Communities resisting the impunity and impacts of oil palm growers in Ecuador: Cases from Esmeraldas

Ecuador is the fourth largest producer of crude palm oil in Latin America. Its oil palm plantations cover almost 300,000 hectares. Behind these figures is a tale of territorial appropriation and rights violations.

The first oil palm plantations were established on the central coast of the country. Due to its temperatures and levels of precipitation, the best area for production was between Quinindé and La Concordia. This area is known as the “Western Block,” and in 2005 it accounted for 83% of the total area of oil palm in the country—with the largest production being in Quinindé, Esmeraldas Province.

Meanwhile in 1978, the Ecuadorian Institute of Agrarian Reform and Colonization (IERAC, by its Spanish acronym) granted a title of 10,000 hectares each to two large oil palm growers. This land was in the Ecuadorian Amazon, in the provinces of Orellana and Sucumbíos. The landowners ignored the presence of the indigenous Quichua and Siona-Secoya peoples as well as their uses of the forest. Yet the 2005 palm oil census counted 15,187 hectares of oil palm in this “Western Block” (in the Amazon region). This suggests that, at the time of the census, not all 20,000 hectares that were granted had been cultivated (1).

The major expansion of oil palm plantations began around 1998 in the northernmost part of Esmeraldas Province, in an area called San Lorenzo. This is part of the Chocó bioregion, which stretches from Panama to Ecuador. Investors were attracted to this area because soil was depleted in other areas, and because it was cheaper for palm growers to buy new land than to try to recover lands impoverished by oil palm monoculture. In northern Esmeraldas, they had good land, ideal temperatures and cheap labor (2).

In this expansion process, the state’s role has been to facilitate companies’ access to land—whether by permitting changes in land use, by directly granting companies land or ignoring ancestral land ownership, and, in the last decade, by providing incentives and credits to install plantations. The Agrarian Reform Law of the 1960s encouraged this process. If a person wanted the state to grant them a piece or property on which they had lived for years, they had to prove that it was productive, or else fallow and potentially productive. This was proven through deforestation of at least 50% of that area. This policy served to incentivize deforestation in the country.

Starting in 2000, incentives and state policies that encouraged the expansion of oil palm appeared. In particular, the 2002 Executive Decree Nº 2691 by former president Gustavo Noboa changed the land use, and established that 50,000 hectares of the Chocó forest would be for agricultural purposes (3). This gave logging and palm companies the impetus to install their plantations on indigenous, peasant and Afro-Ecuadorian lands—which the state considered to be “fallow.”

In 2003, the companies, Palmeras del Pacifico and Energy & Palm, began to buy lands within communal territories, violating the 1998 Constitution, the Land Law, ILO Convention 169, and other international treaties on territories and collective rights.

The strategy of the companies consisted in approaching individual people in the communes to buy their land. A company lawyer would complete the corresponding paperwork at the INDA (National Institute of Agricultural Development) in order to grant individual titles—thus breaking with the collective organization of land. This same strategy was used with collectively-titled territories, because the State has still not created a registry of collective lands to guarantee collective rights—in breach of ILO Convention 169. Those individual agreements, taken together, allowed the companies to acquire large extensions of land.

Similarly, the new law that promotes African oil palm—which was drafted *by* agribusiness *for* palm growing companies—ignores communities and nature.

There are currently 270,000 hectares of oil palm plantations in Ecuador. With 118,000 hectares already, Esmeraldas is the area of greatest expansion. Of the total palm oil produced in Ecuador—around 500,000 tons per year—half is for domestic use and the other half is exported to the European Union and countries in the region, such as Mexico and Colombia.

Plans for future expansion are focused on the Amazon, where deforestation has been preparing the ground for the entry of oil palm growers.

Impacts on territories and communities

The impacts of oil palm monoculture occur throughout the process: they begin with deforestation and land dispossession, continue with the establishment of large-scale oil palm monoculture plantations, and increase with the installation of oil extractors.

The contamination of soil and water due to the use of large amounts of agrochemicals on plantations affects not only the environment, but also populations who depend on those water sources for their survival.

In order to process the palm fruit, it is necessary to install extractive plants close to the plantation, since the fruit must be processed shortly after cultivation. The extractive plants emit pollutants and pestilent gases into the environment. On a visit to the community of El Guineo in the province of Guayas, we felt as if we could not breathe. The extractive plant was installed in the village, next to the school. As is often the case, nobody keeps official statistics on the health impacts of these operations. But we found that the children had low academic performance, because the stench is unbearable to the point of affecting health.

Furthermore, the extractive plants emit liquid waste—which, in some cases, is dumped untreated into rivers and streams. After research and visits to these extractive plants in Ecuador by the NGO Acción Ecológica, not a single case is known in which nearby watercourses are not contaminated. Fish die or decrease in number, and those that remain are contaminated.

Solid waste from the extractive plants is sometimes placed around the crown of the palm trees in the field, but other times it is left piled up in the fields. This produces blowflies that are very bothersome; they bite cattle and people, and they also travel long distances and affect neighboring populations.

Another impact has to do with the rights of workers. Infractions are common. There is no safety for women at work. On one visit, a woman talked about a sexual violation that occurred within the plantation. There was no investigation or police report. The only measure the company took was to

fire the woman who had been assaulted, and thereafter to no longer hire women. These cases are very shameful for women to talk about, and they also know in advance that nothing will be done to protect them; so many times they decide not to talk about it at all. Another accusation is that when the company fires employees, it does not always pay them the corresponding settlement. In April 2022, the Energy & Palm company faced a strike by its workers, who denounced infractions and unlawful wages. In response, the company agreed to increase wages somewhat, but it ordered labor sanctions for the workers who led the strike.

On the other hand, the way in which the companies obtained the lands involved the creation of a corrupt system promoted by these large oil palm companies—both at the governmental level and within the communities.

Whenever a company shows an interest in acquiring their territories, community leaders fear for their lives. It has gotten to such an extreme, that one community leader—fearing for his life—made a public statement that he had no enemies or debts, and that if anything happened to him or his family, the only responsible party would be the company.

A bad deal for peasants

During the former government of Rafael Correa, the National Finance Corporation launched a policy to give incentives to small palm producers. Credits were given directly to producers who had a minimum of 20 hectares; of the 20 hectares, 10 would be used for palm and the other 10 for complementary tasks. The companies hired negotiators who went to the territories to convince the peasants, telling them that the State was offering loans and incentives. This was how they convinced families to plant palm on their land.

It was a perverse system based on mortgage credits, wherein the land was used as collateral for payment. With this credit, the producers obtained the seedlings, the technological package and the training—which the palm company sold. Therefore, the loan never ended up in the hands of the peasants; it went directly to the company. Five years later, at the time of harvest, the company had exclusive rights to buy the peasants' production. If a peasant found they could sell for a higher price somewhere else, or if they suspected that the palm company's scale to weigh the fruits had been tampered with, they had no recourse. Peasants were obligated to sell to the company under the company's conditions. Although these kinds of credits no longer exist, the peasants that received them continue to be chained to the same oil palm company.

It is always the peasants who lose. Around 2015, when bud rot disease appeared—affecting thousands of hectares of oil palm—it was the indebted small farmers who lost everything. They were the ones who had obtained the loan, used their land as collateral, and now could not sell the product. While the big companies also lost part of their production, they did not lose their land, and they have other economic support.

So far, there is no cure for bud rot disease; the only thing that can be done is to cut down the tree and plant again. The plantations in Quinindé in southern Esmeraldas were completely destroyed. Those who had some extra capital after cutting down the palm trees could seek other alternatives—such as planting ginger, cardamom, cacao, vanilla, cinnamon, etc. Small farmers lost everything.

Large palm growers like to talk about how oil palm promotes development and supports peasants. But they do not say that it is just a few entrepreneurs who have most of the land. There are many

small farmers, but the land is concentrated in the hands of giant oil palm companies.

Cases of resistance in Esmeraldas Province

There are two large areas in Esmeraldas Province where oil palm monoculture has been expanded in recent years: in Quinindé in the south, and in the cantons of Eloy Alfaro and San Lorenzo in the north—where there have been emblematic resistance movements in the communities of La Chiquita, Guadualito and Barranquilla de San Javier.

The case of the communities of La Chiquita and Guadualito
The resistance of La Chiquita, an Afro-Ecuadorian community, and Guadualito, an indigenous Awa community, began in the 1990s. These communities began to have problems when the government opened the highway, and timber began to be extracted from the forest. Immediately afterwards, the same company from the Peña Durini forestry group (which also had shares in palm companies) installed oil palm plantations. This violated the rights of these communities, in particular their collective rights to territory, environment, health, food and access to clean water (4).

From the beginning, the communities filed lawsuits against the state for contamination produced by the palm oil company. And they won all their cases, since they easily demonstrated how their rights had been violated. Despite this fact, the rulings never ended up being enforced. Nobody made the companies comply. The justice system gave in to pressure from big agribusiness powers, and reparations never reached La Chiquita and Guadualito. One of the 2018 lawsuits included the violation of the rights of nature, and once again the communities won; but so far, no remedial actions have been implemented. Some of these actions are to be carried out by the company, and others by the state—as part of its responsibility for allowing these rights violations to occur.

The ruling included actions such as building a health center, building a bicultural school, restoration of forests with native species, and removal of palm trees over water sources. Communities denounce the fact that these actions have not been carried out.

And despite the fact that there was a general feeling in society that justice had been served, in reality it had not for the families and for these two communities. Dividing responsibilities between the state and the company diluted the issue, and nobody complied. Many people ended up with serious health problems, and this was neither recognized nor compensated. But despite the disillusionment with the process and the fact that the Courts of Justice turned a deaf ear to the claims of community members, La Chiquita and Guadualito continue to demand justice and compliance with this ruling.

It was the state that facilitated the company’s access to the territory. And now the state is also responsible for not having properly monitored the company’s obligations, for having allowed the felling of primary forest, and for having abandoned environmental control over the pollution generated by this agro-industry. Now, it is also responsible for having allowed the sentence not to be carried out yet, because several of its ministries have direct sanctions to comply with.

As a result, oil palm continues to advance. Oil palm oil companies have a lot of power at the national level. Organizations such as Acción Ecológica, as well as the community itself, have filed complaints with the Ministry of the Environment and Water (MAAT), but there has been no effective response. MAAT has not conducted water or soil studies; it has not spoken with affected people. Their only dialogue is with the company.

The case of Barranquilla de San Javier commune

On June 2, 2000, the Barranquilla de San Javier commune obtained a community territorial title to 1430 hectares. However, it is being gradually surrounded by advancing oil palm plantations owned by Energy & Palm of the La Fabril group, and these plantations are even infiltrating their territory.

In 2017, the Ministry of Agriculture carried out a multi-temporal study of land ownership in communal territories in Barranquilla de San Javier, which determined that the community's territory is 1518 hectares, and that Energy & Palm's land overlaps this land on 251 hectares.

Based on this report, the commune began to demand their territorial, collective, labor, and environmental rights from the company. Roundtable discussions were established but ended up failing, due to the ongoing deception and lack of compliance on the part of Energy & Palm. Then, exercising its legitimate right to resist as guaranteed by the constitution of Ecuador, the commune blocked one of the plantation access roads.

The company's reaction was to request precautionary measures—which are reserved to prevent human rights violations. In another aberrant act, the San Lorenzo court granted these precautionary measures to the company; military and police then came in helicopters and used excessive force to evict the community members.

Thereafter, the commune began a legal strategy to recover their territory. However, this information was leaked, and the company—which knew about the Ministry of Agriculture's report—filed a civil lawsuit for losses and damages in the amount of $321,000. The lawsuit was against the commune's leaders, regardless of whether they had been present in the direct action or not. The company alleged losses because it had not been able to harvest during the direct action.

The appeal hearing, which took place in April 2022, was suspended shortly after it began—for unclear reasons—following the defense attorney's arguments. There was no doubt that the community was empowered with the support of the Ombudsman's Office, Ecuadorian organizations and international observers. Suspending the hearing after the community's arguments was nothing more than a maneuver to make it easier for the company to prepare its defense.

The community is waiting for a new date to resume the process. It is important to bear in mind that this wears on the communities. It is very exhausting and hopeless to organize, leave their work to travel to the capital and participate in these legal matters, and see it come to nothing. The state, which should be watching over the interests of its inhabitants, is taking the side of the companies.

The racism against these Afro-descendent communities and their vulnerability with the company is also evident. But the judges who have never faced consequences and have always ruled in favor of the companies, now know that the national and international community is alert—so that there are no new violations of communities' rights for resisting the invasion of oil palm into their territories. The Barranquilla case has awoken solidarity among peoples and provoked international outrage. The United Nations special rapporteur on the situation of human rights defenders, Mary Lawlor, has expressed concern about the situation of these communities defending their rights; and she has expressed indignation about Energy & Palm/La Fabril's lawsuit against the commune. Similarly, a coalition of organizations sent a letter to Nestle denouncing these facts, and demanding that Nestle make sure that the company that supplies its palm oil does not violate collective and territorial rights. Among those who signed this letter is Michael Forst, former UN special rapporteur on the situation of human rights defenders (5).

Certification: another tool used against communities

The palm industry in Ecuador tries to market itself as sustainable and differentiate itself from Asian palm oil. One way to achieve this is through certification, in particular through the Roundtable on Sustainable Palm Oil (RSPO). But certification does nothing more than silence the complaints of communities.

It is difficult for communities to understand the logic of certification. When a community learns that a company invading its territory is certified, it does not have the necessary information or means to file a formal complaint. The system is not designed for communities to file complaints. In many of these communities, there is no electricity or internet access. How does the RSPO expect a community in these conditions to file a complaint through an online form, and attach their complaint digitally? Knowing that this is not feasible in most cases, certifying companies transfer the reporting responsibility onto communities.

Another tactic certifying agencies use to weaken resistance is to schedule meetings in the city. Or if the certifier goes to the region, they only meet with people who they know in advance are going to give a favorable opinion about the company. The RSPO is responsible for denying certification to companies that are in conflict with local communities, or that have a history of deforestation and pollution. If this really were the guideline, certification of palm monocultures would not exist.

The company, Energy & Palm of the La Fabril group, exemplifies this. The RSPO is well aware of the devastating impacts of oil palm plantations, and yet it continues to give the “green” stamp to companies that do nothing but destroy territories. When a journalist explained the situation in Barranquilla to the RSPO, detailing the impacts that communities had reported, the RSPO representative simply replied that they had not received any complaints via their website.

Organized resistance

Despite the fact that communities feel there are no laws to protect them, and that the state is complicit with companies, there are always resistance processes and alternatives to the industrial monoculture model within the territories. In the ways they can, communities resist the plunder and contamination caused by oil palm companies.

In 2018, the Ecuadorian Network on Alternatives to Palm Oil was formed, following a national meeting with affected communities. Its purpose is to exchange information and coordinate actions.

The resistance is getting stronger and is generating solidarity within regional and international organizations, which are shedding light on cases like the ones of communities in Esmeraldas.

Nathalia Bonilla
Acción Ecológica, Ecuador

(1) Eutopía, La industria del aceite de palma en Ecuador: ¿un buen negocio para los pequeños agricultores?, numero 2, octubre 2011.
(2) The Bitter Fruit of Oil Palm. WRM 2001. Chapter II – The Case of Ecuador: Paradise in Seven Years? by Ricardo Buitrón/Acción Ecológica
(3) Ecuador: palma africana y madereras en la Bio-región del Chocó. WRM 2003.
(4) On the website that shows Superintendence of Companies, one can see the same names of

shareholders in the two company groups.
(5) Open letter from civil society to consumer goods companies re: concerns over Strategic Lawsuit Against Public Participation by palm oil company in Ecuador