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EXECUTIVE SUMMARY

Latin America, a region rich in both energy resources and native heritage, faces a rising politico-social confrontation that has been growing for over two decades. While resources like oil and gas are exploited to enhance the state’s economic growth, indigenous groups feel threatened because the operations related to this exploitation are infringing on their homelands. Furthermore, they believe that the potential resource wealth found in these environmentally-sensitive regions is provoking an “intrusion” in their ancestral territory of either government agencies or corporations allowed by governmental decree.

Indigenous groups, which have achieved greater political voice over the past decade, are protesting against government violations. These protests have reached the media and received international attention, leading the discourse on topics such as civil and human rights violations. When this happens, the State finds itself “between a rock and a hard place”: In a debate between indigenous groups’ rights and economic sustainability.
INTRODUCTION

For over two decades, South American governments have faced the challenge in reconciling social rights for native peoples with the promotion of neoliberal economic policies. These two seemingly disconnected realities find common ground in the context of land ownership. While governments attempt to create economic development through the exploitation of natural resources, native peoples find themselves bereft of their territory, which are usually environmentally-sensitive areas. The definition of the concept of environmentally sensitive areas varies from one State to another but the basic premise in all cases is that these are rural areas identified as being of importance for conservation, whether it is for the protection of a certain endangered species, food production, the protection of native groups which have resided in the area for generations or for any other reason a State might consider of importance.

Indigenous groups, which have achieved greater political voice over the past decade, are protesting against government violations of established regulations. These protests have reached the media and received international attention, leading the discourse on topics such as civil and human rights violations. When this happens, the state finds itself “between a rock and a hard place.” Should the state continue exploiting natural resources within these areas? Is the state essentially choosing between indigenous groups’ civil rights and the responsibility to provide for the rest of the country? Is there a threat to the stability of these governments? Is there a threat to regional stability? Furthermore, how are indigenous groups dealing with these issues? How organized are they in their efforts to achieve justice?
From the perspective of regional security, these dispossessions cause upheaval and enragemnet and provoke indigenous groups to carry out public protests or act – legally or illegally – against those who enter their territory to conduct work granted or mandated by the government. This situation is particularly acute within areas where oil, gas, and water are exploited. For the indigenous, the problem is not just the loss of land, but also the resource extraction processes that contaminate their surrounding environment. Six cases will be discussed in the following sections to further illustrate the development of these problems, with both causes and the consequences explained throughout.

THE SITUATION AT HAND AND THE PARTIES INVOLVED

The governments of Colombia, Bolivia, Ecuador, Peru, Chile, Brazil – and to a lesser extent several others in Latin America – are all aware of the vast amount of untapped natural resources that lie within in their territories. In attempts to improve their economic situations, they have given concessions to international enterprises or to branches of their respective national administrations to exploit natural resources in environmentally sensitive areas; and these entities – through their extraction processes – transgressed into the homelands of indigenous groups. Authors Osmel Manzano and Francisco Monaldi indicate that, “The 1990s witnessed a significant increase in investments in the oil and gas sector in South America. In most countries, private investment took the lead after privatization and the liberalization of the sector. In Argentina, Bolivia, Brazil, Ecuador and Venezuela, private oil investment…generated significant increases in hydrocarbon production and reserve [discoveries].”

The entrance of the corporations into the territories of the indigenous populations was gradual. Juan Carlos Rojas Calizaya, Director of the National Institute for Agrarian Reform of Bolivia (INRA for its name in Spanish) explains that in Bolivia initially responsible companies freely entered the areas with no resistance from indigenous groups. This was partly made possible by the fact that the attention of the indigenous population was focused on the achievement of new constitutional provisions that gave human rights protections to indigenous peoples; protections that frequently remained in paper and were never implemented.²

Latin American holds a large “Amerindian” population. According to the International Monetary Fund, “estimates for the number of indigenous people vary from 28 million to 43 million. In the five countries that have the largest indigenous populations – Bolivia, Ecuador, Guatemala, Mexico, and Peru – indigenous peoples represent a significant share of the population (in Bolivia, they are the majority). There are literally hundreds of different indigenous groups: In Mexico alone, there are 56 recognized indigenous groups and 62 living languages.”³ While Amerindians land ownership’s problems, understood in very different ways depending on the historical context, have existed since the time of the conquest in the 1500s, Marianne Wiben Jensen explains that last emergence of struggles between governments and indigenous peoples over land ownership “… began in the 1980’s and… has developed differently in different countries.”⁴

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INDIGENOUS GROUPS BEGIN MAKING NOISE AND BE HEARD

Latin Americans’ stereotypical view of indigenous peoples defines them as a weaker race. For example, Brazil included legislation in relation to indigenous peoples as early as 1831, but these laws characterized the natives as “relatively incapable.” Maria Guadalupe Rodrigues explains that, “such [a] paternalistic and assimilationist approach remained dominant within Brazil’s legislation and state institutions for most of the twentieth century.”5 This same pattern repeated itself in other Latin American nations, which sooner or later resigned themselves to include legislations that protected indigenous rights.

Over time, the political empowerment of indigenous peoples, through more active participation and international support, encouraged the enactment of peaceful protests that decried the loss of indigenous lands. With this newly found power, indigenous groups began to utilize the state’s legal jargon to argue over the right of property to their ancestral lands. For these native people, lands hold a meaning of communion with nature and with their ancestors in what is understood as kincentric ecology6 in addition to the already universal value that land has as a commodity.

An example of great international support took place in Brazil in 2008 when indigenous peoples began protesting the construction of hydro-electrical factories, and specifically, in

the state of Mato Grosso. This ongoing dissent, active for over 3 years, led not only to public manifestations by Amerindians who argued that this was their sacred land and that building a dam in that area would provoke their displacement, but also to the kidnapping of factory workers and an attack on a factory engineer, who was hacked by the natives. What began as an outright denial by these Amerindians to the building of the dam turned into negotiations that were still being discussed in 2010. Amerindians were asking to be compensated for the loss of their archeological lands, and indigenous groups throughout Latin America supported their protests. The most notable support came from Peruvians, who protested in solidarity against the violation of rights for indigenous peoples in Brazil. The indigenous-led protests resulted in negotiations between the weaker native groups on the one side, and the powerful government and private companies on the other, which only led to inequitable accords, where the indigenous peoples always held the loosing hand.

One example of the reach of indigenous peoples’ pressure occurred in Bolivia, which has a total population of about 8 million people, and of which 66.2% are indigenous. Expert in the topic at hand, Tin-Yun Ho, wrote that “In October 2003, a coalition of mainly indigenous farmers, students, and union members paralyzed Bolivia in what was dubbed ‘Bloody October.’ Protestors dynamited bridges, felled

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telephone poles, and tore roads apart, preventing the delivery of food, fuel, and medical resources to the capital city of La Paz. They then laid siege to the capital for six days, forcing the Bolivian President, Gonzalo Sanchez de Lozada, to resign and leave the city by helicopter on October 17, 2003.”\textsuperscript{11} Bolivia today is still unable to escape these past events; the coca growers union has gained political ground and continues to oppose the business policies that now Evo Morales, the first native Bolivian president ever elected, has tried to impose within the country.

In many occasions, when the indigenous organizations realize the lack of compromise on the part of the State and of private industries to honor agreements for achieving rights over their lands or for obtaining some form of compensation for relinquishing it, as has been the case in Bolivia, it was too late to take legal action. Therefore, their protests sometimes turned into violent confrontations. In fact, workers of private companies have been taken hostage by indigenous groups in attempts to ensure the successful realization of original offers made. It has not been unusual for the private companies to attempt to bribe indigenous groups to get their way, while the government “ignored” native peoples’ situations for their own convenience.\textsuperscript{12}

The indigenous peoples struggle with the government in Peru around 2008 proved to be one of the worst case scenarios. The main problem concerned the exploitation of oil wells in environmentally sensitive areas. Despite the fact that indigenous peoples represent only 15% of the population, the Peruvian government has had to confront one of the toughest rebellions in the region. Amerindians here are

\textsuperscript{12} Juan Carlos Rojas Calizaya, "A Superimposition of Lands or a Superimposition of Interests?" \textit{Indigenous Affairs}, 2002: 36-45.
very well organized, and have not only made noise at the national level, but have also sent international aid to other protesting indigenous groups. Peruvian indigenous peoples have even kidnapped police officers that had been ordered to secure oil well areas;\textsuperscript{13} during the development of these kidnappings and protests, nine police officers were killed and seven civilians disappeared. The pressure exerted by the actions of these indigenous peoples led congress to revise the laws providing rights to indigenous peoples that had previously been approved.\textsuperscript{14} Although the main aggressions have now ceased, these Amerindians continue to threaten to burn down oil pipelines, and they have demanded to be consulted before any laws concerning their lands are approved by the government.

While political organization of indigenous populations has commenced easily in some places in Latin America, in others, exogenous factors have complicated unification. For example, in Colombia, a country rich in oil and minerals, the government is interested in obtaining revenue from the export of these resources, but because of the already existent armed conflict, the case of resource exploitation for indigenous peoples is more complex than in any other country in the region. Indigenous peoples have been assassinated by members of the \textit{Fuerzas Armadas Revolucionarias de Colombia} (FARC), an insurgent guerrilla group menacing the normal advancement of daily activities. Amerindians have also had to relocate to other areas of the country because of the threat that these groups have represented to their survival, compounding the displacement problem already prominent in the region. This reality has prevented these groups from achieving the strong political

\textsuperscript{13} EFE. "Indigenas secuestran 38 policias en Peru." \textit{Diario Libre}, June 6, 2009.
organization necessary to fight for their rights as fear from guerrilla groups has been the silencing factor of Amerindians in Colombia.\textsuperscript{15} Therefore, the Colombian government – despite having to deal with the problem of the guerrillas and with the problem of displaced indigenous peoples – has confronted fewer uprising indigenous groups, at least when compared to other Latin American nations with heavy native populations.

In other cases, neoliberal economic policies triggered violations of indigenous peoples’ rights. This has been the case in Chile, where privatization of companies meant intervention by both the state and foreigners. Rosamel Millaman Reinao explains that, “The Mapuche ancestral territory has suffered more than two centuries of interference due to the expansion of Chile’s capitalist system of production.”\textsuperscript{16} There are around one million Mapuche in Chile who, since the Pinochet dictatorship, have resisted the imposition of neoliberal policies focused on developing lands for agriculture and livestock. The Mapuche had been affected by reforms that implied a division of the territory where indigenous peoples lived to create the “appropriate” conditions for agricultural production under capitalism. Yet in the end, it was not land ownership that provoked the greatest challenge for the Mapuche; it was Chile’s “Water Law,” which ended up depriving them of access to water. Amnesty International already declared human rights violations of indigenous peoples of Chile during the Pinochet era. Therefore, the current situation might need to be solved with the intervention of the judicial system, particularly

\textsuperscript{15} “Indigenous Peoples in the Americas,” Amnesty International USA, 2010.

because an intervention by the Organization of American States has already taken place.\textsuperscript{17}

The case of Ecuador exemplifies the development of the rise of the indigenous voices against the government in various focal points. In 2002, indigenous groups opposed the oil exploitation activity that was taking place in Pastaza, kidnapped a technician from the work site, and then destroyed the technological equipment found in the site.\textsuperscript{18} By the end of 2010, these groups had protested the Water Law being discussed by Congress and created a road blockade in front of Parliament; intimidating parliamentary members just enough that a decision was made to postpone approval of the law.\textsuperscript{19}

\textbf{INTERNATIONAL INTERVENTION AND INTER-STATE UNIFICATION}

Multiple international organizations promote regulations in support of the rights of indigenous peoples. Among the most important organizations are the United Nations (UN), the Organization of American States (OAS) and the International Labor Organization (ILO). Dr. Renee Sylvain, an expert on indigenous affairs, explains that currently, the only legally binding definition of indigenous peoples (that is, for States who signed and ratified the treaty) is the one given by the International Labor Organization (ILO).\textsuperscript{20} Convention 169 of the ILO states in Article 1, Paragraph (b), that “peoples in independent countries… are regarded as indigenous on

\textsuperscript{17} Daniela Estrada, \textit{Flood of Indigenous Demands a Challenge for Government}, Santiago de Chile, January 11, 2011.
account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.”

Thus, the power accrued by indigenous groups has resulted not just from the granting of rights by the State, but also by the granting of rights by international organizations. Dr. Sylvain identifies two themes discussed within the international legal community that determine indigenous rights: cultural survival and self-determination. The latter in particular contains the basis for the argument of indigenous land ownership. It implies “indigenous control over local political processes, control over natural resources, and control by indigenous groups over the definition and representation of their own identity; here land rights provide the basis for local autonomy and for self-directed development.”

Another phenomenon granting additional strength to indigenous people is the formulation of links between various aborigine groups. Several indigenous groups have achieved unity on an international level, which has created more pressure on international organizations that have responded by providing some type of aid or support. Such organizations include: In Ecuador, the Confederation of Indigenous Nationalities of Ecuador (CONAIE), Confederation of Kichwas of Ecuador (ECUARUNARI), the Confederacion de Nacionalidades Indígenas de la Amazonia Ecuatoriana (COFENIAE), Coordinadora De Las Organizaciones Indígenas De La Cuenca Amazónica

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22 Renee Sylvain, "Land, Water, and Truth."
(COICA); in the United States, Informativo Derecho Indígena, Centro Por Los Derechos De Los Pueblos Indígenas de Meso y Sudamérica (SAIIC), Consejo Internacional De Tratados Indios, and the Fundación Abya Yala Por El Auto-Desarrollo Indígena De Sur Y Meso América; in Peru, Consejo Indio De Sudamérica, Coordinadora Andina De Organizaciones Indígenas; in Bolivia: Comisión Internacional De Derechos De Pueblos Indígenas De Sudamérica. There are also several organizations in Europe and Asia, such as the Alianza Mundial De Los Pueblos Indígenas-Tribales De Los Bosques Tropicales, located in Thailand.

**REGIONAL STABILITY**

The main concern for natural-resource-rich-States is that many feel compelled to have to choose between environmental justice and human rights, and between economic development and social responsibility. As for the aforementioned protests, they have turned aggressive in many places, putting both strains on government and threatening international investment, particularly because large transnational companies then find the environments too risky in which to invest. As presented in the cases above, in many opportunities, indigenous peoples appear to be following the aggressive patterns that they see succeed in neighboring countries. In other cases, indigenous populations appear to be utilizing their international networks to encourage one another to upraise in ways that are usually not contained within the laws. The situation becomes more difficult as each side fights for what they consider fundamental. The problem lies within the fact that as long as governments do not find a way to adequately address the demands of indigenous peoples, and as long as they do not open effective legal channels to solve the aforementioned disputes, they leave these disadvantaged populations without
legal resources to address their problems and ultimately to find --as their only escape-- utilizing more aggressive approaches.

**PRESENT AND FUTURE STATUS: WHY IS IT SO DIFFICULT TO SOLVE THE PROBLEM?**

Globalization has reached the most hidden places on earth. Indigenous people are no longer isolated nor easily ignored. Their perseverance and the development of telecommunication systems have allowed indigenous peoples to have their voices heard in their struggle to attain rights; creating challenges for governments that have traditionally dishonored promises made to the indigenous population and instead favored both their own interests and that of private international enterprises. As indigenous peoples began to obtain political voice and to unite in their battle across borders, their national fight moved to the international scenario where they were awarded with recognition at higher instances of the international realm; like at the ILO with the development of Convention 169, through which indigenous peoples achieved the strength to conduct large public protests, making it more difficult for governments to overlook the law.

Dr. Wiben Jensen narrates in a comprehensive manner the last decade’s state of affairs of indigenous peoples in Latin America:

*In Colombia indigenous peoples (who represent 2% of the population) have achieved the legislation of indigenous territories corresponding to one third of the national territory. In Brazil the State has recognized over 15 million hectares in favor of indigenous peoples. In Peru, the Amazonia*
indigenous organizations have to date received property titles for 7 million hectares of land, which corresponds to approximately 10% of the Peruvian Amazon. A total of 18 million hectares are claimed by the indigenous peoples of Peru. In countries such as Bolivia, the legal recognition of indigenous territories is moving somewhat slowly, while in Venezuela, demarcation is only now beginning. In the south of the continent, where the colonization process is very ingrained, the recovery of indigenous territories has more modest perspectives.23

Two important questions currently remain pending: how far are indigenous peoples willing to go to see their rights honored and what kind of impact will this have on both the State and regional stability? Most South American constitutions presuppose it impossible to grant indigenous peoples full social rights, because while they contain clauses granting full protection for the indigenous and for insuring their wellbeing, they also state that the government is owner of the resources in the subsoil. In this regard, Dr. J. Lloyd Mecham argues that, “The guarantees relating to the economic order are inspired by considerations of social welfare and national consciousness. Thus, although the right to private property is recognized, its use and retention are conditioned by social need. Private property cannot be expropriated without just compensation. The subsoil belongs to the state, which may make concessions for its exploitation.”24

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23 Marianne Wiben Jensen, "Editorial."
Nowadays the push and pull between governments and indigenous groups is coming to a very important crossroad. The world is watching, international organizations are intervening and the indigenous are at their very best moment [so far] in terms of political participation and the attainment of social and legal rights. For the governments, however, it is a delicate time. They need to respond to the needs of all their citizens, without exclusion, who will no longer tolerate being ignored, and who are no longer alone; nationally and internationally. The Original People have found support from influential groups in the international system. Yet, the propensity to weaken these Latin American governments at the very least by impeding international economic investment is indeed a huge threat to these nations, some of which depend primarily on one main product or mineral for their economic well-being.
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ABOUT THE AUTHOR

Andreina Fernandez Fuenmayor is pursuing a Ph. D. in history at Florida International University. She is obtained her BA in International Relations and MA in Latin American and Caribbean Studies from the same university. She has researched topics related to National and Transnational Security, most of which have had an emphasis in the Illicit Drug Trafficking Industry in Mexico and Colombia.


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