
Peru: Policy development for indigenous peoples in voluntary isolation

In 1990, the Peruvian state established the Kugapakori/Nahua Reserve to protect the lives, rights and territories of indigenous peoples in South East Peru avoiding, or strictly limiting their contact with national society. Despite safeguarding these territories on paper, since its creation the Reserve has been continually threatened by illegal logging and two years ago it was opened up for extraction of natural gas as part of the Camisea Gas Project (See “Camisea gas project undermines the rights of indigenous peoples”, WRM bulletin No. 62, September 2002). In the face of these threats, some of its inhabitants who had established contact with outsiders began to voice their own opinions about the Reserve and its inability to protect their territories and rights.

To address these challenges, a group of Peruvian NGOs and Indigenous Federations formed a committee to defend and strengthen the Reserve both legally and on the ground. It was clear to the Committee that in its current form the Reserve was neither working to prevent exploitation by outsiders nor meeting the needs of its inhabitants. The challenge was how to take into account the diverse needs and interests of all its inhabitants, including those avoiding all contact, and translate these into legal concepts and practical recommendations. The hope was that the proposals would serve as a model for developing legislation and policies to protect the rights of indigenous peoples living in isolation not only within the Kugapakori/Nahua Reserve but throughout Peru.

After 18 months of fieldwork and legal analysis the work of the Committee is now nearing completion and in November 2004 the proposals will be presented to senior representatives of the Peruvian state. This article briefly reviews the challenges faced by the Committee and the ways by which the project has sought to overcome them. It is hoped that the processes, methodologies and terms of reference developed through this process can serve other institutions hoping to develop policies to support indigenous peoples in isolation in Latin America and beyond.

Until 1984 the Nahua, a Panoan speaking indigenous people, lived in the headwaters of the Purus, Manu and Mishagua basins in South East Peru, avoiding all direct contact with outsiders and attacking anyone entering their territory. In April 1984, this isolation ended when four Nahua were captured by loggers and taken to Sepahua, the local town, before being sent back to their villages. A year later over half the Nahua had died from colds and other respiratory diseases introduced by this first contact, and loggers had taken advantage of their weakness and overrun their territory.

In 1990, the Peruvian state established the Kugapakori/Nahua State Reserve to protect indigenous peoples in the region still avoiding all direct contact with outsiders, or those like the Nahua who had only recently established this contact. However, in practice the Reserve consistently failed to protect the territories and rights of its inhabitants and since its establishment has been invaded by loggers, overlapped with illegal forestry concessions and opened up for the extraction of natural gas. This has led to a variety of impacts ranging from cases of forced contact and subsequent epidemics, invasions of indigenous territories by loggers and the relocation of some of its inhabitants who felt threatened by the activities of the Camisea gas project (See, <http://www.ecoportal.net/content/view/full/31947> for AIDSEP's denunciation of the forced relocation of Machiguenga living in Shiateni).

In 2001 the Nahua, who were campaigning against an invasion of loggers demanded that their territory be recognised in a communal land title and excluded from the Reserve feeling that it would offer them greater legal protection. This presented a major challenge; how to support the legitimate claim of the Nahua without undermining the legal status of the Reserve and therefore the territories of its other inhabitants.

In 2002 Shinai Serjali, a Peruvian NGO that was helping the Nahua in their struggle with the loggers, began to consult a wide range of state and civil society institutions involved with the Reserve for legal and practical solutions to address its problems. An initial workshop in 2002 identified various problems: the lack of any clear legislation for State Reserves in Peru, confusion over its administration and boundaries, the lack of local awareness of its rules and boundaries and the absence of any efficient system of control (a full report from this workshop is available in English at <http://www.serjali.org/en/projects/workshop/>). After the workshop, a group comprising six NGO's and indigenous federations continued to discuss the situation and the result was the formation of the Committee for the Defense of the Reserve in 2003. Its objective was to strengthen the Reserve and the territorial security of its inhabitants and to propose policies and recommendations that were based on the perspectives and priorities of its inhabitants rather than those of outside institutions. The Committee was supported by AIDESEP, the national indigenous peoples organization, and its members include: Shinai Serjali, Racimos de Ungurahui, COMARU (Machiguenga Council for the Lower Urubamba), IBC (Institute of the Common Good), CEDIA (Centre for the Development of Amazonian Indigenous People) and APRODEH (Association for the Promotion of Human Rights).

The main challenge of this project was how to take into account the diverse needs and interests of all the indigenous peoples living within the Reserve. In 2002 there were at least 9 known communities corresponding to 3 different ethnic groups, each of whom had different relations with, and attitudes towards, national society. Only some of these groups like the Nahua were interacting directly with external individuals or institutions, while others were preferring to avoid such contact altogether. In addition, many of its inhabitants spoke minimal or no Spanish and had limited or no understanding of concepts such as the State, the law, property, let alone the Reserve.

To cope with these difficulties three field teams were formed whose task was to work for extended periods with only those communities who already had a sustained contact with outsiders. All field teams were made up of individuals who had previous field experience with these communities, spoke their language and had established relationships of trust with them. During 12 months of fieldwork, the teams used sketch maps and GPS equipment to help the communities make geo-referenced maps of their territories illustrating its cultural, historical and practical importance to them as well as the issues threatening its integrity. The maps also illustrated their knowledge about the location and movements of peoples living in the Reserve who were avoiding all contact with outsiders.

In addition, the field teams listened to the major concerns and priorities of these communities, that ranged from invasions of loggers, disease transmission, exploitation by school teachers and the impact of the Camisea gas project. In many cases the teams introduced the concept of the Reserve, discussed how it was designed to protect their rights and to what extent it was working. A fourth field team worked for three months with the titled Machiguenga communities who border the Reserve helping them to map their resource and territory use within the Reserve and their attitudes and knowledge towards it and its inhabitants to ensure that their rights were also respected in the development of any proposals. The teams worked with the Nahua, the Nanti of the River Camisea, the Machiguenga of the River Paquiria and the Machiguenga communities bordering the Reserve.

On the basis of these concerns, a specialist lawyer in indigenous rights began to develop a legal

proposal that would best reflect the problems of the Reserve and the concerns of its inhabitants. The proposal is based on the highest standards of human and indigenous rights at an international level and applies to all five State Reserves in Peru. The proposal establishes intangibility for the Reserves and prohibits all extractive industries within them as well as any efforts to contact peoples in voluntary isolation. It establishes definitions of indigenous peoples in voluntary isolation and initial contact, contingency plans in case of unwanted contact or a medical emergency, the means for creating new Reserves for peoples who currently live outside of them and severe sanctions for people or institutions who breach the law. The draft proposal was presented to the National Indigenous Federation (AIDSEP) and its regional bases (FENEMAD, ORAU, ORAI and COMARU) who were developing a similar proposal. The two proposals were merged and modified in consultation with all of AIDSEP's regional and local federations.

One of the Committee's objectives was also the development of recommendations that could be applied to the specific problems of the Kugapakori/Nahua Reserve. In order to do this, the key problems and priorities of the Reserve's inhabitants were circulated amongst a larger group of people including local Indigenous representatives, members of NGOs working in the area or in neighbouring regions and representatives of state institutions responsible for forestry, indigenous peoples and human rights. The group worked to develop specific recommendations to deal with a variety of complex problems ranging from illegal logging, the activities of the Camisea Gas project, the transmission of introduced diseases to peoples with minimal or no natural resistance, the incursion of settlers and the efforts of some Missionaries to forcibly contact some of the peoples avoiding all contact.

In November 2004, the results of the fieldwork and the legal proposal will be presented to senior representatives of the Peruvian Government. The presentation is the first step in the process of their acceptance and ratification by the State. It is hoped that key government ministers and other representatives will accept the proposals as an informed and thorough initiative and commit to promoting their implementation both in the law and on the ground.

By: Conrad Feather, Shinai Serjali, e-mail: conrad@serjali.org . For more information on the work to defend the Nahua/Kugapakori Reserve and its indigenous peoples please visit <http://www.serjali.org> or email serjali@serjali.org