dispersed, with small kin-based groups of around 30–50 inhabitants (commonly a man, his wife and daughters and their husbands and children), 'characterized by a high degree of reciprocity and economic cooperation' (Pimenta 2006, 3). These groups lived around one-day walking distance from each other, spread out from other groups in territories larger and less populated than *Comunidades* (Greene, 2009; Killick, 2007). Today, different families live within the boundaries of *Comunidades*, commonly living side by side in villages of different sizes. Studies note that the distance between households would allow family groups to manage the natural resources around them—mostly fish and game, as agriculture was small-scale and

REGION	SAN MARTÍN			UCAYALI		
Comunidad	Alto Mayo	Alto Naranjillo	Cachiyacu	Inkare	Nueva Esperanza	Tzinquiato
Area/Population	11,106 ha/622 people	3,625 ha/128 people	29,473 ha/105 people	3,783 ha/71 people	4,752 ha/470 people	6,717 ha/200 people
Year established/titled	1950s/1999	1974/1999	~1990/1996	1990/1991	1987/1992	1989/1994
Main conflicts	Rents out land to migrants, overlaps with a protected area	Rents out land to migrants	Land invasion, overlaps a mining concession and a conservation area	Debt with timber company	Debt with timber company	Land invasion issues with Andean migrants and Indigenous settlements
Current engagement with projects	Programa Bosques/ Conservation International	Small reforestation program with the regional government	None	Programa Bosques	None	Programa Bosques
Main source of income	1. Coffee 2. Land rental	1. Coffee 2. Land rental	1. Coffee 2. Land rental	1. Cacao 2. Timber	1. Cacao 2. Timber	1. Cacao 2. Timber

Table 1 Community Profiles.

subsistence oriented—without having to coordinate use with other family groups in the everyday; family groups still lived close enough to visit each other for activities including rituals and communal fishing trips (Gow, 1991; Killick, 2007). In the early 1980s, Asháninka gardens were recorded to include more than two dozen different foodstuffs, which supplemented diets of game and fish; conversely, gardens in the 2000s had less than a quarter of those plants (Hvalkof and Veber, 2005). Cacao and coffee, the most important cash crops in both areas were introduced in recent decades, although much earlier in San Martín than in Ucayali where the local economy has historically been based on logging. There is recent support from government and NGO actors for cacao and coffee planting to discourage deforestation from logging and garden expansion.

As with most Indigenous Amazonian societies, Asháninka and Awajún groups before the *Comunidad* had no coercive leadership roles (outside war) in a socio-political context where people were able to move away and start new settlements when they disagreed with the decisions made by a leader (commonly, the oldest male in a settlement) or to avoid conflicts from arising (Greene, 2009; Weiss, 1975). Research shows that in the early years of *Comunidades*, young men that could read and write in Spanish were selected as Presidents, but they had no real impact on decision-making (Brown 1993; Renard-Cassevitz, 1993). Yet, given that the Law of *Comunidades Nativas* designated Presidents as legal representatives, the expansion of economic deals with outsiders over resources in the *Comunidad* (e.g., timber, land) granted Presidents advantages over their neighbors as they had the legal power to make deals (and profit from them) in representation of the *Comunidad* (Greene, 2009; Sarmiento Barletti, 2017). Currently, the social organization of *Comunidades* resembles a settled and nuclear community model where parts of *Comunidades* are parceled for individual families to farm and profit from, while other portions are managed collectively as per *Comunidad* regulations. The most important resource that is managed collectively is timber in standing forests; farms are owned and managed by individuals, with little or no regulations on where they can be opened. As rivers are not included within the territories of *Comunidades*, their management is not a collective responsibility, although fishing trips are still enjoyed by large groups. The renting of *Comunidad* land to outsiders or the signing of timber extraction agreements with companies is normally approved by its President or communal assembly, composed of the adult inhabitants of a *Comunidad*, although any legal agreements must be signed by the President.

Different research methods were applied across sites with the same objective: to understand how people in

Comunidades perceive their livelihood options and manage their territories. Research employed qualitative methods including semi-structured interviews, document analysis, and participant observation. Although socio-environmental pressures and political priorities in San Martín and Ucayali – Peru's foremost coffee production and timber extraction areas, respectively – differ, Indigenous Peoples face similar pressures due to the land and resource regime governing *Comunidades*, local and national development agendas, and the interests of other actors in their territories. Comparing Indigenous perceptions in these two areas allows us to understand how *Comunidades* may promote sustainable land and resource use.

In San Martín, three Awajún *Comunidades* were selected in coordination with the *Federación Regional Indígena Awajún del Alto Mayo* (Indigenous Awajún Federation of the Alto Mayo), that represents the 14 Awajún *Comunidades* of the area. We selected *Comunidades* at varying distances from the Fernando Belaúnde Terry Highway, and with different levels of engagement with forest conservation and sustainable livelihood initiatives. In total, 14 in-depth semi-structured interviews were conducted with community members (4 women, 10 men) as well as 7 focus groups (4 women-only, 2 mixed, 1 men-only). In addition, 2 semi-structured interviews (1 male, 1 female) and 1 focus group (women-only) were conducted with non-Awajún farmers living in Awajún *Comunidades*. Interviews sought to understand community livelihood strategies; interests in and barriers to pursuing other livelihood strategies; perceptions of deforestation, conservation, and challenges facing the community; and if and how community members participated in land use decision-making processes, among other topics. In Ucayali, the selected Asháninka *Comunidades* were only accessible by the Bajo Urubamba River, with different distances to urban centers. They were selected in coordination with the *Federación Asháninka Bajo Urubamba* (Asháninka Federation for the Bajo Urubamba), the Indigenous organization that represents the 16 Asháninka *Comunidades* of the area. In total, 47 in-depth interviews with community members (14 women, 33 men) were conducted, in addition to a women-only and men-only focus group in each *Comunidad*. Interviews sought to understand community livelihood and conflict management strategies, how internal *Comunidad* governance worked, and the dynamics of formal and informal timber extraction, among other topics.

Data collection across sites also included informal discussions with *Comunidad* members. Most interviews were carried out in Spanish, or else interpretation was provided by bi-lingual assistants between Spanish and Asháninka or Awajún. All translations into English were done by the authors.

RESULTS

We synthesized our research participants' perspectives into three main challenges. First, their income from selling cash crops in local markets was insufficient, so they had to supplement it with informal activities related to land and resources which exposed them to exploitative relationships. Second, they reported conflicts with Indigenous and non-indigenous actors over their *Comunidades'* land and resources. Third, they noted gendered decision-making disparities within *Comunidades*, and that the President's authority is often abused.

LIVELIHOODS

Awajún informants expressed difficulties earning a living from agriculture, as well as affording healthcare, school supplies, and food. In all three *Comunidades*, informants gained their primary income from selling coffee. However, agriculture was discussed as a low-profit endeavor, due to low yields, the coffee rust, and changing prices. Most informants supplemented their income by renting land to Andean migrants; some noted that land rentals had been their primary income 4–5 years ago. Between 2001–2016, deforestation in the Alto Mayo basin represented about 22% of the 402,635 hectares lost in San Martín; about 45,000 ha came from Awajún communities (CI, 2015). The Alto Mayo *Comunidad* lost 33% of its forest between 2000–2010 (Stevens et al., 2014). Focus groups attributed forest loss primarily to land rentals and migrant neighbors, and secondarily to their own agricultural practices. As an interviewee noted: “[W]e have tenants. If I rent you land for [500–700GBP], would you conserve the forest?” (MB, Alto Mayo). Cachiyacu informants spoke less about deforestation as a critical problem, possibly because their territory is larger, and further from the road.

The majority in all three *Comunidades* said they had no desire to expand their gardens, given their limited capacity to work larger plots. Timber may be sold when land is cleared for farming, but logging was never discussed as a primary motivation for land clearing. However, interviews in the Alto Mayo *Comunidad* revealed that some of its inhabitants had let loggers in despite several leaders being against it. Alto Naranjillo had previously sold timber but said they no longer did this, partly because the more expensive hardwoods (especially cedar) had been depleted, an observation echoed by an informant in Alto Mayo. Cachiyacu residents mentioned they sold wood, but it was not considered a good source of income.

Asháninka informants discussed a similar experience of having to supplement their sale of cacao with other formal and informal activities in their territories. Interviewees noted difficulties earning a living from cacao given the low

prices in the local market, which forced them to continue relying on timber extraction. For a *Comunidad* to extract timber legally, it must complete a management plan and submit it to the forest authorities and regional government who oversee its approval, implementation, and supervision. *Comunidades* will be fined if they extract more timber or timber from other sections than those in their plan. Informants noted that the complexity and costs of the process, the multiple government institutions involved, the fact that documents have to be submitted in urban centers, and their own lack of accounting and technical training, forced them to rely on agreements with timber companies. Interviewees recognized that these agreements left their *Comunidades* vulnerable, as contracts enable logging companies to profit from and perpetuate inequalities, offering low timber prices to *Comunidades* and low wages to the people they contract, and commonly avoiding obligations to reforest.

This context favors informal timber extraction. Commonly, families or groups of individuals extract and sell small amounts of timber directly to buyers in Atalaya. No informant could recall being fined for selling three trees or fewer—this amount is casually permitted across the area. Informal extraction continues to be a reliable source of income despite the fact that this approach is physically intensive; logs are cut and pathways are opened in the forest to either roll the logs to the river or to manually carry out the wood in planks. As an informant noted,

I recently opened a garden and want to sell two trees. I'm going to go to Atalaya to find a buyer and he can get his workers to come for it; you can always find buyers in Atalaya (...) sometimes if the buyer doesn't have workers he pays us to cut the wood but (...) it's too much work. Cutting a tree is easy, but carrying the wood isn't. (WA, Nueva Esperanza)

Respondents explained that the informal extraction of larger quantities of timber is usually done as an add-on to formal agreements with timber companies. These deals tend to be made to cover debts with a company owner, who has provided loans or products to community members as advance payments for future timber; all Asháninka *Comunidades* were in debt to a timber company. Selling timber informally is risky as the timber can be seized and *Comunidades* fined by Peru's forest authority. Timber is extracted, sold at a cut-price, and laundered with legally extracted timber. These informal deals are easy to form, having been perfected through decades of practice, and they often entrap *Comunidades* in debt cycles. All three of the communities had also been fined, as had the rest of the *Comunidades* in the region. In Nueva Esperanza and Inkare,

informants explained that previous community Presidents had borrowed money from a timber company, adding up to tens of thousands of soles that could only be paid with more timber as “it is the *Comunidad* that is in debt now.” (AC, Inkare) Regardless, this practice is common because it is more straightforward and cheaper than the legal route, avoids the physical dangers of logging, and is the fastest way to repay debts.

CONFLICTS

Despite being titled, the *Comunidades* in this study reported land conflicts with outsiders. In San Martín, all but two of the fourteen Awajún *Comunidades* in the Alto Mayo area have some sort of conflict with migrant farmers of Andean origin (IPE, 2018). Commonly, migrants have occupied Indigenous territories, either through unauthorized settlement or by renting land and refusing to leave once leases expire. In Ucayali, all the fourteen *Comunidades* represented by the Asháninka Federation for the Bajo Urubamba had resource extraction and agricultural expansion conflicts with outsiders.

In San Martín, most *Comunidades* had divided land for agriculture and renting by parceling out parts of their territory to individual families. Heads of households could decide to rent land and receive the income, but leases were approved and signed by the *Comunidad's* President (AY, Alto Mayo). Most land conflicts occurred when tenant farmers refused to leave at the end of their leases, claiming rights to the territory (Kowler et al., 2016). Leasing was common by 1996, though many *Comunidades* had already parceled out plots for farming before then (AC, Alto Naranjillo). Given their increased need for money and shrinking forest resources, Awajún *Comunidades* began to rent their land to migrants to farm coffee, rice, papaya, and other cash crops (Greene, 2009). This practice must be understood in the context of the loans Awajún people received from Peru's Agrarian Bank in 1985 to cultivate cash crops, and other government policies to integrate them into the national economy through agriculture (Valqui et al., 2015). Informants expressed that without the technical capacities to succeed with commercial agriculture, they turned to land rentals for income “out of necessity” (FF, Alto Mayo):

We no longer have a forest, no longer have animals. We're forced to make money to educate our children. Nobody gives you money. But the community, since it was renting to the migrants, had funds to buy medicine, and school supplies. (AC, Alto Naranjillo)

As of 2012, Alto Naranjillo was leasing out almost half of its territory (Brown, 2014).

Despite the income from renting, many interviewees discussed it as a negative practice. Due to conflicts with migrants, economic dependence on migrants, and the experience that renting to migrants contributes to deforestation, several *Comunidades* are trying to phase out rentals. Originally viewed as an economic solution, renting is now sometimes discussed with a sense of shame: “Migrants deforest, yes, but we allowed them to enter.” (DW, Alto Mayo) Interviewees noted that they always tried to solve conflicts with tenants amicably to prevent further conflicts, but also because pursuing official routes was costly in time and resources and tended to favor migrants. Some conflicts over land rentals and invasions led to violent clashes between Awajún people and Andean migrants. At the time of research, the Indigenous Awajún Federation of the Alto Mayo's priority was to address a conflict in Shimpiyacu, which had been dealing with a land invasion since 1997. According to informants, a *Comunidad* leader had allowed the settlers in, but violent conflict erupted when they were asked to leave by a subsequent leader. The government mediated an agreement to relocate the settlers but has taken no action to follow through (PT, Alto Mayo). Informants noted that, in some cases, the government encouraged rentals as a solution to land invasions. In other *Comunidades* (e.g., Bajo Naranjillo) the Ministry of Agriculture granted deeds to migrants on communal territory (Greene, 2009). The state has done little to resolve these superimpositions and invasions, often encouraging Awajún people to grant the migrants open-ended usufruct rights (Garcés and Echevarría, 2009). This strategy only postponed conflicts, as the longer the settlers stay, the more reluctant they are to leave. In Cachiyacu, migrant farmers had established a town called Cielito Lindo over 20 years prior; the local municipal officials had encouraged the *Comunidad* to allow the settlers to stay and establish an economic agreement. At the time of research, Cielito Lindo sought to establish state services and claim official land rights, without paying rent to Cachiyacu. Opinions in the *Comunidad* varied from evicting the whole town to granting them rights to integrate and participate in communal responsibilities. Generally, informants expressed that the government encourages and favors the migrants in these matters. Informants noted that the government provided them with land and other services, “as the local and regional governments want more votes, they allow migrants to create hamlets, and offer to open roads.” (OM, Alto Naranjillo).

In Ucayali, Asháninka informants noted that they occasionally tolerated outsiders opening cultivation grounds in *Comunidad* territory for non-permanent crops, yet permanent occupation of land for cash crops was not tolerated, especially when settlers were Andean migrants,

as opposed to other Indigenous People. The fear is that land occupation could lead to dispossession and land trafficking.

“People show up in untitled areas and get a title and then they sell the land, the government favors them because they can pay (...) [The Asháninka Federation for the Bajo Urubamba] supported a *Comunidad* called Renaco (...) [Renaco’s leader] brought Asháninka families from another area and the government titled their community. Once the land was recognized he kicked everyone out except for three settler families.” (GR, Nueva Esperanza)

Informants also discussed feeling threatened by hydrocarbon concessions as all three *Comunidades* were overlapped by one.

Comunidades also had conflicts with other Asháninka groups. The inhabitants of Centro Selva Verde had built houses in a part of their territory that overlapped part of Tzinquiato’s. Both *Comunidades* presented claims over that sector to the Ministry of Agriculture and Tzinquiato’s was granted title. In 2014 Centro Selva Verde asked Tzinquiato for permission to stay because they had inadequate access to water in their *Comunidad*; Tzinquiato agreed. In 2016, the municipal government installed solar panels and sent schoolteachers to Centro Selva Verde’s settlement within Tzinquiato, and in 2018 the regional government encouraged cacao plantations and approved plans for a school. The informal arrangement, validated by the government’s activity, harmed Tzinquiato’s latter plans. In 2018 when Tzinquiato joined the National Program for Forest Conservation initiative, the 32 ha they had allowed Centro Selva Verde to use were demarcated within the area that Tzinquiato would conserve for compensation. When the Program reported deforestation patches in those hectares, Tzinquiato denounced Centro Selva Verde’s activities as a land invasion. Interviewees explained that the government’s recognition of Centro Selva Verde by providing services, and the inhabitants’ own construction of houses and gardens, gave them a sense of ownership over the land as per Asháninka practices (see Sarmiento Barletti, 2016a).

REPRESENTATION AND PARTICIPATION

Following official recognition, a *Comunidad*’s decisions regarding land and resource management and engagement with outsiders are mediated through its President, elected every two years. Although agreements are supposed to be approved at Communal Assemblies where each community member votes, the President’s signature is binding as its legal representative.

Research revealed two kinds of power asymmetries in *Comunidades*: gender-based asymmetries and asymmetries related to the President’s power. Women were much more reluctant to express their opinion in assemblies, and especially in dealings with the male-oriented timber sector. This had important implications for decision-making because women represent approximately half of the voting population in the studied *Comunidades*. Informants in all Asháninka field sites noted that only recently have women started to occupy leadership positions. However, they also noted that because authority posts in *Comunidades* are assumed in addition to everyday chores, it is challenging—especially for women who must care for children—to manage both leadership and household tasks. Asháninka informants at women-only focus groups explained they consider it important to be present in assemblies but preferred to abstain from asking questions or expressing their opinion; it is the men who decide on the majority of cases. They commented:

“I don’t know much about [timber]. That’s why when I know assemblies will be about [timber deals] I don’t go because I won’t understand” (Women focus group, Inkare).

“Men know more about the forest (...) if you don’t know it’s better not to talk no? We don’t understand much of how they do their agreements, better ask the men about it.” (Women focus group, Nueva Esperanza).

While conducting research in San Martín it was difficult to speak with women without men intervening. Furthermore, Awajún informants mentioned domestic abuse; similar dynamics of domestic violence were discussed by Asháninka respondents. Both the Indigenous Awajún Federation of the Alto Mayo and the Asháninka Federation for the Bajo Urubamba noted that they wanted at least 50% of all *Comunidad* leaders to be women, but had no plan to achieve this. In fact, although Peruvian laws protect women and promote gender equality, this is not acknowledged in the laws regarding *Comunidades* (Duran et al., 2018). One male informant in Cachiyacu mentioned that women speak more at home than in meetings. When asked if their own specific opinions would reach the authorities or NGOs, women in an Alto Mayo focus group disagreed. In Cachiyacu, women also felt unheard by their authorities: “No matter how much we tell them, they are not interested in our opinions.” (Women’s Focus Group, Cachiyacu).

Ineffective representation is not restricted to women. Awajún informants viewed the President as the primary agent through which their interests would be

represented, though they did not always seem informed about the proceedings that the President was involved in, such as forest management, agreements with NGOs, and issues surrounding land invasions. All Asháninka informants disagreed with the timber extraction projects in their *Comunidades*, noting the projects went forward because the President had signed a deal with a company without knowing the agreement terms. Some explained that even though timber extraction is discussed in Communal Assemblies, the President normally agrees to deals beforehand. A *Comunidad's* President is its legal representative under Peruvian law so timber companies target them through loans, gifts (that they are later asked to repay), or other means including isolating the President in Atalaya, paying for their hotel, food, and other expenses, and then using these expenses to blackmail them into signing contracts. Those expenses are charged to the *Comunidad* later.

One final challenge to effective participation relating to the President is that, for Asháninka informants, assuming directive positions was perceived as a burden. Administrative authorities are held accountable for problems that past administrations created. Additionally, beyond their everyday tasks, authorities must manage administrative procedures that often demand traveling to Atalaya over several days, paying for trips themselves or, commonly, requesting loans from timber companies. These challenges translate into poorly engaged Presidents that easily disclaim responsibility over affairs once their mandates are over. As noted by the local representative of a forest conservation program: “Everything has to go by the President, he has to sign things, they are assuming more responsibilities without any official support, and if anything goes wrong villagers will blame him.” A former President of Nueva Esperanza agreed, “Nobody wants to be President anymore, it isn't easy (...) I'll even end my mandate sooner than expected because it's too much (...) what fault do I have for the mistakes of others? Everybody asks me about our debt, but did I spend the money? (...) I didn't get us in debt.”

DISCUSSION

The Peruvian government celebrates *Comunidades* in its Nationally Determined Contributions to the Paris Agreement and has signed international agreements that place the titling of *Comunidades Nativas* at the forefront of its climate change mitigation strategy. Yet, it has also introduced extractive concessions and allowed land invasions in Indigenous Peoples' territories. These actions occur within a wider political context that challenges

collective land rights, and where there have been cases of physical and symbolic violence against Indigenous activists (Drinot, 2011; Global Witness, 2020). This context is noteworthy given that whether or not titling improves tenure security depends mainly on positive actions taken by the state to protect and strengthen Indigenous rights (Monterroso et. al., 2019; Stevens et al., 2014). The government has also, through regulations, undermined Indigenous Peoples' ability to gain tangible benefits from formalization and has introduced a communal governance model that differs from traditional leadership roles and institutions. This observation aligns with earlier discussions of how ‘regulatory frameworks often limit the scope of the rights granted during formalization, and may lack clarity or specific provisions to be able to exercise them in practice’ (RRI, 2012).

Our interest in whether our respondents can access recognized rights and dignified livelihoods is based on equity concerns but also intersects the evidence that forests under community management have better forest cover than under other regimes (see Blackman et al., 2017 and Schleicher et al., 2017 for Peru). Indigenous Peoples have proven their potential to mitigate climate change and the importance of titling towards that end. However, the *Comunidad* model as currently regulated does not allow for the sort of livelihoods and relations that would permit the full realization of this potential. Our six case-studies show how a lack of income options, and restrictive legal frameworks imposed on and through the *Comunidad*, have led to unsustainable and inequitable land and resource use, including renting land to migrants or extracting timber informally.

Comunidades are often blamed for the problem of deforestation; for example, Peru recognizes smallholders and communities among the drivers for deforestation in the Amazon, yet few activities to mitigate climate change in its Nationally Determined Contributions are directed at supporting those groups with more sustainable land and resource use.³ In Asháninka communities, for example, governments strongly support cacao cultivation but fail to support the sale process or to promote other cash crop alternatives. The fluctuating prices of cacao and local economic dynamics have forced *Comunidades* to continue relying on informal logging. As noted in a report produced by the *Asociación Interétnica de Desarrollo de la Amazonía Peruana* (AIDSESP, Peru's largest national organization for Indigenous Amazonian Peoples) the case of land rentals in San Martín, ‘despite being an exceptional case, is (...) used to deny or restrict indigenous territories and community self-management over their resources. While it is obvious that one case can not affect indigenous substantial rights, we should analyze what is behind the [Alto Mayo]

case: (...) highway policies, the promotion of rice growing and farming..., and the never-ending campaign which... promotes the idea that ‘communal title will make you poorer, individual title will make you richer.’ (Valqui et al., 2015) The challenges noted by our informants occur not because the respondents do not follow the legal framework imposed by the *Comunidad Nativa*; rather, many of the challenges stem from the framework itself and from the lack of support provided for Indigenous Peoples to thrive within that framework. This awareness—coupled with this article’s findings—leads to four wider lessons.

First, titling, the beginning of a broader recognition process, is proving to be a lost opportunity for a renewed pact between the government and Indigenous Amazonian Peoples. Considering this data, and our previous research in Peru, *Comunidades* reveal the contradiction between the state’s roles as the driver of an extractive agenda and as the guarantor of the recognized rights of its Indigenous citizens, enshrined in international agreements signed by Peru (e.g., the International Labour Organization Covenant No 169 and the United Nations Declaration on the Rights of Indigenous Peoples). The rights that Indigenous Peoples receive in *Comunidades* require an active and supportive role of the state; evidence shows that the state has other priorities. *Comunidades* provide only a partial devolution of land and resource rights; collaborators were only able to freely and formally use land that had been classified as agricultural, and had to go through a cumbersome process to extract timber legally. The challenges of the latter process and the decisions made by Asháninka people to continue in unequal relations with timber companies underscores a challenge in access to said rights. Furthermore, our informants’ experience with rights recognition is that the government’s support stops at the title. In fact, local governments only served to make things less clear for *Comunidades*, by supporting settlers in land conflicts. Thus, even when governments grant rights to collective territories, legal frameworks may still prevent the necessary conditions for people to access rights (Monterroso et al., 2019). As part of agricultural development, government initiatives have introduced monocrops in both areas in the study -coffee and cacao- with little support in the planting and commercialization of the crops.

Second, official channels for conflict resolution and for resource extraction are cumbersome and restrictive, which favors informality. Interviews suggest that official channels challenge *Comunidades* as they are either too complicated or expensive to navigate, or do not lead to improved livelihoods or resolved land conflicts. In timber extraction, informal pathways are easier – they require less paperwork and less negotiation with unknown actors. Informants in all Asháninka *Comunidades* found it easier to go with timber

companies, even if their deals are disadvantageous. In San Martín, Awajún informants described how official channels postpone rather than transform conflicts with settlers who refused to leave. Instead of defending Indigenous titled territories, local governments have encouraged Awajún people to rent the land, settle for other types of economic agreements, or grant usufruct rights to migrants over spaces within their *Comunidad*. Informants perceived that local governments supported settler interests over those of the *Comunidad* and even when governments ruled in favor of the *Comunidad*, no enforcement action was taken. In Ucayali, Tzinquiato had an informal agreement with Centro Selva Verde, yet the local government provided Centro Selva Verde with teachers for a school and solar panels for houses built on Tzinquiato’s land, thus implicitly recognizing Centro Selva Verde residents as having rights over the area.

Third, *Comunidades* are units of residence where families with common ethnic identities and different livelihood strategies coexist; laws and initiatives insist on treating them as cohesive units of production with similar livelihood goals. The prevailing model among environmental NGOs and environmentally-focused government policy is to emphasize a ‘community’ and provide support for communal projects rather than individual family livelihoods. This model also tends to provide technical support or materials over money. In Ucayali, the National Program for Forest Conservation prioritizes conditional direct cash transfers to *Comunidades* that must be spent following a government-approved plan. Conservation International’s work in San Martín encourages communal forest conservation and cooperatives, providing capacity development and supplies instead of cash transfers. This model of compensating the *Comunidad* rather than individuals, and doing it with objects or capacity development rather than money, is also followed by the hydrocarbon companies that pay compensations in the wider region (see Sarmiento Barletti, 2016b). However, as long as a need of cash income exists, official initiatives must consider the diversity of strategies that families within the same *Comunidad* opt for to fulfill their livelihood goals. The actual land use of the *Comunidades* in this sample prioritized getting money to individual families. Examples show community members planting coffee and cacao for the market, renting land to outsiders in individual plots, and selling timber informally to make family ends meet. Furthermore, all Asháninka *Comunidades* divided the income from legal timber agreements among families. Getting money into the hands of individual families from common pool resources was also a major livelihood strategy for *Comunidades* elsewhere in Peru (Monterroso et al., 2019; see Larson and Lewis-Mendoza, 2012 for a similar case in Nicaragua). The idealization of communal

practices is evident in the lament of one NGO worker over what he perceived to be an individualist approach and a need to improve governance in *Comunidades* to increase collaboration and collective action. The NGO worker's lament might be read as part of a tendency to 'overestimate the bonds of community and underestimate or misread the mechanisms through which dispossession occurs' (Li, 2010). For example, among Awajún informants, land division was discussed as a logical solution in the 1980s to deal with the challenges that arise when many families live on limited, designated areas of land. During this period, the government was also encouraging the parceling out and privatization of collective land in order to claim unproductive areas. While *Comunidades* did want communal benefits (e.g., schools, health posts), diminished support to individual livelihoods may lead to more informal uses of natural resources to compensate.

And fourth, the power of the *Comunidad's* President can be a catalyst for debt and conflict. *Comunidades* are not homogenous entities with a single perspective represented by its President. The President's signature on a contract or loan places the *Comunidad* in a legal responsibility. Having one individual serve as the official representative for a larger group does not always align with Indigenous forms of governance and with the ways *Comunidades* view their Presidents. As noted in the literature, Presidents are legally able to make decisions at odds with the will of community members (Sarmiento Barletti, 2017). In these cases, *Comunidades* are not protected from paying for the negative consequences. For example, prior leaders in Cachiyacu and Shimpiyacu had allowed settlers to remain on the land, leading to increased challenges and conflict when new leadership decided to seek solutions to land invasions (see also Kowler et al., 2016). In Ucayali, Presidents sign for loans and the *Comunidad* is collectively responsible to repay them by selling trees from their forests. Future research would do well to explore the potential clashes between the decisions made by *Comunidad* Presidents and the positions held by the organizations that represent their *Comunidades* politically (see also Garcés and Echevarría, 2009). For example, while the Asháninka Federation for the Bajo Urubamba was against the informal extraction of timber and the Indigenous Awajún Federation of the Alto Mayo had banned land rental practices, both were common in the *Comunidades* under study. Additionally, while the Communal Assembly is meant to give one vote to each community member, we found that women were not having their voices adequately heard or represented both within internal community-decision making and in external processes.

CONCLUSION

Indigenous environmental stewardship practices are part of the global solution to climate change, yet communities continue to experience challenges to access land and forests in their traditional territories as they pursue their desired well-being and livelihoods. The support for community land rights as a mechanism to empower Indigenous Peoples' environmental management practices and the recognition of their efforts in Peru's Nationally Determined Contributions is laudable. Yet, the *Comunidad* and the laws and interests around it are not supportive of sustainable livelihoods for their inhabitants. We can only think that this will worsen as *Comunidad* populations continue to grow, more extractive concessions and migrants expand into their territories, global demands for natural resources continue, and food access becomes even more challenging. The COVID-19 pandemic has confirmed the highly inequitable interactions between the government and Indigenous citizens in Peru.

The six *Comunidades* in this particular study reported challenges in earning sufficient income, which led to their informal income-generating activities, placing them in exploitative relationships and at risk of penalties. The regulations for timber extraction require capacities and resources that Indigenous Peoples do not tend to hold, leading to informal timber extraction and fines or one-sided deals with timber companies. The system also supports leadership without much accountability, and gendered inequalities in participation and decision making. Trying to resolve conflicts over their titled territories following official routes led to further challenges or to others benefiting. Findings call for a transition from a punitive to an enabling role for government agencies. Given its track record, it is hard to think of a future where the Peruvian government would curb the number of large-scale extractive concessions in the Amazon or extend full resource rights to Indigenous Peoples. There is need to adapt the forestry and tenure system to reflect actual local livelihoods and representation practices and needs. At the very least, there is a need for investment in targeted capacity, institutional, and technical development in *Comunidades*. This would allow Indigenous Peoples to navigate the legal aspects of resource use and their internal decision-making mechanisms, strengthen their organizations to participate more equitably in the decisions that affect their territories and futures and have a more equitable and informed involvement in the markets for their products.

NOTES

- 1 <https://www.minam.gob.pe/cambioclimatico/ndc/>.
- 2 <https://www.regjeringen.no/contentassets/2c039f2b25a241e99ddeb53dd560df3d/joint-press-release-dci--english.pdf>.
- 3 <https://www.minam.gob.pe/cambioclimatico/ndc/>.

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The authors have no competing interests to declare.

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