

**CAN DAVID AND GOLIATH HAVE A HAPPY MARRIAGE?**

The Machiguenga People and the Camisea Gas Project  
in the Peruvian Amazon

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## **I Introduction**

During the past three decades, national governments, under heavy pressure from both local social movements and from international institutions, have been recognizing the tenure rights of indigenous Amazonians to their traditional homelands and demarcating areas for protection and for property titles. Now that this situation is being resolved, local community organizations and the non-governmental organizations (NGOs) working with them are moving into a new phase. The goal is now to achieve the long term sustainable use of their common-property territories and natural resources through planned management. However, as we are learning in the practice, reaching that goal is not so easy.

Resource planning and management with local communities is a slow, complex and laborious process of conflict resolution and institution building among entangled interests and conflicting visions of a future (Mehta et al 2001; Mehta, Leach and Scoones 2001). Positive outcomes in this process depend to a large degree on having an effective community organization with strong institutional arrangements for establishing and implementing agreements on resource use and conservation.(Agrawal 1997; Cleaver 2001; Ostrom 2001; MacCay and Jentoft 1998;) But both community defense and resource management efforts in indigenous Amazonia are part of a much broader historical process over which the local people have little understanding or control (Smith 1997). And in this historical process, community institutional arrangements have been very vulnerable to the uncertainty of extra-community contextual factors, be they the result of natural phenomena or of human-induced situations (Cleaver 2001; Smith et al 2001).

In a frontier region like the Amazon where everyday business involves opening and incorporating new regions into a dominant political and market system, political violence, instability and economic rapaciousness are a constant. So even particularly interesting cases of community use and conservation of resources, which today are held out as hopeful models, like USAID's Palcazu Resource Management Project in the mid-1980's, may end up being tomorrow's pariah project. In the Palcazu case, the addition of guerrilla terror and drug-dealing greed to an already politically weakened project in the late 1980's resulted in a breakdown of the institutional arrangements and abandonment of the collective

management efforts. By 1994, individual community members were selling off the timber from the forest plots once managed by the Yanesha Forestry Cooperative while the million dollar investment in its infrastructure and equipment provided by the project sat idle (Benavides and Pariona 1994; Gram 1994).

Under such volatile conditions as we have witnessed over the past three decades in Amazonia, it is extremely difficult for indigenous Amazonians to plan from one year to the next, let alone the three or four decades needed for good forest management. And certainly this challenge is made more difficult when we add to the mix pressure to demonstrate success within the three-year time frame of a foundation funding cycle, within the budget process of the US Congress determined by electoral cycle politics, or within the time limits imposed by what theme happens to be *de rigueur* within the development funding world. The “modern” historical process does not seem to provide the time and pace required for the detailed and time-consuming efforts needed to reach the goal of community-based resource management.

In the following paper, I am interested in showing how getting to community-based resource management is part of an on-going historical process with changing actors, context, and stakes. I focus the paper on the impact of modern oil and gas development on the efforts the Machiguenga people of the lower Urubamba river valley in Peru to consolidate and manage their titled territory. The main actors in this drama are the former Shell-Mobil Consortium formed to carry out the Camisea Gas Project, the Centro para el Desarrollo del Indígena Amazónico (CEDIA), the NGO with the longest history working in the area, and the Machiguenga Council of the Urubamba River (COMARU), the community federation promoted by CEDIA. The Machiguenga communities in the lower Urubamba watershed of southern Peru, with the support of COMARU, CEDIA and other NGOs, reached the threshold of territorial planning and management after a fifteen year struggle to consolidate their title and control over a large portion of their traditional homeland.

In 1995-96 three international petroleum giants - Shell, Mobil and Chevron - entered onto the lower Urubamba stage: a Shell-Mobil consortium with a multi-billion dollar, forty-year

contract to exploit the Camisea gas fields<sup>1</sup> and Chevron with a 3 year contract for petroleum exploration, all in the midst of the Machiguenga communities (see Map #2). With their presence, the historical development process in the lower Urubamba was suddenly pulled away from its community focus, and immediately refocused on the international petroleum market. In 1998, a series of disputes between the Shell-Mobil Consortium and the Peruvian government lead to a rupture of the 40-year contract and an end to Shell-Mobil presence in the Urubamba. This paper analyzes the impact that the international business perspective of the Shell-Mobil Consortium had on the local Machiguenga process for territorial consolidation and organization building during that three year period.

The existence of the enormous Camisea gas and oil deposits could undermine the Machiguenga's growing dream of control and sustainable development for their homeland, especially if the petroleum giants developing the deposits continue to ignore the on-going local processes. But these deposits could also represent an opportunity. Depending how their development unfolds, the petroleum companies could become collaborators with the Machiguenga to move the communities past the threshold and into the realm of long term territorial planning and resource management. Or as in the case of the Shell-Mobil consortium, they can become an obstacle in their path.

## **II The Stage Setting: History and Context**

**Enormous Changes in the Peruvian Amazon** The changes in the Peruvian amazon and its indigenous peoples over the past three and a half decades, resulting from geo-political decisions made outside the basin, have produced truly new socio-economic and bio-physical realities. With help from USAID, the European Union, the World Bank, and the Inter-American Development Bank, massive investments were made by successive governments in roads and communications infrastructure, state-promoted colonization

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<sup>1</sup> Shell Oil carried out exploratory work in the lower Urubamba region between 1983 and 1987 that lead to the discovery of the Camisea Gas Fields. In 1988, Shell signed a Terms Agreement for the exploitation of Camisea with Petroperu. However, the contract negotiation concluded without reaching an agreement. Again in 1994 Shell signed a new agreement with Petroperu for the evaluation and development of the Camisea

schemes, extension programs in agriculture and cattle raising, and projects for petroleum and other resource extraction.<sup>2</sup>

Indigenous Amazonian societies were deeply affected by the influx of new settlers into their territories, by the market pressures that came with the new highways and feeder roads built into the forest, and by the forest clearing for sprawling cattle ranches, coca fields, African palm plantations, mining centers and oil wells promoted by subsidized credit and government services.

One result of these changes was a marked increase in conflict over ownership and usufruct rights to land, natural landscapes and other resources. Initially the fundamental rights of the indigenous inhabitants were ignored by the law and government policies as well as by incoming settlers, land speculators and the extractive industry. In the late 1960's indigenous Amazonians began constructing a broad federative social movement based in their local settlements, which demanded recognition initially for their collective rights to land and resources.(Chirif 1991; Smith 2001) By the mid-1970's this movement brought about a gradual recognition of their individual and collective rights, codified in national laws and later in the Constitution.

Nonetheless, the years of physical displacement, tenure insecurity, pressure to join the labor force and general conflict created an extremely unfavorable context for developing long term plans for community-based resource management among indigenous Amazonians. Many communities were displaced and assimilated; others abandoned their traditional systems for use and management of resources in exchange for cash cropping systems. For those reasons, the top priority for indigenous communities during the 70's and 80's was to gain government title to their land and resource base.

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fields. After submitting a Feasibility Study in May of 1995, Perupetro negotiated a contract with the Shell-Mobil consortium for the exploitation of the Camisea Fields that was finally signed in May 1996.

<sup>2</sup> The impact of these policy decisions are clearly reflected in the region's changing demographics. Census figures since 1940 show that the population of the Peruvian Amazon region has more than tripled in the space of 35 years (INEI 1994; ILO 1997) According to the 1993 census, the following Amazonian cities are among the urban areas of greatest growth in Peru since the 1981 census: Puerto Maldonado (ranked #1 with 7.8% annual growth rate), Tarapoto (ranked #3 with 6.9%) and Pucallpa (ranked #4 with 5.6%). Lima is ranked #2. (INEI 1994)

**Tenure Security for Community Lands** In 1974, the Peruvian government enacted Law 20653 which gave recognition to Native Communities in the Amazonian region, legalizing among other things, their collective property rights to the land and forest areas they "traditionally occupied" including those areas used for hunting, fishing, and gathering (ILO 1997, Garcia 1995).<sup>3</sup> This law established that the lands of titled Native Communities cannot be alienated under any circumstances, nor are they subject to a lien for unpaid debts.

In 1977, under pressure from conservationists who argued for the strict regulation of forest use as well as from "resource nationalists" who argued that timber should be a public resource, a new forestry and conservation law nationalized all forested lands and established a special regime for national parks and reserves. Less than a year later, the Native Communities law was modified to reflect these changes. Since then, the Peruvian state no longer recognizes indigenous property rights over forest lands; instead, the revised law granted the community the possibility of a long term, preferential concession from the State for certain forest usufruct rights within the area demarcated for the community.

However, in partial compensation, the Forestry Law of 1977 established the possibility for creating Communal Reserves, large areas of forest designated for collective non-agricultural use and management by the communities bordering on it. Until 2001, neither the law nor government policy established how Communal Reserves were to be governed or managed and only one such are reserve had been established. Three more have been set up since 2001.

During the first decade, government officials in charge of implementing the 1974 Native Communities law, influenced by the Andean community experience, recognized and titled each indigenous settlement, no matter how reduced in size, as a Native Community. As a result, most Amazonian peoples were broken into archipelagos of small, and often isolated, communities; the lands in-between were opened for colonization and extractive activities

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<sup>3</sup> According to official sources, since 1974, 1175 Native Communities have been recognized and titled in the Peruvian Amazon with collective property or usufruct rights to 10.5 million hectares (PETT 2000).

by non-indigenous peoples. Many of these individual communities were too small and too densely populated to permit traditional practices of extensive resource use and management.

Beginning in the mid-1980's two factors brought about a change in the patterns of land demarcation and titling for Peruvian Native Communities.

1. The Coordinating Body for Indigenous Organizations of the Amazon Basin (COICA), influenced by the proceedings of the UN Workgroup on Indigenous Populations, introduced its member organizations to a new discourse on aboriginal rights to a territory, that is, to a large continuous homeland, including all forest, aquatic and subsoil resources.<sup>4</sup> (Chirif et al 1991; Smith 2002)

2. Beginning in 1986, COICA initiated an aggressive international campaign for support and recognition of indigenous territorial rights in the Amazon. By the end of the decade, private funding agencies and multi-lateral funding agencies, including the World Bank, the European Economic Community, the Interamerican Development Bank, bilateral funding agencies and the northern conservation community, began financing land demarcation efforts by NGOs in conjunction with Native Community federations and local government agencies (Smith 2002).

As a result, larger tracts of land (up to 50,000 hectares) were titled to individual settlements in Peru, and where possible, larger territorial units were pieced together through of mosaic of individual communities with common borders, proposed communal reserves and conservation units. (Chirif et al 1991; Garcia 1995).

A country's land and resource tenure regime greatly influences the degree of security an indigenous community feels regarding its resources and its future relationship to them; this in turn conditions community confidence in developing or continuing long term practices in

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<sup>4</sup> COICA was established in 1984 by the national confederations made up of local community-based federations from five Amazonian countries: Colombia, Ecuador, Peru, Bolivia, and Brazil. As a participant in the UN debates, COICA played a key role in disseminating and promoting the concepts of indigenous people and territory through its member organizations around the Amazon during the 1980's. In 1992, confederations of indigenous peoples from Venezuela, Guyana, Surinam, and French Guyana joined COICA.

resource management. In Peru, indigenous peoples in general have virtually no political clout and consequently little chance of influencing the shape of the country's tenure regime. The "Land Law" enacted by the Fujimori government in 1995 as part of a move towards privatization of the Peruvian economy, weakened collective tenure rights and produced a new wave of tenure insecurity among indigenous communities in the Peruvian Amazon.<sup>5</sup>

**The Case of Sub-soil Resources** In 1969, a tax dispute with the International Petroleum Company (IPC), a subsidiary of Standard Oil of New Jersey, triggered a military coup and a series of laws and policy decisions which declared state ownership over all sub-soil resources in Peru and expropriated all outstanding and inactive sub-soil concessions handed out by previous governments.

Under these laws, the Peruvian state has exclusive right to grant mineral and oil concessions under the terms and conditions it deems most advantageous for the nation. Two state corporations were established to administer Peru's sub-soil resources and negotiate contracts for their exploitation: Mineroperu for mineral resources and Petroperu for petroleum resources. Both state companies were also given the exclusive right to develop any new refineries in the country, and through their subsidiaries, to market all the production.

New mining and petroleum codes recently legislated under the Fujimori government have made foreign investment in sub-soil resource extraction much more attractive in terms of repatriating profits and far less restricted by environmental and tax laws. (ILO 1997) Both Petroperu and Mineroperu were stripped of their administrative functions and of their monopoly over marketing. As a result, a new oil boom began in the Peruvian Amazon; by 1996, more than 20 new petroleum companies had signed contracts for petroleum exploration in the Amazon and in Pacific coastal waters.

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<sup>5</sup> Law for Promoting Private Investment in the Development of Economic Activities in the Lands of the National Territory and of the Native and Peasant Communities, No. 26570. In October 1996, Law No. 26681 added a new article to the above land law which states: "From the moment this law is enacted, the State will proceed by public auction with the sale or concession of all unclaimed lands under public domain."



Under Peruvian law, a land title, whether community or individual, does not give the proprietor any claim to the sub-soil resources. Article 29 of the 1974 Native Communities Law states: "*The lands of the Jungle are subject to the following: b/ free passage for oil and gas pipelines; installations for the exploration and exploitation of minerals and petroleum... The establishment of such services will not require the payment of any indemnity to the property owner.*"

Under the legislation created by the Fujimori regime, sub-soil resources remain the property of the state. Article seven of the 1995 Land Law held out hope for just compensation to the title-holding land owners for damage caused by sub-soil extractive activities. The procedural code for Article 7 of that law (Supreme Decree No. 017-96-AG) states in its first clause that an oil company cannot use privately owned land for any of its activities without a previous agreement with the owner. Clause 3 then says that the land owner has 30 days in which to accept the company's proposal for use of the surface and compensation; clauses 4-7 then establish the procedures by which the state intervenes after 30 days to decree a right-of-way for the company, determining the damages to be paid to the owner. The land-owner has no right of appeal.

Peruvian jurisprudence in general does not recognize the concept of aboriginal rights, including rights to either forest or sub-soil resources found in an indigenous peoples' homeland. However, by becoming a signatory to the ILO Convention 169 in 1994, Peru committed itself to respecting a series of collective rights of its indigenous and tribal peoples. Article 15 of the convention obligates the government to determine if the interests of an indigenous people are at risk by granting sub-soil extraction rights to third parties, to assure that the affected people share in the benefits of the extraction, and to pay compensation for any damages occurring to their homeland in the extraction process. We will return to this point later.

### **III The Consolidation of the Machiguenga Territory in the Lower Urubamba<sup>6</sup>**

The 8000 or so Machiguenga, an Amazonian people of the Arawak linguistic family, live in a dispersed settlement pattern in the forested valleys of the Urubamba River and its small tributaries. The area around the modern town of Quillabamba has been a coca leaf-growing colony of Andean societies for centuries before the Spanish arrived. During the colonial and late republican era, several enormous haciendas came to dominate the valley producing tea, coffee, and cacao as well as coca leaf.

Some Machiguenga were incorporated into the labor force of these haciendas where they remained generation after generation. Others fled either down river, past the Pongo de Mainique - a dangerous cut through the last range of the Andes, or into the inaccessible upper reaches of the smaller tributaries where to this day some still avoid contact with outsiders. With the demise of the haciendas in the 1970's, those who had been part of the labor force continued to work small parcels in the marginal areas of the former haciendas, maintaining both their sense of community and identity as Machiguenga.

The Dominican Order of the Catholic Church established three missions among the Machiguenga in the 1940's: one at Koribeni in the upper valley, and two in the lower valley below the Pongo at Timpia and Kirigueti. These missions continue to exercise limited influence over the Machiguenga living close to these centers.

In the 1950's the Wycliffe Bible Translators/Summer Institute of Linguistics (WBT/SIL) sent a missionary/linguist to work with the Machiguenga of the lower Urubamba to develop an alphabet for the Machiguenga language, translate the Bible into Machiguenga, and develop a bilingual education program for the region, giving teacher training to carefully selected Machiguenga at WBT/SIL's Pucallpa base. Until the mid-1980's, the Machiguenga bilingual teachers were an influential source of news about land struggles of other indigenous Amazonians, about the new law guaranteeing the Native Communities, and about the growing

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<sup>6</sup> Information for this section is taken from the CEDIA and COMARU project files (1987-97) in Oxfam America, personal communication, personal visits and reports, and the Oxfam America-Woods Hole Research Center Biomass Study (WHRC 1996).

movement of indigenous Amazonian organizations. In 1975, following the example of the Amuesha and Ashaninka peoples, a group of bilingual teachers established a federation, the Central de Comunidades Nativas Machiguengas "Juan Santos Atahualpa" (CECONAMA), among 6 communities where WBT/SIL worked.

The tension between the Machiguenga influenced by the Catholic missions and those under the WBT/SIL protestant network continues to dominate the social and political dynamic of inter-community life in the lower Urubamba today.

The Machiguenga missed out on the early government efforts (1974-78) to recognize and title Native Communities. By the time the revised version of the Native Communities law appeared in 1978, the military government had lost interest in implementing it. In response, a group of anthropologists and lawyers involved in the earlier government efforts established a non-governmental organization (NGO), Centro de Investigación y Promoción Amazónica (CIPA), to continue the land titling work with private foundation funding.

In 1979 CIPA signed an agreement with the Ministry of Agriculture (Cuzco Region) for a 15 month project to recognize, demarcate and title the Machiguenga settlements in the Urubamba valley. This effort coincided with a renewed interest in the Cuzco region to colonize the unoccupied lands in the upper Urubamba. After the short-lived CIPA project ended, potential colonizers organized into cooperatives and pressured the government officials to file away the Machiguenga land claims in favor of the colonists and land speculators.

In 1982, former personnel of CIPA set up a new NGO called CEDIA, which reestablished accords with the Ministry of Agriculture to finish the titling process for the Urubamba Machiguenga. By 1985, with growing resistance from the Machiguenga and the fall of coffee and cacao prices, the colonization boom had ended allowing CEDIA to secure 21 Native Community land titles for the Machiguenga, 7 in the upper valley and 14 in the lower valley, for a total demarcated area of 301,918 hectares (including both titled property and forest concession; [see Map #1](#)).

Until 1987 CEDIA worked in the upper valley with the 7 small communities there to establish "living boundaries" as a defense measure against incursions by land hungry colonists wanting to expand their holdings. CEDIA also initiated a series of intensive courses for community members on their legal rights as indigenous Amazonians and as Peruvian citizens, and on the intensification of cash cropping to improve their advantage in the marketplace.

In 1987, CEDIA opened a new program for the fourteen Machiguenga communities in the lower Urubamba. This program began with three main thrusts:

- consolidating the community land/resource base,
- developing a working concept of community organization, and
- training around legal rights and issues.

These three thrusts, redefined and expanded many times over, continue to underlie CEDIA's work with the Machiguenga today. I will look more closely in this paper at the first two.

**Territorial Planning and Consolidation** In line with their work in the upper Urubamba, CEDIA's concept of consolidation at first revolved around securing community boundaries from incursions by colonists as a preventive measure. They established community nurseries for propagating coffee, *bixa orellana*, and a few exotic tree species for planting in the trails cleared along the boundaries. But since the majority of the boundaries were either shared by other communities or bordered on public lands with no river frontage, and since there was relatively little land pressure, these efforts slowly waned over the first couple of years.

The year 1988 was one of uncertainty for the Machiguenga communities as Petroperu and Shell Oil Co. were negotiating a contract for exploiting the gas deposits which Shell had discovered along the Camisea River, in the heart of their community territory. Based on the fears and concerns expressed by the local communities, CEDIA incorporated into its concept of land consolidation ideas of environmental impact and protection.

Petroperu conducted an extensive consultation process in the lower Urubamba that year to determine how the gas project might affect the local population. Through the government agency responsible for community development (INDEC), a sub-commission on the Camisea project was formed which included two NGOs (CIPA and the Catholic church sponsored

CAAAP) and the two national confederations of indigenous communities (AIDSESEP and CONAP), together with an ad hoc Interethnic Commission from the lower Urubamba.<sup>7</sup> At the end of 1988, Shell decided against signing the contract and turned its base camps over to the local communities.

Spurred on by the threat represented by a possible future Camisea Project, and by the new ideas of indigenous territoriality which had been filtering down from the work of COICA and others, CEDIA again redefined its thrust for land consolidation. Together with COMARU, the Machiguenga community organization established in 1988, CEDIA formulated a vision of a large Machiguenga territory as a mosaic of many smaller units, each permitted by different laws and policies, neatly fitting together into a single whole. CEDIA now called this programmatic thrust Territorial Planning and Consolidation.

During 1989, under agreements with the Ministry of Agriculture and the regional government, CEDIA demarcated three new Native Communities and increased the size of three existing communities. Using aerial photographs and topographic sheets, CEDIA presented a proposal for creating a special reserved area for the Kogapakori and Nahua peoples who remained uncontacted, demarcating an area bordering on the Machiguenga communities to the east of the Urubamba river. At the end of that year the Ministry of Agriculture approved the creation of the Kogapakori-Nahua Reserve with 443,000 hectares.

That same year, alluding to the need to conserve the biodiversity in the region, CEDIA formally launched two new proposals: one for the creation of a National Sanctuary in the southern end of the valley focused on the Pongo de Mainique, and a second for the creation of a Communal Reserve on the eastern slopes of the Vilcabamba mountain range bordering on the communities to the west of the Urubamba river (see Map #1). Work was begun to prepare the technical studies and maps to justify those conservation areas under the 1977 Forestry Law. Though the technical work has been completed for a decade, the Communal Reserve

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<sup>7</sup> CAAAP is a Catholic-church sponsored NGO; AIDSESEP is a national confederation of indigenous organizations founded in 1979; CONAP is a national confederation of indigenous organizations founded by CIPA in 1987, and the Interethnic Commission consisted of 1 representative of CECONAMA, 1 from the non-CECONAMA communities, and 1 from the Piro communities further down river.

was only recently declared in January, 2003; the National Sanctuary, unfortunately, continues to await government action.

Between 1989 and 1996, CEDIA, with increasing involvement of COMARU, demarcated and coaxed out of the government bureaucracy 3 additional community titles plus titles for land increases for 12 of the previously titled communities.<sup>8</sup> (Table 1)

**Community Building and Local Organization** The Velasco government (1969-75) promoted a vision of rural development based on a strongly ideologized notion of community as a tightly knit corporate entity seamlessly sharing resources, labor, economic initiatives, and marketing efforts. Community projects and community enterprises were encouraged around the country with government seed money and official recognition. Despite the romanticism of this vision, the government was not about to let community affairs take their natural or even traditional course. Very detailed norms were enacted dictating how communities, including very traditional pre-Colombian Andean communities, were to organize themselves and conduct their affairs. This view of community, as I mentioned before, became very influential in the Peruvian amazon.

CEDIA came to their work in the Urubamba after almost a decade of collaboration with government efforts to promote "community" in the rural areas. CEDIA team members became aware that the official vision of community which they brought with them often came into conflict with the underlying Machiguenga social organization. CEDIA expressed frustration that within the new Native Communities, social and political life continued to revolve around family clusters, rather than "the community" as a whole. Yet under the law, they reasoned, the Machiguenga and their lands were now recognized as "Native Communities" and their best strategy to defend themselves was as such.

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<sup>8</sup> Two small settlements still require land demarcation and titling. Of the 20 titled communities, 16 are composed predominantly of Machiguenga, 2 predominantly Piro, one Caquinti, and one Ashaninka. As of, the property structure of the lower Urubamba was as follows:

CEDIA established as their goal for this thrust to assure that the Machiguenga internalize the concept of "community" as defined in the current legal norms. They launched an intensive effort to work with the assembly of members in each community to develop an understanding of collective responsibility and defense, to create mechanisms for making community decisions in assembly, and to develop written "statutes" for governing the community. CEDIA worked closely with elected community leaders to help them understand and carry out their new roles and responsibilities.

Although CEDIA had been instrumental in gaining titles to fourteen Native Communities in the lower Urubamba, they initiated their program there with the nine communities that accepted their institutional presence. A series of factors lead some of the CECONAMA member communities to reject CEDIA's program. By the end of 1989, with three new titled communities, the CEDIA program was working with thirteen of the seventeen legally-recognized communities in the lower Urubamba.

Aware of the need for the Machiguenga to find their own voice in the newly created regional government based in Cuzco, CEDIA worked with the seven communities of the upper Urubamba to develop the notion of inter-community cooperation, defense, and organization. In November 1988, these seven communities established the Consejo Machiguenga del Rio Urubamba (COMARU). All the communities of the lower Urubamba were invited to attend as observers.

By 1989, both CEDIA and some Machiguenga leaders had been influenced by the debates surrounding the identity of indigenous populations as peoples which had been widely disseminated in Peru by COICA, AIDSESEP and their collaborators. In response, CEDIA expanded its definition for the community organization thrust of their work to include the promotion of an ethnic-based sense of "people" among the Machiguenga, linking this to both territorial rights and to broad inter-community cooperation and political expression. Finding broad support for this new vision among the communities, CEDIA and COMARU promoted a series of interchanges between the Machiguenga of the upper and the lower Urubamba, later reaching out to the relatively isolated Machiguenga communities in the upper Madre de Dios watershed.

At the end of 1989, leaders from 21 Machiguenga communities, seven from the upper and fourteen from the lower Urubamba, gathered for their first formal Congress. After three days of discussion, these leaders agreed on the following priority points:

1. the communities need to pressure the government to finish the land titling process and recognize the Communal Reserve and the National Sanctuary;
2. they need to demand that Shell Oil Co. and the government respect the autonomy of the communities, their customs and traditions, as well as the flora and fauna of their territory in any future development of the Camisea Gas Project; and
3. they need to name one representative for the regional government in Cuzco and another for the sub-regional government in Quillabamba.

Although these communities continued to meet together for several years independently of both COMARU and CECONAMA, the underlying question - would the unaffiliated communities of the lower Urubamba join COMARU, CECONAMA, or create their own organization - was always in the air. In 1993, nine of the lower communities opted to join COMARU.<sup>9</sup>

**First Steps towards Territorial Zoning and Management** With the issues of tenure security and territorial consolidation nearly resolved, with reasonably well functioning communities and with a growing inter-community organization, the Machiguenga of the lower Urubamba seemed in a good position to begin asking tough questions about the future of their common property territory; e.g. how would they both use and conserve the resources of their territory to satisfy their current needs as well as those of future generations?

To begin to answer that question and to develop the long range management tools needed, precise information about the make up of the indigenous territory is essential. Community owners would likely have an intimate knowledge of the layout and resource base for a smaller area of each community which they manage directly. But no single person, Machiguenga or

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<sup>9</sup> In 2003, fifteen of the lower Urubamba communities are formally affiliated with COMARU, eight with CECONAMA, and 1 with FECONAYY (Piro ethnic group). Affiliation, however, is a rather fluid business.



otherwise, would have an intimate or even general picture for the entire 1.3 million hectare territory. In fact, there are large areas which are known to no one, like the Nahua-Kogapakori Reserve, most of the Machiguenga Communal Reserve and parts of the National Sanctuary. In this case, it is most efficient to put together a team of technically trained field specialists working with local people to gather the necessary information and to build a global picture from it.

In 1995, CEDIA, COMARU, and Oxfam America entered into an agreement to study and map the major types of vegetative cover and their distribution throughout the lower Urubamba territory. (WHRC 1996) Under the technical direction of Woods Hole Research Center, the study combined satellite image interpretation with field work for ground truthing and species identification and with data from many other sources. The study identified two major forest types and a variety of other vegetative cover/land use types. These results were incorporated into a GIS data base of the territory built on the basis of topographical sheets, satellite images, forest maps, census and survey data.

In May 1996, preliminary results were presented to members of COMARU and CEDIA at a workshop held in Santa Cruz Bolivia. The workshop stressed the importance of caring for an indigenous territory as common patrimony of a people. This caring requires:

1. planning for the long-term sustainable use and conservation of the resources found in the territory;
2. defense of the territorial integrity from external threats; and
3. an institutionalized consensus among those sharing the territory for governing and managing the territory well.

The workshop introduced and examined the concept of zoning as a tool for accomplishing a long-term caring relationship with a territory. Zoning, it was concluded, should be a process based on both indigenous and scientific knowledge to identify areas where use types appropriate to the biophysical and current social characteristics can be promoted and to identify areas with special problems or needs as well as areas which require protection or conservation. Parallel to that process, the local community organizations need to establish an

agreement among all the territory's inhabitants to respect the agreed upon uses for the different zones identified.

The workshop identified and discussed the different use types that would need consideration in designing such a zoning plan for an indigenous territory. These included 5 general categories:

- areas to support the indigenous economy and culture;
- areas for productive activities directed towards the market;
- areas for biodiversity conservation;
- areas of "national sacrifice" (petroleum exploitation, military installations, etc.); and
- areas for future urban-commercial expansion.

The workshop organizers suggested a four step methodology for conducting such a zoning process in indigenous territories. These include 1. systematization of all available cartographic and descriptive data using a computerized GIS system; 2. pre-zoning activities including identification of natural territorial units based on a thematic analysis of its bio-physical characteristics and the identification of the current land use and the socio-economic needs and perspectives for all parts of the territory; 3. zoning activities producing a recommended zoning model based on the integration of the natural zones with the socio-economic conditions; and 4. a process of negotiation and management.

The results of the Oxfam-WHRC biomass study, particularly the GIS data base integrating the vegetation maps with the other layers of spatial data, were presented as an important ingredient for beginning a process of ecological-economic zoning in the Machiguenga territory.

#### **IV Green Light for the Camisea Gas Project**

On May 17, 1996, after a year of quiet negotiations, Perupetro, representing the Peruvian state, signed a contract with the Shell-Mobil Consortium for the development of the Camisea gas fields over the following 40 years. The contract was divided into two phases: a two-year

appraisal phase for continued exploration and analysis of the gas fields, and a production phase, contingent on the results of the first, for the development and exploitation of the fields.

If the project had moved into the second stage, the Shell-Mobil Consortium would have been committed to invest at least 2.8 billion dollars to transport the gas products to a terminal near the Lima market and to pay the Peruvian state 6 billion dollars in rent and royalties over the lifetime of the project. As an incentive, the Peruvian state changed its tax regulations to exonerate the project from import duties, export taxes and the sales tax on natural gas for different periods of time.

This contract covered two small lots, No. 88-a (Mipaya gas field) and No. 88-b (San Martin and Cashiriari gas fields), where there is an estimated 11 trillion cubic feet of natural gas and 545 million barrels of liquid gas (see Map 2; IDB 2003; LaTorre 1996). After further negotiations, Perupetro and the Shell-Mobil Consortium signed a second contract permitting exploration for gas and petroleum in Lot No. 75, a much larger area surrounding lots 88a and 88b to the north and east.

The appraisal phase activities included building a base camp and airport in the Native Community of Nuevo Mundo under a 3 year contract signed with leaders of the community and CECONAMA. The contract provided some protection and benefits for the community. This logistics center began handling an initial part of the estimated 7000 tons of materials and equipment which were to be brought into the area. The Shell-Mobil Consortium re-drilled one well from its 1987 explorations (San Martin 1) and developed two new wells (Cashiriari 3 and San Martin 3); plans were laid for re-drilling a second existing well (San Martin 1). All four are located in Lot 88-b, along the Camisea river.

Technical-financial plans were also developed for the second phase. The international consortium led by Bechtel (USA) that also built the base camp and airport at Nuevo Mundo won the estimated \$3 billion contract for design and construction of the gathering station in the Camisea where the gas and its distillates were to be separated, the trans-Andean pipeline taking the liquid gas to a point near Lima, and, at the end of the pipeline, a major installation

for fractionating and distributing the gas. Separate plans were developed for a gas-driven 600 MW power plant to be located in the upper Urubamba.

Still reeling from the market impact of its problems in Nigeria and the North Sea, Shell invested up-front in the Camisea Project to "do it right" regarding the indigenous peoples in the area and the fragile tropical forest and mountain ecosystems. Six months before Shell signed the first contract with the Peruvian government, they hired a London consulting firm to scout out stakeholders, their concerns and possible pitfalls. Based on that study and other consultations, Shell announced it would follow an "off shore" strategy to minimize contact with the local ecosystem and human population. By this, Shell meant it would not build a road into the lower Urubamba, but rather would use river and air transport to bring personnel, material, equipment and supplies into a base camp in the region and then helicopters to fly the same into the well sites. At the same time, it would fly out all industrial waste.

Shell then hired a Health, Safety and Environment (HSE) Manager, who in turn hired a community liaison officer and an environmental officer plus other short term field people, to design and implement guidelines and agreements with the local population for avoiding long term social and environmental problems. Through the HSE office, Shell maintained a wide range of contacts with stakeholders, NGOs, and government officials keeping them all informed on a regular basis of the planned and on-going activities.

In September 1996, in a two-day forum held in Lima entitled "Cultural and Biological Diversity in the Lower Urubamba", the Man and the Biosphere Program and the Biodiversity Program of the Smithsonian Institution presented the results of a week long field visit of a team of scientists to the lower Urubamba (Smithsonian 1997). The participants learned later that the forum was underwritten by Shell-HSE and lead to a longer term collaboration between Shell and Smithsonian to conduct a base-line study of the biodiversity in the Camisea region.

Shell expressed the opinion that in the long-term the Peruvian government is responsible for local development in the lower Urubamba. However, Shell-HSE adopted the position that in the short term the company has a responsibility for getting a local development process off the

ground. To this end, Shell-HSE created what it called a "Social Capital Program" and identified as a priority the need for health and educational infrastructure, promotion of agriculture, social development, and the problems of women (Shell #4 1996).

As a first step in the program, Shell-HSE hired the consulting firm Pro-Natura (Brazil-USA) to develop a diagnostic study of the lower Urubamba as the basis for development planning. Shell-HSE negotiated the financial and operational participation of the regional government in Cuzco plus four Cuzco-based NGOs in the diagnostic study which began in July of 1997. Shell-HSE was hopeful that the diagnostic study would produce clear and concrete goals for the future development of the lower Urubamba.

Cuzco regional authorities have never been very sympathetic to the rights or land claims of the Machiguenga. In fact there continues to exist a strong lobby among Cuzco politicians for building a road into the lower Urubamba for colonization and timber extraction. It is difficult to understand why, given this historical tension, Shell-HSE decided to bring the Cuzco regional government into the diagnostic process for the Machiguenga homeland. The HSE manager explained that the Social Capital Program required a regional focus and a long term commitment from government authorities.

Despite Shell's intention to "do it right" in the Camisea Project, by the end of 1997 there were indications that the Social Capital Program and the environmental process initiated by Shell for the region were replicating traditional top-down approaches and moving in the direction of conflict with the lower Urubamba communities, their supporters, and their long range interests, needs and plans. I will point to several reasons why this was so.

1. The lower Urubamba is the traditional homeland for the Machiguenga, who now have surface title to most of it, including most of the area over the gas fields. There was no indication that either the Peruvian government or the Shell-Mobil Consortium was considering negotiating a long term, "big picture" settlement with the Machiguenga over the major issues of consultation, right of way/compensation, environmental/resource use and protection, and long term benefit from the resources extracted from their homelands.

Strictly adhering to the regulations of the Land Law, Shell-HSE focused on resolving issues with those communities directly affected by their activities. The Shell-Mobil Consortium, through HSE, signed short-term agreements with a few communities permitting their presence or activities on community land in exchange for a symbolic compensation.

One could argue that even in the case of CN Nuevo Mundo, the site of the main SMC base camp and operations center, which reportedly was to receive more than \$100,000 in benefits, or that of the CN Cashiriari which was to receive about \$20,000 for the test wells being dug, the compensation was still symbolic if compared to the size of the investment and profits of this project. There is no general framework or even clear precedent for establishing compensation to land owners in Peru. In the case of Chevron which had exploratory rights to the Lot on the western side of the lower Urubamba, compensation for seismic testing consisted of t-shirts, soccer balls, school notebooks, pens and pencils.

2. The Camisea Project is an enormous business deal. During their brief period there, the Shell-Mobil Consortium was on a tight time schedule of investment and return. Reaching operational goals in a timely and efficient manner are always of utmost importance as a project of this kind moves forward. Because they have no rights to sub-soil resources, the local population was viewed by both state officials and by those involved in the Shell-Mobil Consortium as an obstacle rather than as a partner in the business deal. At the same time, the Shell-Mobil Consortium, even the Shell-HSE division, had only a meager understanding of the Machiguenga and their long term needs, and little idea of how to communicate directly with them.

This led to conflict over the forms and the pace of consultation between those pushing the project forward and the local communities. During the Shell-Mobil Consortium work in the Camisea region, two sets of problems arose.

- No process was established for negotiating agreements about right of way and compensation. The author's sources indicated that the Camisea communities signed agreements under pressure and without the benefit of consultation with legal counsel.<sup>10</sup>

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<sup>10</sup> Shell-HSE manager said that the CN Cashiriari agreement took 4 months to negotiate and in the end

Indigenous peoples like the Machiguenga are slow and deliberate in coming to a decision about allowing outsiders to use their common property resources. After gathering the necessary information and advice from outsiders, they prefer to discuss it among themselves, and if there is a consensus, they now prefer to formalize it in a general community meeting. Such a lengthy process is likely too costly for a multi-billion dollar petroleum and gas project.

- The Shell-Mobil Consortium approached "doing it right" as a corporate challenge. Shell-HSE personnel and consultants were expected to produce solutions to local issues at a pace with operations. Thus, ideas for solutions, like the Smithsonian baseline study or the development diagnostic study, were acted on without asking the Machiguenga if they thought it was a good idea or not, or if they wanted such activities carried out within their territories. There was no process that brought the Shell-Mobil Consortium together with local people to discuss how they would live together and benefit mutually over the length of the 40 year contract.

3. As I have shown, most of the Machiguenga have participated in a two-decade long process of territorial and community consolidation with the early support of CIPA and since 1983 with that of CEDIA. That process brought the Machiguenga and their territory to the threshold of a new era focused on territorial zoning and resource management. For some reason, the efforts for incorporating social and environmental concerns initiated by Shell-HSE ignored this historical process and except in a formal sense, all but ignored the principal actors/stakeholders: COMARU, CEDIA and Oxfam America.

Both the Smithsonian biodiversity study and the diagnostic study for long term development could have been important complements to the Oxfam-Woods Hole vegetative cover study and GIS data base and to the long-term work of CEDIA in a unified effort towards helping the Machiguenga plan the future use and conservation of their territory. Yet, neither the communities, CECONAMA, COMARU nor CEDIA were ever brought into the discussion about either Shell-HSE study at the idea, proposal, or implementation stage. At the same time,

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the terms were those dictated by the community. Furthermore, he claimed that when consulted, the communities emphatically rejected any "intermediaries" like lawyers or NGOs negotiating on their behalf.

there was no coordination between the two Shell-HSE studies and the local organizations or CEDIA. From the local people's point of view, the Shell-HSE studies were promoted and carried out by outsiders whose interests were likely served by the studies. Neither of the study teams had any members who ever worked before with the Machiguenga in the Lower Urubamba.

In other words, it apparently did not occur to the Shell-HSE personnel that they are establishing a parallel effort in the lower Urubamba and that their activities did not fit with local processes, decision making patterns, current programs or aspirations.<sup>11</sup> In conclusion, both of these Shell activities were divorced from the historical process in the lower Urubamba and unconnected with any on-going COMARU, CECONAMA, or CEDIA efforts.

### **Epilogue: The Camisea Gas Project Changes Hands**

In 1998, after writing the original version of this paper, a series of disputes between the Shell-Mobil Consortium and the Peruvian government over financing for the trans-Andean pipeline and over gas distribution rights within the Lima market lead to a rupture of the 40-year contract and an end to Shell-Mobil presence in the Urubamba.

In May 1999, a special governmental committee for the Camisea Project opened an international public bidding process to award license agreements for two components of the project: 1. the upstream component for the exploitation of the gas fields and the separation of the gas and liquids, all carried out within the lower Urubamba valley; and 2. the downstream component for the transportation of the liquids and gas to the coast via two pipelines, a fractionation plant on the coast with port facilities for exporting natural gas liquids and a natural gas distribution network from this plant to consumers in Lima and Callao.

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<sup>11</sup> In meeting with the Shell-HSE manager at the time the original version of the paper was being written, he conceded the oversight and said it was not too late to bring CECONAMA, COMARU, and CEDIA into the studies.



Eleven companies were pre-qualified to bid for the exploitation segment, and twelve for the transportation and distribution. In February 2000, the Peruvian Government awarded a 40-year license for the exploitation of the Camisea fields (the upstream component) to a consortium led by Pluspetro Perú Corporation S.A. (Argentina), with the participation of Hunt Oil Company of Peru L.L.C. (USA), SK Corporation (Korea) and Tecpetrol del Perú S.A.C. (fully owned by Techint Group of Argentina). The license was awarded based on the highest royalty rate offered.

In October 2000, Perupetro awarded three 33-year contracts to Transportadora de Gas del Perú S.A. (TGP), a consortium led by Tegas N.V. (fully owned by Techint Group) with the participation of Pluspetrol Resources Corporation (Argentina), Hunt Oil Company (USA), SK Corporation, Sonatrach Petroleum Corporation B.V.I. (Algeria) and Graña y Montero S.A. (Peru) for liquid and gas transportation to the coast and gas distribution in Lima and Callao (the downstream component). TGP is a company formed by the consortium specifically for the development and operation of this Downstream component of the Camisea Project.

The downstream component of the project includes three different 33-year contracts: one for the transportation of gas from Camisea to Lima via a 714 km-long pipeline, a second contract for the transportation of natural gas liquids from Camisea to the coast via a separate 540 km-long pipeline (including the fractionation plant) and a third contract for the distribution of gas in Lima and Callao. They were awarded on the basis of the lowest service cost offered, which determined the natural gas transport and distribution tariffs. Early in 2002, TGP sub-contracted Tractebel (France) as the developer and operator of the Peru-based company for the natural gas distribution service in Lima and Callao. The total cost of the downstream component is estimated at US\$820 million. Commercial operation must start no later than August 2004.

Currently there are an estimated 1500 workers in the upstream component living in two “camps” in the lower Urubamba, and 3100 workers in the downstream component living in eight “camps” at different points along the pipeline route.

## **V Conclusions: Can David and Goliath have a happy marriage?**

After nearly two decades of painstaking work, just when local leaders and CEDIA felt secure enough about the Machiguenga's tenancy over a 1.3 million hectare territory to introduce the notion of territorial zoning and resource management, the Peruvian government awarded a contract to a Shell-Mobil consortium for a 40 year multi-billion dollar investment to exploit the enormous gas deposits found under one part of this territory.

The presence of these petroleum giants in Machiguenga territory represented an enormous threat to the territory's ecosystems and to the locally-controlled processes for sustainable development. Oil companies have the resources, the political clout, and the public relations apparatus to market their own images of development and resource use, i.e., their vision of what is best for the local people, whether in the Urubamba or any other area where they work. CEDIA, COMARU, and other local actors cannot compete.

But their presence did not have to result in competition with local actors; it could also have been an important opportunity for the Machiguenga. If done correctly, it could have turned into a long-range collaborative effort between Shell-Mobil and local actors to satisfy the Machiguenga's growing material needs through the sustainable use of the collective resource base of the entire territory. The opportunity side depended on at least five factors. These were:

- the willingness and capacity of the Peruvian state, the Shell-Mobil Consortium and the local actors to look at the "big picture" and to negotiate a long term agreement around the "big picture" issues raised in this article;
- the Peruvian state's willingness to recognize and act on the fundamental aboriginal rights and needs of the Machiguenga as part of its vision of the "national interest";
- the petroleum companies' willingness to approach their role in local development as:
  - a trust building exercise in which they join local organizations in their on-going efforts and at their pace to build on the goals of the local peoples and their collaborators, and as
    - \* a joint venture enterprise with local peoples, their organizations and their collaborators as partners in equal standing;

- the petroleum companies' willingness to invest a portion of their projected profits over the long term in underwriting some of the costs of the laborious process required for building long-term community-based resource management in the Machiguenga homeland as well as in the prevention of and recuperation from environmental damage caused by their operations;
- and the ability of the Machiguenga, CEDIA, and other local actors to seize the opportunity, to define a common agenda, to exert the necessary political pressure, and to negotiate a long term settlement with Shell-Mobil and the Peruvian state in benefit of their homeland and their future generations.

The same opportunities and success factors still hold true under the new conditions in the Camisea. David's suitor, Goliath, is now an almost unwieldy conglomeration of smaller companies and subsidiaries of larger companies from a half dozen different countries. None of them have a well-known international face; several are not publicly traded. None have brand-name products in the marketplace. The Machiguenga's shotgun marriage to a partner who is not very accountable to the public is not particularly auspicious. The Interamerican Development Bank, who is currently considering a large private-sector loan to TGP, could serve as their marriage counselor assuring that the marriage vows are kept. What ever the outcome of the marriage, the social and environmental face of the lower Urubamba will change dramatically over the next decade.

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<b>Acronyms</b>	<b>Full Name</b>	<b>Headquarters</b>
CEDIA	Center for the Development of the Amazonian Indigenous Peoples	Lima
COMARU	Machiguenga Council of the Urubamba River	Quillabamba
USAID	United States Agency for International Development	Washington DC, Lima
COICA	Coordinating Body for Indigenous Organizations of the Amazon Basin	Quito, Ecuador
ILO	International Labor Organization	Geneva, Switzerland, Lima
WBT/SIL	Wycliffe Bible Translators/Summer Institute of Linguistics	
CECONAMA	Central Organization of Machiguenga Native Communities "Juan Santos Atahualpa"	Community of Nuevo Mundo
CIPA	Center for Amazonian Research and Promotion	Lima
CAAAP	Amazon Center for Applied Anthropology and Practical Application	Lima
AIDSESP	Interethnic Association for the Development of the Peruvian Amazon	Lima
FECONAYY	Federation of Yine Native Communities	Lower Urubamba
Shell - HSE	Health, Safety and Environment Office of Shell Petroleum Co.	
GIS	Geographic Information System software	
TGP	Transportadora de Gas del Perú S.A.	

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<b>Table 1 Indigenous Peoples' Territory in Lower Urubamba (January 2003)</b>	<b>Designated Area</b>
	433,482
Titled property of 24 Native Communities	23,679
Property of 195 colonist families	443,887
Kogapakori Nahua Reserve	272,679
Machiguenga Communal Reserve	176,900
Megantoni National Sanctuary (proposed)	1,350,627 hectares
<b>TOTAL AREA</b>	