



Soy and Agribusiness Expansion in Northwest Argentina

Legalized deforestation and community resistance

The cases of the Wichí communities of the **Itiyuro River Basin** and **Misión Chaqueña**, the Creole families of the **Dorado River Basin** and the Guaraní communities of **El Talar**

CAPOMA
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Drawing on the front cover: *Women in the forest*, Museum of Misión Chaqueña

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[English digital version]

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Summary

Northwest Argentina has become a major region of agribusiness expansion. This has been promoted by agribusiness companies, the local ruling elite, local government institutions and media, and even some 'sustainable development' foundations. New infrastructure projects spur the export of soy and other commodities from the region.

Soy and sugar cane expansion have currently become major drivers for the rampant deforestation and displacement of indigenous and rural communities in the provinces of Salta and Jujuy. Deforestation is also contributing to climatic disasters such as stronger floods and droughts. These communities are struggling for land through legal claims and direct actions. Officially, indigenous peoples' rights to their territory in Argentina are enshrined in various national and international laws and agreements, but these are often not respected.

Argentina's new Forest Law, adopted late 2007 in order to protect native forests, obliged each province to develop a Land Use Plan. The province of Salta gave out a massive number of deforestation permits just before the new Forest Law was adopted. Environmental Impact Assessments carried out for these permits by consultancies were riddled with irregularities. Salta's Land Use Plan did not meet the required effective participation of indigenous and rural communities and its final version will allow further deforestation of large areas. This would severely impact the remaining indigenous and rural communities who have traditionally lived on these lands and depend on these forests for their livelihoods and culture. Salta's Land Use Plan was therefore strongly denounced, and in response Argentina's Supreme Court early 2009 has temporarily put a halt to deforestation in some departments in Salta.

The report contains four case studies that provide a more detailed insight into the land struggles of indigenous and rural communities in Salta and Jujuy (the Itiyuro River Basin, the Wichí community Misión Chaqueña, the Creole families of the Dorado River Basin and the Guaraní community of El Talar). Since legal claims have in most cases not led to satisfactory results, communities are often forced to resort to direct actions like manifestations, blockading roads and fence construction to enforce their rights.

Introduction

This report seeks to raise awareness of the situation of indigenous and rural communities in Northwest Argentina resisting the expansion of agribusiness invading their territories. The core information was gathered during a trip made through the provinces of Salta and Jujuy in Northwest Argentina in November 2008. The authors visited several indigenous communities and Creole families in the region facing different kinds of conflicts over their territories and land, as well as massive forest destruction. They also spoke with some provincial government officials, and with people and organizations that support these communities.

In the first chapter, changes in the agricultural production model are analyzed, and describes the characteristics that this model has taken in recent decades: the processes of *sojización* and the expansion of industrial agriculture.

The second chapter addresses the legal framework and regulations governing land tenure and native forests in the provinces of Salta and Jujuy, with special attention to the situation of indigenous communities. One key development is the implementation of Argentina's new Forest Law (adopted in December 2007), which required each province to design a Land Use Plan. In Salta, as we will see, this process was heavily abused by agribusiness to get an as big as possible area designated for agriculture use, allowing for deforestation to continue.

In the third chapter, four cases of territorial conflicts are presented: the Wichí communities of the Itiyuro River; the Wichí community of Mision Chaqueña; the Creole residents of the Dorado River and the Guaraní communities of El Talar. These communities and rural settlers are currently facing the devastating advance of monocultures onto their lands, and are resisting with their lives, knowledge and traditional practices.

During the writing of this report, three important events occurred that are closely related to the topic of this report, the expansion of soy cultivation in Northwest Argentina.

First, on February 9 2009, the city of Tartagal suffered a major river flooding, causing landslides that killed three people and affected another ten thousand, destroying a railway bridge on the way.

The risk of inundations during the rainy season has incremented because of the lack of vegetation that absorbs the water, regulates the velocity of the rainfall and whose root systems hold the soil. Deforestation in the region is caused by the timber industry, the oil industry opening up roads up in the hills, and most recently the vast expansion of soybean cultivation. Some government officials themselves are involved in deforestation activities. For example, Sergio Leavy, the mayor of Tartagal, is the owner of one of the largest sawmills in the region.

The second development is the emergence of a dengue epidemic in Argentina. Around 40,000 people are estimated to have been infected throughout the country, including a large number of cases in the province of Salta. According to the Association of Health Professionals of Salta (APSAD), 10,000 people have been diagnosed with dengue in the department of Oran alone (NDS, 24.04.09). Research has shown a correlation between the number of cases of dengue, and soybean cultivation.¹ The destruction of thousands of hectares of forests has resulted in rising temperatures, which has prolonged the life-span of mosquitoes and favors their reproduction. It has also removed the mosquitos' natural predators like frogs by reducing

¹ Interview with Dr. Humberto Bravo, president of the College of Health practitioners of the province of Chaco, Radio Fénix, April 14, 2009: <http://fmfenix.blogspot.com/2009/04/soja-y-dengue-reportaje-al-dr-humberto.html>

their natural habitat and killing them by the use of pesticides and herbicides such as Roundup (glyphosate; the key herbicide in the soy industry), paraquat and endosulfan. Nevertheless, the local government and media talk about the landslides and the dengue epidemic as 'natural disasters'.

The third development is new information and developments regarding the very harmful impacts of agrochemicals used in soy production on human health and the environment. After a decade of struggle, the Mothers of Ituzaingó in the province of Cordoba, won a court case which resulted in a ban on the use of endosulfan and glyphosate close to urban neighborhoods. The Ministry of Health then formed a National Commission of Inquiry on the impact of herbicide use. Furthermore, in April new research results were released confirming the toxicity of glyphosate (Carrasco, 2009). Agribusiness companies, some officials and media attempted to discredit this study and tried to intimidate the author. Now, a group of environmental lawyers has filed a lawsuit before the Argentine Supreme Court, demanding the nationwide suspension of the marketing, sale and application of glyphosate and endosulfan while its health impact is determined. The legal dossier cites half a dozen scientific studies describing the harmful effects of these pesticides (Newspaper Página 12, 16.04.09).

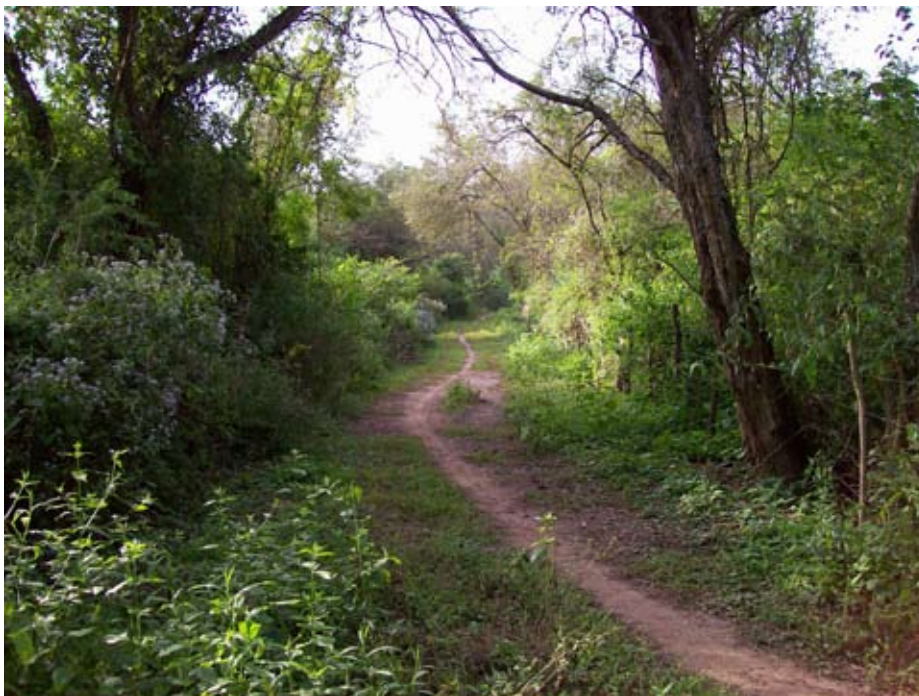
These problems are not new. The expansion of soy monocultures is merely a new phase of what is called "modernization" and "progress," but in reality is another colonial practice of plundering. It is important to raise awareness on the current struggles of indigenous and rural communities in Northwest Argentina to stop this plundering, and support these struggles as much as possible.

We would like to thank those who collaborated by giving their time and information, making this report possible.

1 Agribusiness expansion in Northwest Argentina

Northwest Argentina includes the provinces of Salta, Jujuy, Tucumán, Catamarca and Santiago del Estero. The east of this region consists of a vast subtropical dry forest, called the Chaco plain. The Chaco plain is part of the Greater American Chaco, the largest forest of its kind in the world, and South America's second largest forest after the Amazon rain forest. This forest still covers about 5 million hectares in Salta. Bordering the Chaco plains, there are 2 million hectares of Yungas forest, a cloud forest situated in the foothills of the Andes mountain range.

These forests are home to indigenous peoples including the Wichí, Toba, Kolla and Guaraní, and Creole settlers or *gauchos*, who have lived their lives, shaped their cultures, knowledge and traditional ways of production in harmony with the forest and its biodiversity. American jaguars (*Panthera onca*), macaws (*Ara militaris*, *Ara auricollis*), peccaries, boa constrictors and more than 500 species of birds -many endangered- can still be found in this forest. Also an invaluable range of flora, such as carob trees, cedar, *palo santo*, *quebracho*, *palo amarillo* and *lapacho*, exist here.



A community's path in the Chaco forest

In recent decades, concentration of landownership has increased in Northwest Argentina, resulting in the expulsion of small farmers and a decreasing rural employment (Van Dam, 2007: 8). According to the 2002 National Agriculture Census (CNA), Salta has one of the highest rates of land ownership concentration, where just 3.1% of farms larger than 5000 hectares, have 63% of the land under production, mainly with soy, beans, corn, sugar cane, tobacco and cattle ranching. Land concentration in Jujuy is even a bit higher (Conferencia Episcopal Argentina, 2006). According to the CNA (2002), almost half of the more than 10,000 farms in Salta does not have legal titles precisely defining its boundaries. The situation of indigenous peoples is even more precarious. The province of Salta is home to over one third of Argentina's indigenous communities, with 70% having no land titles (Zapiola, 2006).

Deforestation has accelerated dramatically in a very short time: Between 1998-2002, 194,389 hectares of forest were destroyed in Salta (see Appendix, Figure 1). Then, between 2002-2006 another 414,934 hectares were deforested, mostly for soy expansion. This rampant deforestation has exacerbated the recurring floods and droughts over the past five years, since forests are a stabilizing factor for the fragile soils and the climate, which in the Salta Chaco region is characterized by very marked rainy and hot dry seasons.

The beginning of soy expansion

Beginning in the 1970's, the cultivation of soybeans in Argentina increased gradually. Until that time, Argentina was characterized by a food-based agro-export model that co-existed with regional economies and small and medium producers. This ensured the food supply for the domestic market. With the introduction of the neoliberal model after the last military dictatorship, this agriculture model underwent important transformations. In the 1990's, a new agricultural model was consolidated based on an increased dependence on the large scale production of commodities for export, managed by transnational companies across the entire chain of production, from the sale of seeds, pesticides, no-till machinery, to spraying, harvesting and marketing. These transformations are related to a paradigm shift in agriculture, in which financial activities and interests have become more and more important (Giarracca and Teubal, 2005: 28). From 1996, when Monsanto's genetically modified RoundupReady (RR) soy was legalized, soy production started to vastly increase.²



Deforestation in the Itiyuro River Basin, dept. of San Martin

While Argentina returned to democratic rule, international corporate capital gained strong control over the national economy. However, until the 1990's large areas of the semi-arid Chaco forest remained unaffected. Indigenous Wichís and gaucho cattle-rancher families inhabited these lands for centuries. The Chaco's severely dry winters and very hot summers did not attract agricultural investment groups because of the relatively low yields. However, this changed with the introduction of Monsanto's genetically modified RoundupReady soy in 1996. The RoundupReady technology enabled cultivation in the arid plains, reducing the need for labor and soil tillage.

² RoundupReady soy was developed by the transnational seed and agrochemical corporation Monsanto, and has been genetically manipulated to be resistant to the herbicide glyphosate (Roundup), also produced by the same company.

Salta's Governor Juan Carlos Romero (ruling from 1995 to 2007), son of Roberto Romero, teamed up with transnational corporations Monsanto, Bayer, Bunge, Louis Dreyfus, and others to promote RR soy cultivation. His government facilitated workshops, biotech promotion seminars and other events conducted by the major agricultural producers and technicians of the National Farming Technology Institute (INTA).

At first, GM soy replaced conventional soy and bean crops produced on estates owned by large landowners and investment groups from the Pampas who had started to invest in the region since the early 1990's. From then on, the economic profile of the province changed drastically. Many smaller fruit and vegetable producers (less than 100 hectares each) were displaced by mechanized soy production. At the same time, the agricultural frontier expanded rapidly: the total area under cultivation in Northwest Argentina increased by 48% between 1988 and 2002, compared to 5.2% in the rest of the country. The expansion is mainly concentrated in the provinces of Salta and Santiago del Estero³ (Slutzky, 2004).

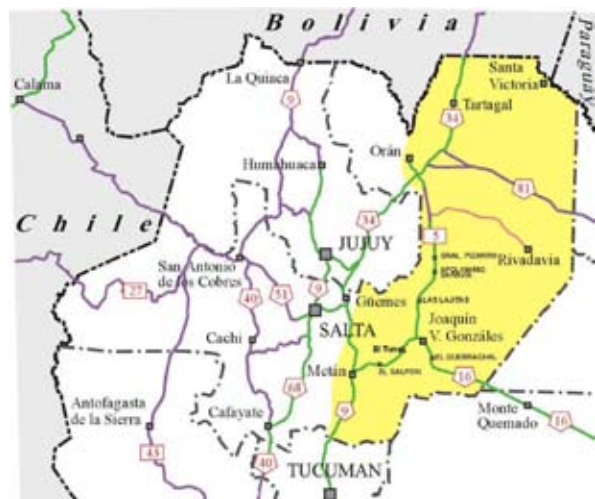
Highway No. 5 (*Ruta 5*) is a principal nexus from which soy expansion occurs. It borders the South-east of Salta and connects the Chaco region to Bolivia. Soy fields expand fanlike, mainly eastwards into the Chaco forest. The once-small town of Las Lajitas has become the center of soy expansion with multinational seed and agrochemical companies, grain traders, banks and shipping companies setting up shop here.

In the North, the same is true for Tartagal, the capital of the department of General San Martín, traditionally a production center of wood, oil and agriculture (fruits and vegetables). In this area, along route 34 heading North towards Bolivia, the same deforestation pattern can be observed, destroying both ancient and secondary forests (see Appendix, Figure 2).

Salta under the military dictatorship

In the province of Salta these transformations in land use were initiated by a violent territorial restructuring under the military dictatorship of 1976-83. During this period, government policies favored the sale and transfer of large plots of public land to traditional elite landowners, new agricultural investors from Santa Fe, Cordoba, Buenos Aires, as well as to international investors. Authorities annulled policies created by Salta's previous government headed by Miguel Ragone⁴ which had legalized indigenous peoples' and peasants' land claims. Moreover, the military government used bloody repression against the network of agrarian peasant organizations that was formed in the 1970's in Northwest Argentina, torturing, murdering and disappearing social activists and leaders, and thus managing to undermine and dismantle them.

The Romero family, owner of *El Tribuno*, the highest-circulation newspaper in Salta, established an alliance with the military dictatorship in 1976. Through the years, they gained wealth and political influence, culminating in provincial rule when family patriarch Roberto Romero was elected Governor of Salta with Argentina's return to democracy in 1983.



³ For soy expansion in Santiago del Estero and the struggles by the Santiago peasant movement MOCASE against this development, see among others: Giarracca y Teubal, 2005; Barbeta, 2005; Alfaro, 2002.

⁴ Miguel Ragone was democratically elected in 1973. However, his mandate was sabotaged by conservative sectors because of his link with social struggles that promoted equity in the distribution of wealth, justice and democracy. He was driven from office in 1974 and kidnapped by police forces and the army on March 11, 1976. He is the only Argentine provincial governor that was arrested/disappeared, to this day, there is no information on what happened to him.

IIRSA - Infrastructure to plunder

In 2000, the governments of twelve South American countries met to develop the “Initiative for the Integration of Regional Infrastructure in South America” (IIRSA), a plan for the financing and construction of infrastructure in South America.⁵ One of its objectives is to promote commodity export from Northwest Argentina, Southern Bolivia and Paraguay to the Pacific, and to connect Northwest Argentina to the Paraná - Paraguay waterway, to enhance the region’s competitiveness.⁶ The IIRSA projects mean however even more exploitation of natural resources benefiting private corporations, while governments go into debt spending large amounts of public money to build the infrastructure.

For Northwest Argentina, located an average of 1500 km from the major ports, these construction works are important because transport costs make it harder to be competitive in soy production.⁷ The cheapest form of transport for the soy harvest is the Belgrano Cargo railroad network. Therefore, IIRSA's projects in Northwest Argentina focus on the rehabilitation of different branches of this railroad network, as well as road construction.

In March 2008 Argentina’s President Christina Kirchner inaugurated National Route 81, newly paved from Las Lomitas to the junction with National Route 34. Among other plans of road construction are the paving of National Route 86, a highly controversial road project because it crosses the territory of indigenous communities in the Pilcomayo area (Carrasco y Zimmerman, 2006).

Work on the Belgrano railroad network is progressing rapidly; two out of five railway sections have already been finished (see map). In December 2008, a 150 km stretch of railroad repair between Pichanal and Joaquín V. González was completed, after the railroad had been abandoned for nearly 20 years. In November 2008, a branch between Avia Terai and the port of Barranqueras in the province of Chaco was opened. These projects cost the state 120 million pesos (NDS, 5.12.8).

The rehabilitation of these rail lines connected the province of Salta with the port of Barranqueras in the Chaco, and with the Paraná-Paraguay waterway. Waterway transport is the cheapest form of transport: U.S. \$0.01 per ton of grain for each km transported, while the cost of transport by railroad or truck is \$0.02 and \$0.07, respectively. The government of the province of Chaco, one of the poorest in the country, is investing over 35 million US dollars to improve the port of Barranqueras by dredging the river (NDS 29.12.8).

Projects are also being planned to rebuild the Belgrano Cargo central rail line, which starts off in Salvador Mazza on the border with Bolivia, splitting into two in Pichanal, and connecting to the port of Barranqueras through Joaquín V. González. In November 2008, a pre-agreement for a loan of 350 million dollars from the Andean Development Corporation for these works was announced (NDS 23.11.8). There is also a plan of rehabilitating a rail line to Chile, thus creating a gateway to the Pacific Ocean (NDS, 10.12.8).

Land conflicts and evictions

As mentioned before, over the past decade, the Salta government assigned lands to a new batch of agricultural enterprises. These included investors from the Pampas and regional agribusiness groups closely related to the government. Indigenous communities and *gauchos* have inhabited these lands for years, but their land rights have been denied. The land transfers to agribusiness were carried out through irregular and murky agreements.

5 Highways, railroad tracks, waterways, ports, gas and oil pipelines, aqueducts, telecommunications are being constructed or created through the growing debt of the governments.

6 http://www.iirsa.org/BancoConocimiento/C/capricornio_grupo_1/capricornio_grupo_1.asp?CodIdioma=ESP

7 Interview with Martín de los Ríos of the Grain Producers Association PROGRANO, November 2008



Bunge silos in the area of Las Lajitas, department of Anta, Salta

The Olmedo agriculture group of southern Salta is just one example. This group was awarded 60,000 hectares by the Salta government in the mid-1990's, in the area of Salta Forestal close to Las Lajitas, the gateway of Salta's Chaco region. The appropriation of this land caused the violent eviction of Creole peasant families and the destruction of their farmlands, houses, and small fields. It also led to the deforestation of more than 30,000 hectares of woodlands which were replaced by RR soy cultivation. This land grab was backed both by the judicial system and the police forces who carried out repressive actions to serve the Olmedo Group's interests.

This is the *modus operandi* throughout the Chaco and Andean foothill forests, and is even condoned by the provincial Secretary of Environmental Policy, the authority that has to grant permission for deforestation projects for agriculture expansion. The provincial government that at the same time manages the legal procedures for obtaining land titles, refuses to recognize the land rights of the rural population and the indigenous peoples, who have a long history of life and work in these areas. The dry tropical forests - called "monte" by the locals - are not valued for their biodiversity nor for the array of unique ways of life and production they support.

A detailed examination of the land conflicts and case studies can be found in chapters 2 and 3.

The role of NGO's and Corporate Social Responsibility

In 2005, several agribusiness giants founded FUNDESNOA (Foundation for Sustainable Development of Northwest Argentina). Among its members are two powerful sugar companies, San Martín del Tabacal with over 50,000 hectares of sugar cane in Salta, and Ledesma SAAI, with 280,000 hectares in the neighboring province of Jujuy. Another FUNDESNOA member, Banco Macro, is a key player in financing the agro-export sector. Other members include Desde el Sur, a large soy company, and Cresud, a national agribusiness hub owning 460,000 hectares of agriculture and cattle ranching land in Argentina. The executive director of FUNDESNOA is Ana María Pontussi, who was Salta's Secretary of Environmental Policy during the last Romero government. The Foundation's President is Ricardo Fernández de Ullívarri, who is also director of the Agricultural Experimental Station in Colonia Santa Rosa in Salta. This research center was established by the sugar refineries Tabacal and Ledesma in the early 1950s. Nowadays, the center is dedicated to the development of hybrid and GM sugar cane.⁸

⁸ "We already have our own GM sugar cane, but we haven't introduced them onto the market yet. These are being developed all over the world, but so far nobody has dared to produce them commercially, because of the prejudices out there. The most sluggish part is the bureaucracy related to biosafety standards, not the research itself", explained Ullívarri to the newspaper La Nación. Furthermore, he said, "Before thinking about introducing GM sugar cane onto the market, we should work on the image with companies and consumers, because there are many prejudices about GMOs among the people". The same Ullívarri developed a tool for sugar cane called the "atomic pistol", used to insert genes from one plant into another (La Nación, 15.12.7)

Despite their talk of ‘sustainable development’, the two sugar refinery members of FUNDESNOA continue to commit human rights violations, continuing a century-long history of evictions of indigenous communities in the region, and exploiting their labor. The owners of Ledesma SAAI (the Blaquier family) were complicit with the military dictatorship, and were accomplices in the disappearance of dozens of detainees.⁹ The owners of San Martín del Tabacal (the U.S. Seaboard Corporation) are involved in a land conflict with Guaraní indigenous communities, whom they violently evicted in September 2003, using tactics such as mock shootings.

FUNDESNOA uses the environmental debate to legitimize agribusiness expansion. As we will see in chapter 2, FUNDESNOA was involved in Salta’s corrupted land use planning exercise that took place without effective participation of indigenous and rural communities. In the province of Jujuy, this dubious role was taken by the conservationist NGO ProYungas Foundation.¹⁰

The growing international awareness of the problems related to large scale soy production has forced soy companies to at least show some interest in Corporate Social Responsibility policies. One example is the NGO-industry forum the “Round Table on Responsible Soy” (RTRS). The RTRS, founded in 2004, is an initiative of the World Wildlife Fund (WWF), a few other NGOs and soy industry players. Its objective is to generate a set of criteria for “responsible” soy production.

The RTRS is now trying to get more soy producers on board by organizing outreach activities to promote the idea of “responsible soy” certification.¹² The Argentine Northwest is one of the RTRS focus areas, because it is a soy expansion area. During one of these activities in the region, the RTRS Secretary General, Miguel Hernandez, said: “We must make a joint effort, to frame the debate about soy production, to assure that positive effects are communicated... Currently, there is much misinformation not only in Argentina but in many other countries, that soy is destroying forests, displacing communities, we must show the positive side.”

The RTRS however does not question either the basic production model or the increasing consumption and production levels. In fact, rather than promoting real change, it “greenwashes” the corporations’ image, giving them an image of social and environmentally friendly soy production -- seeking to placate the concerns of European consumers. Among its corporate members are Monsanto, Syngenta, Bunge, Cargill, Unilever, AAPRESID and Argentine soy producer Grupo Los Grobo.

The RTRS criteria¹¹ stipulate that during its first trial year, ‘responsible’ soy expansion cannot take place on land that has been deforested after May 2009, but from this date onwards, deforestation is still permitted under the condition that a scientific study elaborated by a professional consultant confirms the absence of “all primary forest, other High Conservation Value Areas, and local peoples’ lands.” This means in short that ‘responsible soy’ production is permitted on newly cleared and deforested lands, provided an ‘independent’ study has been made. Chapter 3 shows how such ‘independent’ environmental impact studies (for other purposes) are being manipulated.

⁹ Among them was the doctor and Mayor of Libertador Gral San Martín, Luis Arédez. His wife, Olga Márquez de Arédez, joined the Madres de Plaza de Mayo movement together with other women from the region until the end of her life in 2005. She herself died from cancer caused by acute bagassosis as a result of the pollution from the waste and industrial processes of Ledesma SAAI. Presently, Ledesma continues to pollute the city and its surroundings with complete impunity.

¹⁰ This organization has also been involved in legitimizing the construction of the North Andean gas pipeline, which crosses the territory of the indigenous Kolla community Tinkunaku.

¹¹ Criterium 4.4 “Conservation and compensation of native vegetation” from <http://www.responsiblesoy.org/files/356.pdf>

¹² The Dutch government funds, among others, the RTRS outreach program with €230,000. As part of the Round Table’s outreach program, a workshop on the Principles and Criteria for Responsible Soy was organized in the beginning of 2008, in cooperation with the Ministry of Agriculture of Salta. Later that year, a tour through Northern Argentina was organized, with workshops in Tucumán, Las Lajitas (Salta) and Resistencia (Chaco) in partnership with the NGO’s Fundación Vida Silvestre (WWF Argentina), Fundapaz and ACSoja.

Promotion of agrofuels

A new drive for monoculture expansion is the promotion of agrofuels. In 2006, the Argentinean government adopted a law to promote agrofuels. Since then, the Salta government has signed various agreements to promote the development of biodiesel production from *jatropha curcas* and to start its cultivation in Salta's Chaco area, with a minimum cultivation surface of 500 hectares.

In late 2008 sugar refinery El Tabacal opened an ethanol refinery plant, and Ledesma SAAI modernized and expanded its facilities for ethanol production. In January 2009, Ledesma published its plan to produce agrofuels, supported by the Jujuy government, announcing a first expansion of 4,000 ha of sugar cane. Salta's major soy producer Alfredo Olmedo – now a member of the national parliament - as a local senator promoted the installation of soy biodiesel plants in the area.

2 Legal Context: Environmental, Land and Social Rights

The ongoing deforestation and land conflicts in Northwest Argentina are happening in spite of a number of international treaties and national and provincial laws that are indeed supposed to protect forests and recognize the inhabitants' rights to the possession and ownership of the lands. These laws are important tools for indigenous and rural communities that are struggling; even though the laws are usually not complied with. Also, the development of new laws in this respect again shows the strong power of agribusiness over politics in the region.

Environmental Legislation

Argentina has signed various treaties and declarations on environmental matters at the international level, such as the Convention on Biodiversity (Law 24,375), the Rio Declaration on Environment and Development and the Johannesburg Declaration on Sustainable Development. At the national level, the principal law relating to environmental protection is the 2002 General Environment Law (Law 25,675).

However, the dramatic increase in deforestation precisely in the North of Argentina led to strong pressure on the government to take new legislative action. At the end of 2007 the new Native Forest Law (Law 26.331) was passed, introducing land use planning as a tool to protect forests. One event that spurred this new law in particular, was the scandal over the illegal sale of the Pizarro natural reserve by the province of Salta (see box).

The Pizarro Reserve up for sale

The Pizarro Reserve, situated in the department of Anta in the Province of Salta, was established in 1995 and covered 25,000 hectares. This reserve allowed the conservation of biodiversity in the transitional zone between the Yungas cloud forest and the semi-arid Chaco forest. The Pizarro Reserve was home to a group of Creole families and a Wichí community. In 2004, the governor at the time, Juan Carlos Romero, canceled the protected status of the Pizarro Reserve (Provincial Law No 7274) and put more than 16,000 ha up for sale. The provincial government planned to use part of the money raised by the sale for paving Route 5 and 30, which are used for soy transport.

After the sale in June 2004, the national government, through its National Parks Agency, bought one parcel to relocate the Creole and Wichí communities. Under strong pressure from the authorities, these communities ended up signing relocation agreements, in which they were allocated areas much smaller than the ones they previously used. The reshaping of the National Reserve of nearly 22,000 hectares took place in a closed meeting with the participation of Greenpeace, Pro-Yungas and the National Parks Agency. As a result of this agreement, Greenpeace and WWF Argentina withdrew their lawsuit against the provincial government.

However, the National University of Salta (UNSa) was completely opposed to these negotiations, arguing that the sale of the reserve was unconstitutional.¹³ The UNSa maintained their lawsuit against the provincial government at the Supreme Court, but so far without a resolution. Marta de Viana, Director of the Institute of Ecology and the Human Environment of the UNSa, believes that: "The Pizarro case is a great failure, that still has not been resolved. Ex-governor Romero should buy the reserve back with his

¹³ The Superior Council of the National University of Salta resolved to reject the annulment, bidding and sale of plots 32 and 33 by the Salta government and to initiate legal action, based on reports submitted by Raul Seggiaro, Hector Rodriguez, Margarita Maria Couto, Ana Silvia Simes, and Marta de Viana

own money, since it was illegally sold under his responsibility. He should also fund the costs of turning this area back to its original state, when it was a forest, remove the soy and make a reserve area again. “

In October 2008, three years after the appeal made before the Court of Salta by the Wichí community of Pizarro, whose demands had so far been rejected, the National Supreme Court issued a favorable ruling. The community had asked the court to declare the entire process of selling the plots of the former reserve unconstitutional. While the Court of Salta had declared that the deadline for challenging the procedure had expired, the Supreme Court overturned that ruling, arguing that the Provincial Court “has established a ruling incompatible with the aims of these appeals of legal protection, i.e., ‘the immediate supervision of the human rights that are covered in the Constitution’.” (Nuevo Diario de Salta (NDS), 2.10.8). This ruling may be relevant for the legal claims of the UNSa.

The making of the new Forest Law itself took place during 2006 and 2007 and soon became a battlefield between different interests. The provincial governments of Salta, Formosa and Misiones unitedly fought the law. Salta’s Senator Sonia Escudero stated that the proposed law “impedes the development of the northern provinces which still preserve native forests, and seeks to condemn us to the role of being the green lung of the country.” Various strategies were used to delay the debating of the law. Three alternative proposals were presented whose aim was just to create further confusion and divert attention away from the original project. One of those was put forward by Salta’s Senator Marcelo López Arias with the backing of agribusiness and FUNDESNOA (Greenpeace, 2007: 4).¹⁴

While the new Forest Law was being fought heavily by agribusiness interests, it also spurred an enormous increase in the number of permits applied for and granted in 2007, so before the new law would be in place. This meant that throughout 2008, ‘legally’ allowed deforestation could still continue with these permits. This is why indigenous communities and civil society started to call Salta the “national deforestation capital” (Página 12, 2.1.9).

Area authorized for deforestation in 2006 and 2007 in Salta (by department) ¹⁵

Departament	Authorized area (ha)		Area (ha)		N° of Applications (2006 and 2007)
	2006	2007	minimum	maximum	
Anta	72.374	98.253	5	17.501	70
San Martín	29.886	111.937	9	43.814	67
Rivadavia	578	118.939	167	38.900	12
Orán	10.697	23.769	3	5.454	45
Metán	8.044	32.293	9	13.260	24
R. Frontera	1.089	13.905	6	6.835	31
Guemes	1.227	1.770	8	443	8
Total	126.872	400.866			

Source: de Viana, M.L. (2008)

¹⁴ FUNDESNOA is a foundation that promotes corporate interests with a sustainable development discourse. Large agribusiness, mining and petrol companies count among its members, as well as Banco Macro (see Chapter 1). PROGRANO is the association of large grain producers of northwest Argentina. Salta’s Rural Society is the regional version of the Argentine Rural Society (Sociedad Rural Argentina), the association of big landowners, which has major political influence and that played an important role during the military dictatorship of 1976-83 as well as during the recent producers’ road blockades against export taxes in 2008.

¹⁵ According to statistics from Salta’s Secretariat of Environmental Policy. Deforestation approved in the departments of the Capital of Salta, Cerrillo, La Caldera, Cafayate and La Candelaria were not taken into account.

These permits were granted based on Salta's environmental law N° 7070. Although on paper the law is one of the best provincial environmental laws in Argentina, in practice it is systematically violated. For example, the law requires that a Socio-Environmental Impact Study is made (Chapter VI). Andrew Leake, who works for the Asociana Foundation¹⁶ and who has analyzed a large number of these studies comments that: "Here in Salta the environmental impact studies are a total farce. For example, one study concluded that deforestation will *increase* biodiversity. As if the introduction of soybean crops increases biodiversity!" Leake also highlights serious methodological errors in the studies; one study turned out to be a photocopy of another, located 250 km further south, which came to light because of the GPS references mentioned on the map. This was reported to the provincial government, but was given little importance. "The government itself knows that the quality of these studies are deplorable, but they accept them anyway." He concludes that "there are no independent environmental impact assessments for any deforestation proposal."¹⁷

By late November 2007, the new Forest Law was finally approved under pressure of environmental, indigenous and peasant organizations, and half a million signatures in support of the original proposal. The law included the main points of the original version, being:

- a moratorium on deforestation permits for one year;
- mandatory environmental impact studies and public hearings;
- a Land Use Plan for each province according to ten environmental sustainability criteria;
- respect for the rights of indigenous and peasant communities.

Following demands made by several provinces that were opposed to the law, a compensation fund was installed for the environmental services provided by those provinces that conserve native forests.¹⁸

The new National Forest Law stipulated that each province has to develop a provincial Land Use Plan of Native forests (OTBN, 'Ordenamiento Territorial de los Bosques Nativos') by November 2008.

Salta's Land Use Planning Law

The process of Salta's new Land use Law for Native Forests was as questionable as the environmental impact studies. In early 2008, the Secretary of Environmental Policy began to organize workshops for public participation in the areas subject to land use planning, as required by the National Forest Law. Meanwhile, deforestation activities accelerated massively following the huge increase in permits granted the previous year. In three of the most dramatic cases, the new Environment Secretary of Salta, Catalina Buliubasich, decided to suspend the permits. However, her attempts were in vein, as she was consequently asked to resign in May 2008 (see Box).

16 Social Support of the Anglican Church of Northern Argentina.

17 Interview with Andrew Leake, November 6, 2008.

18 www.ecoport.net/content/view/full/74611

The Case of El Traslado, Zopota and El Escrito

The Wichí communities of El Escrito, Zopota and El Traslado, consist of more than 60 families and are based in the department of San Martín in the lower part of the Itiyuro River Basin area. These communities filed a legal action before the Federal Court of Oran in 2006, for their ancestral lands to be defined, but they have still not received any response (Página 12, 28.9.8). Rampant deforestation is meanwhile continuing in the surrounding area, leaving communities with only a strip of forest to live in, which is insufficient for their livelihoods. They claim that “this is a form of eviction, if the forests that we live from disappear, they are basically forcing us to go to the cities” (Incupo, 2008).

The estates La Hercilia, Guamache, and El Álamo (department of Rivadavia) are located within the traditionally occupied territory. Between 2004 and 2007, these estates received deforestation permits for a total of 66,951 hectares (Leake et al, 2008). In July 2007, a permit for more than 30,000 hectares selective clearing was issued for El Álamo, owned by the firm Quebracho Colorado S.A. The communities claimed that the permits were illegal because their participation had not been assured. The hearings took place in remote locations, without any prior notification and the reports were not translated into their native language (Incupo, 2008).

In March 2008, the then Secretary of Environmental Policy, Catalina Buliubasich suspended the permit for El Alamo’s deforestation, considering the critical situation of the communities’ survival and applying the precautionary principle: “When an activity can cause irreversible environmental harm, measures should be taken to reverse this.”(Law 7070 Art 4.1). This and some other suspensions of deforestation permits in areas inhabited by indigenous communities granted by the previous government, led to huge pressure for her to resign in May 2008 (Redaf, 2009: p. 1).

Subsequently, the new Secretary, Cristina Camardelli, facilitated an agreement between the community of El Traslado and the owners of El Álamo in July 2008 to end the resistance against the deforestation. The *cacique* (chief) of El Traslado was pushed so much by the company and government officials, that he ended up signing an agreement according to which they were ‘donated’ 1900 hectares located in a flood zone. They were told that they should accept the offer because the community was “never” going to get land of the El Alamo estate, since “they are private lands” (NDS, 30.7.8). The community did no longer see any other way out than to agree to this deal. As the anthropologist John Palmer explains: “It’s an involuntary acceptance of what is being imposed on them” (NDS, 30.7.8).

By the time that the provincial Land Use Plans had to be completed, criticism on the ‘participatory process’ was widespread. In many areas, no effective participation had taken place¹⁹ and in others, comments made by indigenous and Creole communities were not taken into account. At the same time, several other proposals for a Land Use Plan were presented, which did not meet the requirement of the participatory process at all. One such proposal came from Alfredo Olmedo, Salta’s most powerful soy producer. According to his proposal, land use should simply be determined by looking at the slope of the land.

Only the Secretary’s Land Use Plan met the official public participation requirement. However, even this plan was criticized by civil society groups, because of the lack of real participation, and because it would allow the deforestation of yet another 1.3 million hectares.²⁰ The maps that accompanied this proposal showed that for the lower Itiyuro area, where the communities of El Escrito, Zopota and El Traslado are

19 Interviews with Wichí, Kolla and Diaguaita communities of Salta, Nov. 2008. Also: NDS, 21.11.8 and 9.12.8

20 The zoning plan proposed by the Executive Unit of the Secretariat of Environmental Policy provided nearly 2 million hectares for Category I - Red (protected areas, which do not permit deforestation or usage), about 6,200,000 hectares for Category II -- Yellow (sustainable logging, farming or tourism, deforestation is not allowed), and around 1,300,000 hectares for Category III - Green (deforestation allowed). Source: NDS, 9.12.8.

situated, the community's territory would virtually be reduced to only one corridor of preserved land, and the rest would be allowed to be deforested, if it had not already been cleared because of the 2007 permits (see Appendix, Figure 3). However, even the 'preserved' part includes lands for which deforestation permits were already granted, which are still valid (El Álamo, Balbuena, Guamache, La Hercilia). The same is true for the Itiyuro River Basin, where the area identified for conservation contains plots of land for which deforestation permits have already been granted.

In December, the scenario worsened when the provincial Parliament and Senate reached an agreement containing five changes to the Secretary's draft:

1. Significant reduction of conservation of forest cover in the river basins and on the riverbanks. (Art. 12)
2. In forestry projects in areas of medium conservation value (categorized as "yellow"), the use of exotic species and softwood are permitted and industrial forest enterprises are allowed to operate in these areas. (Art. 14)
3. The maximum slope of areas that can be deforested is increased from 5° to 15°. (Art. 15)
4. The applications that were not yet authorized before the enactment of the National Forests Law can be approved under the previous regulation. (Art. 28)
5. The validity of the issued deforestation permits is extended for another three years. (Art. 30)

Given the regional climate with concentrated rainfall, the first and third change would mean a considerable increase in the risk of erosion and flooding. The other changes were clearly added because of the lobby by agribusiness and forestry corporations. According to Senator Valle, chairman of the Committee on Environment, Article 28 was inserted at the request of 17 major producers who had made the environmental impact studies



Erosion on an estate
8 km from Tartagal.

before the national Forest Law came into force. Furthermore he mentioned that the changes had been made with 'technical support' from, among others, Ana Maria Pontussi, executive director of FUNDESNOA and former Environmental Secretary during the Romero government (NDS, 14 and 16.12.8).

On December 16 the Parliament approved a new draft Land Use Plan based on both Senator Olmedo's and the Secretary's proposals, including the five changes. Thus, business interests prevailed, which could in fact mean the destruction of another 1.6 million hectares of forests in Salta, and the livelihoods and cultures of its inhabitants (see Appendix, Figure 4).²¹ Governor Juan Manuel Urtubey ratified the law two days later, breaking decisively with his pre-election promise, which was that he would end "the irresponsible festival of deforestation permits" (see Appendix, Figure 4).²²

The new Land Use Plan immediately sparked strong criticism from social and indigenous organizations. Peasant leaders from the department of Rivadavia said that the participatory process by which the land use law was decided had been "to no avail" and that "our proposals were not taken into account". Tinkunaku, an association of the Kolla people, stated that the participatory process was only of an informative nature, and its only aim had been to enable the government to pretend that 'the communities were involved'. They said that in Salta, "the Forest Law guidelines and international conventions were not respected (...) with regard to the indigenous and peasant communities" (NDS, 16.12.8). Already a few days before the expected approval of the law, the Association of Small Producers in Salta's Chaco, called for the "immediate resignation of the Minister of Environment Julio Nasser, the Secretary of Environmental Policy, Cristina Camardelli and all their civil servants", because "nothing of what was expressed in the so heavily advertised government workshops was taken into account. The participatory and democratic aspects leave much to be desired, whereas this decision will affect thousands of families and communities" (NDS, 14.12.8).



Protest march towards the court before the Supreme Court's public hearing.

21 The map that goes with this new zoning plan was published in July 2009 and is included in the Appendix, figure 4.

22 Speech of governor Urtubey before provincial Parliament, 10.12.7, <http://noticias.iruya.com/content/view/2540/411/>

On December 17, in response to the approval of the Land Use Plan, indigenous and peasant organization members of the Land Platform filed an appeal against the province of Salta and the nation for the “arbitrary and illegal licensing and/or permitting the unconstitutional deforestation and indiscriminate logging of the native forests” in the departments of San Martín, Orán and Rivadavia. They denounced that “the native forests of Salta’s Chaco region are being systematically destroyed by individuals, with the explicit or silent agreement of the provincial and national authorities.” They asked the Supreme Court to declare the unconstitutionality and absolute invalidity of the permits granted, to prohibit the issuance of new permits, and to require the provincial and national authorities to restore the environment to its previous state or to compensate the indigenous communities and Creole families (NDS, 18.12.8).²³

On December 30, the Supreme Court indeed ordered the halt of deforestation and logging of native forests in the departments of San Martín, Orán, Rivadavia and Santa Victoria “until the legal action is resolved.” With this objective, the Supreme Court called for a public hearing for February 18, 2009 (NDS, 30.12.8).

The hearing was attended by many indigenous and Creole communities and supporting organizations. In late March, the Supreme Court ordered the government of Salta “to suspend the permits and the carrying out of deforestation and logging in the four departments mentioned until a cumulative impact assessment is done” for this area of about a million hectares. It also stipulated that the study should be done within 90 days and that “the communities that live in the affected areas must be allowed broad participation”. The Supreme Court also specified that the study “should focus on the analysis of the cumulative environmental impact of logging and deforestation on the climate, the landscape and the environment in general and the living conditions of the inhabitants. It should propose a solution that harmonizes the protection of environmental assets with the cost and benefits involved in development” and “value the relative benefits to the relevant parties involved, and to future generations” (Supreme Court ruling, 2009).

Legislation regarding Indigenous Peoples’ rights

The National Forest Law dictated that the Land Use Plans should take into account “the way that indigenous and rural communities value their forests or adjacent areas and their use of the natural resources for their survival and the maintenance of their culture”. However, as we have seen, Salta’s Land Use Plan authorizes the destruction of indigenous peoples’ ancestral territories in Salta’s Chaco as well as the lands where generations of Creole families have created their history.

Land tenure is very irregular. Chris van Dam of the Fundación de Altos Estudios of the University of Salta (FUNDALTES) writes “In Salta many farms lack defined boundaries: (...) in 2002 this was the case in 46% of properties. These farms most of the time have unresolved tenure situations where there is no property title to mark measured boundaries.” (Van Dam, p.11-12) The situation of indigenous peoples is worse. A study by the UNSa found that in the department of San Martín, which has the largest number of indigenous peoples in the province of Salta, 85% of the communities lack a formal land title (UNSa, 2007).

Hereafter follows an overview of the laws at different levels that are supposed to guarantee the possession and ownership to the indigenous peoples and Creole inhabitants. But again, these laws are usually not respected. John Palmer, an anthropologist who has lived in Salta’s Chaco area for over 30 years, says: “It’s like the government puts a smokescreen, saying: ‘we are respecting international human rights. We signed all the UN conventions on Human Rights, we have domestic laws to protect indigenous people’s rights and to protect the environment’. But in practice, what happens on the ground, is exactly what the law is meant to stop.”²⁴ Examples of this are shown in the next chapter.

²³ The National University of Salta also expressed strong criticism. Its Superior Council maintained that the OTBN “is a serious threat to the environment and legalizes the crimes of genocide and ecocide” and authorized the University’s Rectorate “the power to initiate the legal actions it considers relevant in order to have this law declared unconstitutional, either at the Supreme Court of Justice or before other the relevant institutions” (NDS, 23 and 24.12.8 and Página 12, 2.1.9)

²⁴ Interview with John Palmer, November 8, 2008.

Indigenous peoples' land rights

In 1985, a law was passed that covered the allocation of land to indigenous communities and created the National Institute of Indigenous Affairs (INAI). Only nine years later, with the adoption of the new Constitution in 1994, Argentina recognized the pre-existence of indigenous peoples, and therefore their right to ancestral territories (Art. 75). The new Constitution orders the State “to recognize the communal possession and ownership of the lands that they traditionally occupy” and “to regulate the handing over of other land suitable and sufficient for human development.” It also refers to international treaties which hold precedence over other laws: The American Declaration of Human Rights and Duties, the Universal Declaration of Human Rights, the American Convention on Human Rights (ACHR) and the International Covenant on Economic, Social and Cultural Rights. These treaties are important because they establish basic human rights, which are closely related to access to land.

It is important that the ACHR has constitutional recognition, because this means that the rulings of the Inter-American Court of Human Rights (IACHR) on indigenous lands and territories are binding for Argentina. Several decisions of the Inter-American Court specify that the identity of indigenous peoples and their economic, social and cultural survival cannot be separated from their relationship with their territories (Asociación et al., 2008:12).²⁵ Additionally, the State's responsibility is outlined for the demarcation of the communities' lands and for the titling, that is, the handing over of property titles to the communities (Van Dam, 2007:26).

International Labor Organization Convention 169

The above treaties concern individual human rights. In contrast, Convention 169 of the International Labor Organization includes the collective rights of indigenous peoples and is the most important instrument in international law regarding indigenous rights. The 1989 Convention entered into force in Argentina in July 2001 and includes “the direct and immediate recognition of these peoples' institutions, their land, and breaks with the approach to consider indigenous people's rights from merely the point of view of individual rights.” (Zapiola, 2006). In the hierarchy of laws, the Convention is lower than the Constitution, but above national laws.

This Convention stresses the particular importance of lands or territories for indigenous peoples and the collective aspects of the relationship (Article 13.1 of Part II).²⁶ It also explains the concept of territories, “which covers the total environment of the areas which the peoples concerned occupy or otherwise use” (Article 13.2). The difference between land and territory is that territory is the home of the communities -- where their ancestors lived and are living, as well as the spirits and gods, where history, culture and knowledge of nature is integrated into a vision of communal life. This word unites all aspects of life in all its natural and spiritual diversity: The earth with its diversity of soils, forests and ecosystems, the diversity of animals and plants, and watercourses. (Van Dam, 2007:19).

²⁵ “The close relationship of the indigenous people with the land must be recognized and understood as the fundamental basis of their cultures, their spiritual life, their integrity and their economic survival. The relationship with the land is not merely a matter of possession and production but a material and spiritual element that must be fully exercised [...] to preserve its cultural legacy and transmit it to future generations.” Case of the Mayagna Community (Sumo) Awas Tingni, *supra* note 49, par. 149. Cfr. also Case of the Plan de Sánchez' Masacre Vs. Guatemala. Reparations and Costs. Sentence of November 19, 2004. Serie C No. 116, par. 85; Case of the Indigenous Community Sawhoyamaxa, *supra* nota 75, párr. 118, and the Case of the Indigenous Community Yakye Axa, *supra* note 75, par. 131.

²⁶ ILO Convention 169, Part II Land. Article 13: 1. In applying the provisions of this Part of the Convention, governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

Convention 169 also establishes the right to ownership of the lands, stating that: "Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, to guarantee effective protection of their rights of ownership and possession".

There is a great lack of compliance with this convention as well as the Constitution. In Argentina there are 24 indigenous peoples, with more than 860 communities and a total of more than two million people, but 70% of them do not have any property titles.²⁷ This situation of continuing systematic denial and violation of human rights is closely correlated with the constant deterioration of health, education, decent and adequate housing, food sovereignty, identity and cultural development of these social groups. In short, the right to life is seriously violated"(GAJAT: 6).

Convention 169 finally also gives indigenous peoples the right to participate in the management of natural resources, and is referred to in the National Forest Law.

Emergency Law of indigenous communal property

Because of the large number of land conflicts recently, Argentina's national parliament approved an emergency law (26,160) in late 2006 to protect indigenous communities' traditional lands, and suspended evictions from lands occupied by communities for a period of 4 years. During the first 3 years, the National Institute of Indigenous Affairs (INAI) was ordered to conduct a land survey and start legal procedures to secure land rights.

In October 2008 the INAI signed an agreement with the Provincial Institute of Indigenous Peoples of the Province of Salta (IPPIS) to realize the survey in this province. The survey has yet to be initiated, which means that it will probably not be finished in time, before the end of November 2009. The IPPIS has been strongly criticized by indigenous communities, who say that it does not represent their interests.²⁸ In November 2008 the organization Qullamarka (Coordinating Platform of Salta's Kolla organizations) publicly denounced the IPPIS saying "it has never responded to the real demands of the indigenous peoples of Salta." They referred to the displacements, cases of Wichí children dying due to malnutrition, the loss of biodiversity, etc.²⁹

Law 26,160 is mentioned in the new Forest Law, since the Land Use Planning is closely related to the territorial survey of indigenous communities. In fact, the most logical and appropriate solution would be the simultaneous carrying out of the land use planning with the indigenous territories' survey.

Provincial laws

Salta's Constitution recognizes the pre-existence of indigenous peoples and their right to the public lands they have traditionally occupied, in addition to the regulation of the handing over of other land suitable and sufficient for human development (Art. 15.1). In 1986, Salta had already approved a law which ordered the Provincial Institute of Indigenous Peoples (the current IPPIS) to map the lands of indigenous communities and make all necessary arrangements to give these communities land titles, either of public or private lands, the latter to be expropriated for this purpose (Law 6373, Article 13 and 14). However, according to a report by the National University of Salta, in the department of San Martín, until June 2007, "no indigenous community had achieved the legal recognition of their indigenous rights following this provincial law". Some did achieve this recognition but only after intervention of the National Supreme Court (UNSa, 2007). The situation in other departments is similar, but the study of the San Martín department is particularly important, because it has the largest number of indigenous population in Salta: approximately 30% of the communities representing 7 out of 9 indigenous peoples present in the area.

27 *Comunidades Indígenas reclaman por la propiedad de sus tierras*. De: www.aborigenargentino.com.ar/modules.php?name=News&file=print&sid=43

28 Interviews with members of the Wichís and Kolla communities in the area around Tartagal, November 2008.

29 www.salta21.com.ar

Creole settlers' land rights

The legal situation for Creole communities may be very different from that of the indigenous communities, but the land problems are very similar. The Creole families have generally lived on the land for generations, but now, the legal owners have started to claim the land or sell it to an agribusiness company. The Creole families do not have titles, but nevertheless consider the land as theirs. Their vision is that the land should be for those who work on it and that have a history there. As Chris van Dam (FUNDALTES) explains: "For them, owning land is a commitment to the place, they cannot separate the land from their daily lives. Owning the land means to not leave that place, means having one's livelihood there, one's home, one's history and one's family. They consider their right to the land to be based on their work" (Van Dam, 2007:20).

This vision is supported by the Law on a Twenty-Years Possession. This is the most frequently used law to obtain land titles by Creole settlers. The law requires proof of a continuous residence and use of the land for twenty years, without ever renting or lending it out.

Legal and direct action: the way ahead

Legal battles to obtain land ownership titles have not proven very effective so far. Meanwhile, the destruction of native forests, on which communities depend for their survival, continues. Ana Alvarez of the Asociana Foundation explains that: "Initiating a legal process generally takes a lot of time. So, when the trial ends there is no forest left, because the others [the businessmen] rush to employ a great amount of bulldozers and in the end one is faced with a *fait accompli*. Although we have filed many administrative complaints, the most effective are the direct actions by community members, literally blocking the bulldozers."³⁰



The blocking of bulldozers in "Guamache" by the Wichí community of the Lower Itiyuro area.

³⁰ Interview with Ana Álvarez, November 9, 2008.

3 Case Studies

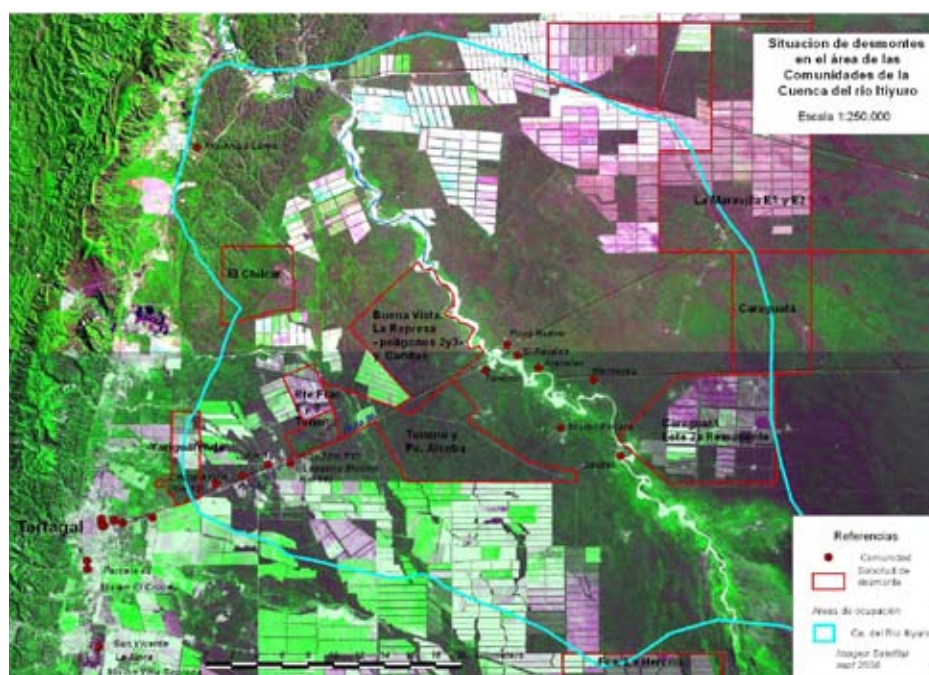
Northwest Argentina has experienced one of the highest levels of land and territory conflict in recent years in Argentina. Major struggles in the region include: the Wichí and Creole peasants of Lhaka Honhat in the department of Rivadavia claiming 640,000 hectares; the Kollas of the Tinkunaku community in Finca Santiago and San Andrés; the Wichí and Creoles in the region of Pizarro; the Wichí communities of El Escrito, Zopota and Traslado; the Creole peasants of Salta Forestal; the Association of Small Producers of Salta’s Chaco; the communities of the Calchaqui Valleys (San Antonio and San Jose); the Ava Guaraní in conflict with El Tabacal; and conflicts linked to the defense of the territory of the Quebrada de Humahuaca (following the recent declaration as a World Heritage Site).

The cases included in this report are based on a trip made through several departments of Salta and Jujuy. The first case covers the situation of the Wichí communities of the Itiyuro River Basin, in the North of the province of Salta. The second one describes the land conflict of the Wichí community of Misión Chaqueña. Thirdly, we describe the deforestation on the banks of the Dorado River, which has been home to several Creole families for decades. Finally, the expulsion and recuperation of the territory of the Guaraní communities of El Talar, province of Jujuy, is described.

3.1 “Attempted genocide” in the Itiyuro River Basin

Close to the city of Tartagal lies the ancestral territory of 13 Wichí communities. The territory is connected to the Itiyuro River Basin and covers 183,000 hectares. Already more than a quarter, 53,000 hectares, has been deforested.³¹ Even when forests are not completely cleared, the flora and fauna are often so harmed by logging and free-ranging cattle that they become of little use to the indigenous communities.³²

Progress of deforestation on the indigenous territory in the area of the Itiyuro River



Source: Fundación Asociana

31 Deforestation taken place until September 2008.

32 <http://www.asociana.org/chaco/area.htm>

Hoktek T'oi (Lapacho Mocho) – Fighting for land titles, through the legal system

In the department of San Martín nearly all land has been privatized. Between 1976 and 1983 the de-facto military government annulled the documents legitimizing the rights of indigenous people to their ancestral territories. This allowed large landowners and investors to take over the land.³³

The Wichí of the Itiyuro riverbank have initiated many court cases in an effort to regain access to, and the rights over, their ancestral territory. Hoktek T'oi (Lapacho Mocho in Spanish) is one of the two communities in the Itiyuro river basin that managed to obtain official land titles over 27 hectares after a seven year legal battle against the Argentine company Los Cordobeses S.A.³⁴ Los Cordobeses deforested 1,838 hectares of the Wichí's territory.³⁵ In 2003 the Supreme Court ruled that the Indigenous rights as set out in the National Constitution, had not been respected by the company, nor had they respected the Environmental Impact Assessment.



Deforestation in the community of Lapacho Mocho

The community has also made a land claim on 3,000 hectares based on a law that includes the possibility of expropriation land back to indigenous communities. Congress passed the Expropriation Bill in 2001, but the community is still waiting for its title due to a dispute over the price that should be paid for the restoration of the land.

Today, the regrowth of vegetation in the ancestral territories is being hampered by, among other things, the presence of free ranging cattle. Due to the deforestation surrounding the village, the population of Hoktek T'oi has suffered greatly from food shortages and health problems. Health issues have been aggravated by crop fumigations by agricultural companies. When the land situated right next to the community was under soy cultivation, “it was immediately visible that within hours [after fumigations] the crops of the communities were yellow and the human health problems were very serious”.³⁶

33 www.lasojamata.org, United Republics of Soy, Oscar Delgado 2007, p136

34 <http://www.survival-international.org/news/163>

35 <http://www.wrm.org.uy/bulletin/75/Argentina.html>

36 Interview with anthropologist John Palmer, 8.11.8 Tartagal.

Holotaj (Tonono) – Direct action against land grabbing and environmental destruction

Unfortunately, even the Hoktek T'oi's minor victory in obtaining at least some land titles is exceptional. Other communities have mostly been unsuccessful in their fights for land and against deforestation.

The community of Holotaj (Tonono in Spanish) of cacique (leader) Antonio Cavana, has faced threats of massive deforestation over the past few years. "In 2005 when deforestation began in yet another part of the community's forest they decided that writing bits of paper and being nice to the government and the companies didn't get them anywhere. So they took steps to stop this new fencing project that was taking place by seizing the vehicle that was driving around. This was at Pozo Nuevo, right at the banks of the Rio Itiyuro, which forms part of Tonono".³⁷ The police responded by shooting with rubber bullets at unarmed men, women and children. Two Wichí community members were badly wounded. They later died.

In 2008, the land was sold to new owners and deforestation efforts started again. On the 20th of November 2008, the caciques of three communities (Sopfwayuk, Chowayuk and Hoktek T'oi) filed a complaint against the new deforestation activities affecting the Holotaj's land. The complaint states that as the authorities are fully aware of the indigenous peoples' rights over their forest, and their dependence on it, the government approval of the deforestation should be seen as an attempted genocide (NDS, 26.11.8).

"The most effective option for resisting deforestation is direct action" said Ana Alvarez, an agriculture specialist who works for ASOCIANA. However, a consequence of engaging in direct action is that the Wichí constantly run the risk of police violence and criminalization. "It's almost counterproductive. By protesting you become the object of state persecution", said John Palmer. According to lawyer Sarah Esper, who represents the indigenous communities in the Itiyuro River Basin in court, "an indigenous person who makes a lawful claim, still ends up as a criminal". Cacique Cavana is a primary example of the criminalization that the Wichí's in the Itiyuro River basin are facing. "More charges have been brought against him than he has hairs on his head", remarked Sarah Esper about Cavana, who has now more than 60 criminal charges on his record.

Lawyer Sarah Esper has also been criminalized herself, by the judicial establishment of the province of Salta. Judges have summoned her for interviews and imposed fines on her for allegedly breaking rules of professional etiquette. Generally, John Palmer writes, all the arguments brought forward by lawyers defending Wichí communities, are systematically dismissed.

Currently, the emergency law of indigenous communal property (see Chapter 2) demands a census of the territories under use by indigenous communities in the area. This could affect around 50 landowners. This could be one step ahead in the struggle for indigenous peoples' rights and the protection of the forests, as well as the halt of deforestation as stipulated by the Supreme Court in March 2009. But meanwhile, as logging in the area continues, so do the struggles of these communities.

3.2 Fences enclosing Wichí community Misión Chaqueña

To reach the Wichí community of Misión Chaqueña, one travels 45 km southeastwards from the city of Embarcación, in the department of San Martín, Salta. Misión Chaqueña is situated on the borders of the River Bermejo.³⁸ Misión Chaqueña's population is currently estimated to number about two thousand people. The population has grown because of the town's availability of schools and health care, and because of degrading living conditions and expulsion of communities elsewhere.

³⁷ Interview with anthropologist John Palmer, 8.11.8 Tartagal.

³⁸ Due to the long dry season, large scale industrial agriculture which is increasing in the region requires irrigation systems.



Handicraft made from chaguar fibres, and fishing; two of the communities' important activities.

Misión Chaqueña, as its name suggests, is the result of Protestant missionary activities in the Chaco region, in this case of the Anglican Church. In these mission settlements, religious, political and economic interests often co-incided. In fact, Misión Chaqueña was founded in 1914 by the Anglicans at the request of the British Leach Brothers, owners of the Esperanza sugar factory, which donated 500 hectares of land to the South American Missionary Association for this purpose (Van Dam, 2000). Settling the nomadic indigenous peoples was seen as necessary in order to impose Christian values upon them and rid them of what were regarded as 'uncivilized' habits and traditions. But at the same time, it conveniently concentrated and disciplined the necessary workforce for the sugar cane factories.

In the 1980s, however, the population of Misión Chaqueña developed a new source of income: selling handicrafts made of locally available traditional materials. These materials include the fiber of the chaguar plant (*Bromelia hieronymi*, see picture), which can be used to make textiles, and 'palo santo' or 'sacred wood' (*Bulnesia sarmientoi*), a beautiful type of aromatic wood.

In the mid-nineties, the Anglican Church donated the 960 hectares of Misión Chaqueña to the community. In order to sustain the handicraft production and other livelihood activities, however, the community needs more land and forest than that. Misión Chaqueña is surrounded by privately-owned land and has not been granted any land titles by the Argentine government so far. Up until this time, community members had been using this land relatively undisturbed.

Misión Chaqueña is now demanding a plot of 2300 hectares that is currently privately owned by Jesus Fernando Peñalver, and another plot of fiscal land from the government, adding up to 3,900 hectares for the entire community. The community had started this legal action with the support of the IPPIS to obtain the land. However, months have gone by without the case being presented to the court. This created doubts about the support that IPPIS was really willing to bring to Misión Chaqueña's land claim. Andrew Leake (ASOCIANA) said: "IPPIS is run by the government, and the government is not going to take action against itself- unless they take some independent juridical action. I'd like to think otherwise, but I don't see anything happening."³⁹

39 Interview with Andrew Leake, Fundación Asociana, Salta, 6th of November 2008.

Self Organizing: the 'Tridepartamental Wichí'

In order to respond to the new threats, Wichí communities from the departments of Orán, San Martín and Rivadavia decided during a congress in September 2007 to organize themselves into the 'Tridepartamental Wichí'. This mobilization of the Wichí had two major objectives: to obtain land titles and to put an end to deforestation.

After this congress, the 100 communities present issued a declaration stating that, despite the many complaints that have been filed, the communities have not seen that any action has been taken against these attacks on their livelihood: "On the contrary, what we have is greater and

The Wichí people were traditionally hunter-gatherers. The settlement activities of the Anglicans from the end of the 19th century, combined with the arrival of small Creole cattle rangers, drastically changed the Wichí's relationship to nature, according to Chris van Dam of the Fundación de Altos Estudios of the University of Salta (FUNDALTES). They were introduced to the market economy as plantation laborers and nowadays, the Wichí communities are among the poorest in Argentinean society.

Sadly, extreme poverty among the Wichí has forced many of them to work in the deforestation industry, clearing the land of tree roots and burning them. Working conditions are horrific: people live under pieces of plastic in the forested areas that are left between the fields to act as windshields. Recent reports on Argentinean TV channels have revealed how families are forced to buy food at inflated prices from the owner or contractor for whom they work. In October 2008, two children from the same family died after falling ill, living in these conditions. The contractor refused to take them to the hospital, claiming he had no fuel for his car.



The chaguar plant whose fibre is widely used in the region

faster environmental destruction caused by unscrupulous entrepreneurs, both Argentinean and foreign.”⁴⁰ The statement demands “fulfillment of our territorial rights” and the “immediate halt of deforestation”. But at the same time the Wichí were making their declaration, not far away bulldozers were destroying a section of forest.

In this first congress other indigenous peoples such as the Toba, the Kolla and the Guaraní participated along with representatives of government institutions and NGO's such as ASOCIANA and Greenpeace. They promised to support both the institutional processes necessary to obtain territorial rights and with the activities directed at stopping deforestation.

Following the first Tridepartamental congress, a delegation of the communities went to Buenos Aires to put pressure on the government. They had meetings with members of the national Parliament like Miguel Bonasso and Remo Carlotto. Lucio Flores, representing Misión Chaqueña reported, “[In Buenos Aires]... they made an assessment and told us that there are laws that support us and that we have rights. They said we should not be afraid, and we should defend the land.”⁴¹

A few days after this meeting, members of several communities along provincial road 53, including residents of Misión Chaqueña, had to come out and stop bulldozers from destroying the forest next to the community of Misión La Esperanza. The police were there to protect the driver of the bulldozer, but upon seeing the large mobilization of people, they decided to stop the deforestation activity.

As Lucio Flores, said, “we felt obliged to protect this piece of land, even though it was not ours, it has an owner. It is because we think of those that will come after us, our grandchildren. From that forest we live, we don't have an alternative.”⁴²



Members of the Misión Chaqueña community in front of a Guayacán tree.

40 Indymedia Argentina, <http://argentina.indymedia.org/news/2007/11/567767.php>

41 Interview with the Land Commission of Misión Chaqueña in Salta, November 6, 2008.

42 Idem.

Misión Chaqueña fenced in

In October 2008, soy farmer and cattle rancher, Fernando Jesus Peñalver began the construction of a fence around 2,300 hectares of land he had recently purchased adjacent to Misión Chaqueña. This caused great concern and anger among the community, as this most likely meant restricted or prohibited access to the land, as well as potential deforestation in order to accommodate soy production. Since Peñalver's property borders Misión Chaqueña on two sides, while on the southern side, there is the river. If Peñalver fenced off his land, the community would lose access to the land they use most. Misión Chaqueña would then go through what other communities have already experienced: ending up isolated in a deforested area. Andrew Leake points out: "As far as we know Peñalver has not yet applied for a deforestation permit for his land. But as soon as the new Land Use Plan has been approved, the provincial government can start handing out these permits again" (See map next page).

Therefore, the community decided to take action. On Wednesday October 29, 2008, residents stopped the van and tractor that were used in building the fence, preventing them from moving or leaving. An employee of Peñalver refused to leave the van behind, and the situation came to a standstill, lasting three days. One member of the community filmed the whole event. The film shows one of Peñalver's employees claiming that he is only putting up the fence to protect the land from 'others', not to restrict its use by the community. The same employee tried to set the tractor on fire, in order to accuse the Wichí community of a violent act. But it seems that when faced with the camera, he changed his mind.



The tense situations were filmed by community members.

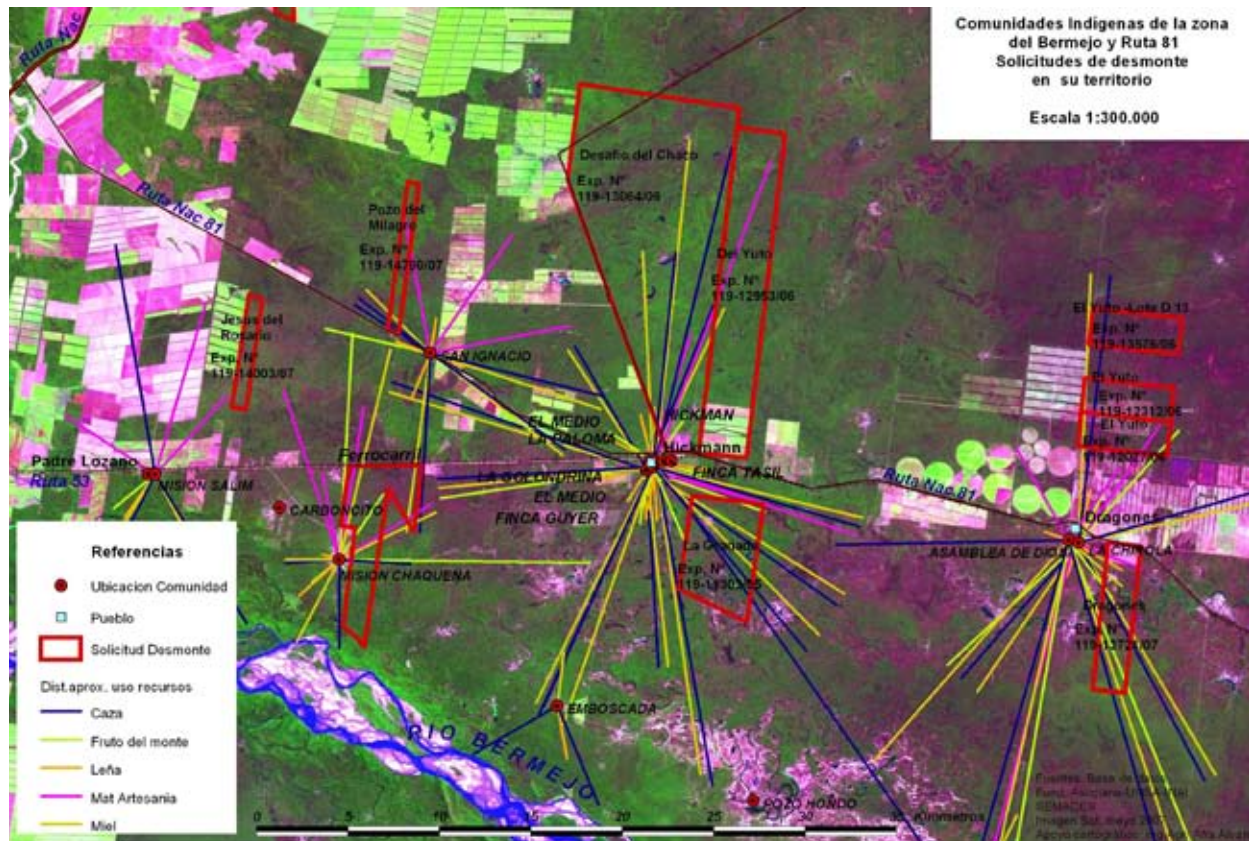
Lucio Flores comments: "For 3 months, our lawyers from the IPPIS (Instituto Provincial de Pueblos Indígenas) have been telling us that they are working on the case and that it will be resolved. But our case is not advancing. So we told them, while you are living quietly in Salta, the fence is closing us in. Once the fence is completed, what are we going to eat? They told us not to worry. But now the moment came for the community to decide not to wait any longer, and to stop the fencing. The van and the tractor had to be blocked. Only then did they come to visit the community. So this was the only way to act."

"We warned our lawyers 3 days in advance. The lawyers told us that they didn't have fuel, nor a vehicle, or that they were busy. So the lawyer only arrived when the conflict was already over. But we would have needed the lawyers earlier, to help us in the negotiations. The lawyers told us to make a denouncement [against the fence], but at the police station in Embarcación, Officer López did not want to accept the indictment".⁴³

Eventually, the community succeeded in stopping the construction of Peñalver's fence. Much of Misión Chaqueña's future will depend on the case that IPPIS is supposed to bring forward; but it is quite likely that this will have to go alongside further instances of direct action to pressure the authorities.

43 Nuevo Diario de Salta, October 31, 2008, Aborígenes impiden la continuidad de alambrado, http://www.nuevodiario-desalta.com.ar/diario/archivo/noticias_v.asp?16212

Progress of deforestation on the indigenous territory in the area of the Bermejo River



Source: Asociana

One older community member of Misión Chaqueña explained the importance of the forest: “This land has belonged to us for thousands of years. Without these trees, we lose everything. They protect us, give us air. This tree, for example [Palo Santo], provides us with a cure for diarrhea, and it harbors animals that we eat. The fruit of this tree keeps us healthy and prevents diseases. With deforestations, all these trees disappear, and with them our culture. I, at least, I’m still alive because I cannot forget my parents’ culture yet. When they burn down the forest, nothing will be left for us.”

3.3 The Creole Families of the Dorado River Basin

The rural municipality of Apolinario Saravia, with just over five thousand inhabitants, covers 1400 square km. Its origin dates back to late 1800, when groups of Creole *gauchos* settled in the area which was inhabited by Wichí indigenous communities. The town is situated at the foot of the Sierras of *Maíz Gordo*, which are the first rises in the west where the *Yungas* or mountain forests start, and eastwards, for over 700 km, lay the plains of dry Chaco forests and savannas. Rainfall increases at the foothills, and the area has a subtropical climate with hardly any frost in winter.

During the twentieth century, the region was colonized by *gauchos* who held livestock in the forests and by the first big landowners with logging activities; the economy was diversified by small producers on farms that began to produce tobacco, corn, pumpkins, citrus and more recently peanuts and early season vegetables and different types of melons. This varied production throughout the year generated a lot of employment. However, in little more than a decade, the soy monocultures advanced from the south, with Las Lajitas at only 50 kilometers distance.

This is the case of five Creole families, with an average of twenty people each, who live deep in the Chaco forest, about 30 kilometers from Apolinario Saravia in one of the remaining forests on the banks of the Dorado River. They have lived in the area for more than 70 years, and have constructed their own houses and corrals.



The creole families of the Dorado River Basin

The presence of very biodiversity rich forests shows that the impact of the five gaucho families on the ecosystem is relatively low, using the forest to raise cattle. They created a unique and traditional way of life that combines indigenous elements (the use of medicinal plants, the consumption of fruit drinks such as *Fuayuq* or carob, desserts, foods derived from wild plants, game meat, etc.) with European influence, creating a new culture with *gaucho* features. Hard and soft cheeses from goat and cow milk, ropes, objects like bags and hats and furniture made from leather and wood show how the *gauchos* have adapted their way of life to the particular environment.

At the beginning of the twentieth century, the five families settled these lands, but never started the process of obtaining a legal title because they were not accustomed to that. In the 1980s, the 14,000 hectares of lands were sold by the name “La Charqueada” to a Mr. Osado. He came to an agreement with the inhabitants of these lands, letting them stay if they agreed to joint use of the pastures. This agreement lasted until 2005 when Osado

The variety of typical birds of the *quebracho* or dry Chaco forests (with hundreds of 25-meters-high robust trees) shows the good state and the diversity of the forest. It is connected to a nearby palm tree reserve (Caranday or Copernicia Alba palm trees) with its 20-meters-tall swaying crowns. Until recently the area was frequented by endangered animals such as pumas, wild cats, giant ant-eaters, boa constrictors, and three species of South American wild pigs, of which one is unique. This *Quimilero* or Chaco peccary is endemic to the Chaco forest, and is large and fierce. This wild pig was thought to have become extinct five to ten thousand years ago, but was rediscovered in 1974 in remote areas of the Chaco. Among bird life are different kinds of woodpeckers, ovenbirds, *charatas* and *chuñas* (exclusive of the Chaco), parrots and owls, or Chaco *ualicucos*.

sold the territory of La Charqueada - including La Troja, the place where the families are settled - to the Cervera Real Estate Agency, owned by Héctor Cervera and Gilberto Oviedo. This company has done a lot of business with soy producers, and has had a long-standing close relation the regional political elite.



Ropes, saddles and pieces of leather

In 2006 and 2007, the Environmental Secretary of Salta (SEMADES in Spanish) authorized the deforestation of 6000 hectares of La Charqueada to the Cervera Real Estate. Official papers state that the inhabitants of the area were informed in public hearings. But the fact is, the families never received any notice. By the end of July 2008, government agents from SEMADES arrived with the new owners and notified the Creole settlers for the first time that deforestation is to start soon and that they must leave. A work camp was installed at the site and four bulldozers started around-the-clock deforesting operations.

During a visit to the site in September 2008, the authors of this report found more than 1,000 hectares of forest destroyed. They were aggressively thrown out of the area by the owner of the deforestation company. The Creoles were intimidated by the new owners, accused of “bringing people to film the deforestation”. Between September and December 2008, employees went to one of the farmyards to measure and placed a pole to mark the boundaries of the deforestation. In December, deforestation had advanced up till three hundred meters from one of the village houses. Work was halted by the onset of the intense rainy season.

The provincial government’s approach in alliance with agribusiness is to use the legal institutions to confuse and scare the residents. Most of in these humble communities do not have much official schooling, and many give up when faced with the flood of papers, documents and permits wielded by businessmen with the explicit approval of the political-judicial-police scaffold.

The national Constitution recognizes the right to land that has been worked and lived on for over twenty years. This is called the twenty-years law or *Ley Veinteañal* in Spanish. This inalienable right has been and continues to be violated by the government of Salta, who deceives the rural resident with little knowledge in the matter, convincing them with an abusive pressure that this law no longer exists.



Bulldozer in the creole families’ land

An area of 6,000 hectares of La Charqueada was destroyed, leaving a mere 50 meters next to the Dorado River to its inhabitants. In general, the residents of this area have not been organized into cooperatives or community organizations and have lived in isolation for decades, unlike other inhabitants and indigenous peoples of Salta who have been organizing and fighting to resist the evictions. Because of this, families are enveloped in fear of losing everything and save what is possible, or they can start to organize to resist this new devastating way of conquering the land, lives and environment of the region. This is the current situation of the five *gaucho* families of Apolinario Saravia. As Emeterio Torres, an old *Wixarika* shaman (or as the Wichi say: wise among his people), says “Only among everything do we know all.” Knowledge is collective or it will not persist.⁴⁴



Tito Nasser in front of clearcut meters away from his home.

3.4 El Talar: a story of repression, injustice, and successful resistance

The village of El Talar is located in the province of Jujuy, in the department of Santa Bárbara, Argentina. El Talar is one of the Guaraní indigenous communities in the area of San Pedro de Jujuy and Libertador Gral. San Martín that were promised 11,000 hectares of land by the provincial government of Jujuy in 1996. As in Salta, the Jujuy government, along with agribusiness, is obstructing the restoration of land to indigenous communities. In 2000, however, residents of El Talar started to occupy this land, as nothing was happening. In July 2008, they were violently evicted by police forces supported by a soy farmer’s mob. Now they have finally received land titles, although only for part of the land, while the remaining portion continues to be rapidly deforested.

Most of those living in El Talar belong to the Guaraní people, but there are also some Kolla and Creole inhabitants. Doña Modesta is the president of the Guaraní community of El Talar. She explains: “In 1994, we stopped the selling off of fiscal land. In 1996, the government promised us 11,000 hectares. So far, titles for just 4000 hectares have been given to these 11 communities. How are we going to live from that?”

In the 1960’s, much of the land in El Talar fell into the hands of the sugar corporation Ledesma. Ledesma drove the indigenous peoples from that land. In order to put pressure on their case, the community of El Talar decided to occupy a plot of land (Plot 515) which is about 30 km from the village. They built small *ranchos*, started to keep livestock and planted vegetable patches. They called this provisional settlement

⁴⁴ Magazine Biodiversidad, Sustento y Culturas: The mysterious web of knowledge in every corner “El misterioso tejido de los saberes de cada rincón”, N° 54, October 2007

“Jasy Endy Guasu” which means “Light of the Big Moon”. Since settling this area, they have continued their campaign to receive legal titles to the land. Although on May 2, 2006, the Court of Jujuy, ordered the provincial government to grant the legal titles of plots 1 and 515 of the department Santa Bárbara to the Guaraní people in their capacity as original inhabitants, the procedures necessary to actually transfer the legal titles were never executed. Of the 35 Guaraní communities in the province of Jujuy, only one has been able to obtain land titles.

In order to reach the entrance to Jasy Endy Guasu, one has to drive more than half an hour, or ride a bike for two hours, which is what most people do. Not everyone can enter the area because the road to the settlement is privately owned by the Ledesma corporation, and only members of the local indigenous communities are allowed to use it. The road passes by large sugar cane fields, and ends at a part of dry Chaco forest. At the end of the dry season, the scorching heat is almost unbearable. Because there is no water, people have to carry a supply each time they go into the settlement.



Deforestation in the lands claimed by the *Jasy Endy Guasu* community

Nevertheless, with irrigation, the land is suitable for soy cultivation. Large tracks of land bordering Jasy Endy Guasu are already being deforested, leaving it a complete desert. All that is left are some narrow ‘green barriers’ between the fields, making it impossible to see the magnitude of the deforestation, which stretches out over six kilometers. This rampant deforestation is being carried out by a group of three agricultural entrepreneurs. The community members that showed us around, think it is likely that they will start cultivating soy on this land. With Ledesma’s sugar cane fields on one side, and large soy fields approaching from the other side, Jasy Endy Guasu might soon be enclosed by two large monocultures. This will mean, apart from the deforestation, soil erosion and fumigation -- huge stresses on the local water supply.



Mechanical harvest in lands usurped by Ledesma

Several major landowners have been claiming the land that was assigned to the Guaraní community of El Talar. In 2004, the Department of Colonization of Jujuy granted concessions to soy farmers Strisich, Farfan and Franchini, who form a producers association. They did not even have to buy the land: they were each simply assigned 3000 hectares that were previously promised to Guaraní communities by earlier governments.

Soy farmers Roberto Strisich and Nestor Farfan began pressuring people to leave the land, both by threatening them (showing the papers from the Jujuy government) and offering them money. Strisich called upon law enforcement to issue an eviction order for the Jasy Endy Guasu community. This order was eventually given out, by surprise, on July 28 2008 by the judge of the court of San Pedro de Jujuy, Dr. Argentino Juarez. It stated that the community members were “property invaders”. The court order was given with the tacit approval of the government of Jujuy. When confronted, the government replied that they “couldn’t find any documents from the period between 1996 and 2000” - the period in which the same government gave the lands to El Talar - and therefore the legal papers that soy producer Strisich obtained were said to be valid.

The court order also violated the currently valid emergency law of indigenous communal property. National Law Nº 26,160, which is valid until October 2010, is supposed to protect any indigenous community from eviction from their land, for whatever reason (See Chapter 2).

On the same day the court order was given, July 28, 2008, a group of 50 policemen, with trucks and *topadoras* (bulldozers used in deforestation) and a group of Roberto Strisich “supporters” entered the settlement around dawn. They chased out everyone they encountered, destroyed homes and other buildings, and killed livestock.

The community was outraged. Soon after this violent eviction, which destroyed everything that had been built up over 8 years, the community blocked the provincial highway. This action was supported by the entire village of El Talar, nearby towns such as Viñalito and other Guaraní communities in Jujuy. Doña Modesta said: “After we started to block the road, the governor of Jujuy sent us a message saying that we should stop messing around and that we would get into trouble with the Ledesma corporation.” The roadblock was very inconvenient for Ledesma, as the sugar was just being harvested and they now could not get it off the fields. But they continued. The roadblock lasted for nearly 3 weeks, while the conflict intensified.

On the 14th of August, close to the zone where the eviction took place, a Guaraní woman, accompanied by her children, was gathering the animals that had survived the eviction. She was attacked by Strisich and two gunmen in his employ. Strisich, dressed in combat clothing and carrying two guns, chased the woman with a knife. When the community wanted to file a complaint against him at the local police station, the officers on duty refused to act, arguing that Strisich was the land owner. Pablo Pelasso, a well-known human rights lawyer from Jujuy, in the end brought a charge against Strisich of homicidal intent and threats to the woman.

After several weeks of a camping next to the road, which included children and the elderly, the government of Jujuy sent a truck with sanitary provisions. The community refused the help, and sent a message to the provincial government that they were responsible for the injustice in the first place.

On August 17, community members saw that Strisich had already started to deforest on plots numbers 1 and 515. Deforestation machinery and electrified fences were present and nothing



Reoccupation of *Jasy Endy Guasu*

was left of the place. A pressure campaign was started demanding the lands be granted to the indigenous communities, and the deforestation was stopped immediately.

As a result, the community decided not to wait any longer for a response from the Jujuy government, but rather to take back their land. On August 18th, from mid-day on, various social organizations from Jujuy and the Guaraní communities of the Yungas of Jujuy (from as far away the Quebrada de la Puna, high up in the Andes), went together to the community of Jasy Endy Guasu, to reoccupy their lands. Between 1000 and 1500 people took part in this symbolic act.

Following all this pressure, on 13 September 2008, the government of the Province of Jujuy transferred 4000 hectares to the community of Jasy Endy Guasu: less than what was promised in the 1996 agreement, but an important step. For reasons of security, it was decided to construct a central settlement called Las Tunas, after the large cactus bearing edible fruits, which is abundant in that area.



Symbolic act during the reoccupation of *Jasy Endy Guasu*

Doña Modesta explains how people from the outside fail to understand the need for land for indigenous peoples. “One Senator asked us why we want land. He does not understand because he’s there sitting with his coffee and his cigar. Not like us, who have to work.” But, being forced to work on plantations and settle in villages, the relationship of the people to the land changes, especially for the younger generation. “In the early days, we used to eat fruits and other things from the forest, like chañar, mistol, carob, and honey. We cultivated pumpkin, sweet potato, sorghum, sweet corn, cassava and peanut. Now, the young people no longer want to eat the fruits from the forest.”

4 Conclusions

This report examines the consequences of the expansion of agribusiness in Northwest Argentina. The expansion of soy - and also sugar cane - monocultures has invaded the traditional territory of indigenous and Creole communities in Northwest Argentina, causing massive deforestation and the destruction of both biological and cultural diversity. Deforestation has also led to regional climatic changes including increased temperatures, strong winds and floods.

The local government institutions that are responsible for protecting the environment and people's livelihoods, in reality were the ones that enabled deforestation by for example lending or selling large tracts of land for monocultures to suit agribusiness interests. Some NGO's and foundations equally help legitimizing agribusiness expansion.

Communities and rural settlers have made numerous efforts to obtain recognition of the possession of their territories, and the legal path has been one of their means. However, despite the expectations that this has generated, so far the legal claims made by the communities have not brought the outcomes that were hoped for, nor have existing laws been complied with.

The National Forest Law (No 26.331) was adopted to protect native forests. In Salta, the period just before the adoption of this law was marked by a huge acceleration of the number of deforestation permits granted. Some of the environmental and social impact assessments were proven to be based on falsified information. The National Forest law stipulated that the provinces develop a Land Use Plan before the end of 2008, with the requirement that the plan is made with participation of indigenous and peasant communities. In Salta, this process was riddled with many irregularities and with a complete lack of transparency. Communities were either not heard or their comments were ignored. It has resulted in a law that allows deforestation of large new areas. This has again generated many protests and legal claims.

In response, early 2009 the Argentine Supreme Court intervened and put a temporarily halt to all deforestation activities in certain parts of Salta. The Supreme Court's next moves will be crucial and deserve close attention.

In this report, four case studies give an insight into the type of land conflicts going on right now in Northwest Argentina. The Wichí communities of the Itiyuro River Basin have struggled for years against the deforestation and to reclaim their territory through legal means and through direct actions - without any response from the government. The Wichí community of Misión Chaqueña is confronted with the fencing of lands around them, preventing free access, but has managed to peacefully halt the fencing work. The Creole families that live on the banks of the Dorado River generally lack land titles thus, also have faced expulsion from their territory. Finally, the case of El Talar in the province of Jujuy tells the story of how Guaraníes communities occupied 4,000 hectares of the 11,000 they were entitled to. However, they are still facing many difficulties, and in the mean time, the remaining 7,000 hectares are threatened to be rapidly deforested.

For the organizations of indigenous and peasant communities, the legal path is one part of a multifaceted strategy in the defense of their territories. Direct actions, as well as the legal claims, are both key tools to enforce their rights. Again and again, communities resort to direct actions such as blocking the construction of fences, which are often a first sign that the owner intends to deforest; blocking roads to demand state intervention in a conflict; holding demonstrations and marches to institutions and corporations that enable and promote deforestation; and ultimately halting the progress of a bulldozer

with their own bodies to stop the destruction of the forest, which means food, life, culture, history, possibility of existence as a people.

As Doña Modesta, a leader of the Guarani community of El Talar, says: “Let us fight, for we know the real value of this eternal struggle. We need respect for our community and for us all, and if we are fighting for the land, we must keep on fighting, because we need the land, not for ourselves, because we are already old, but for our children and our grandchildren. “

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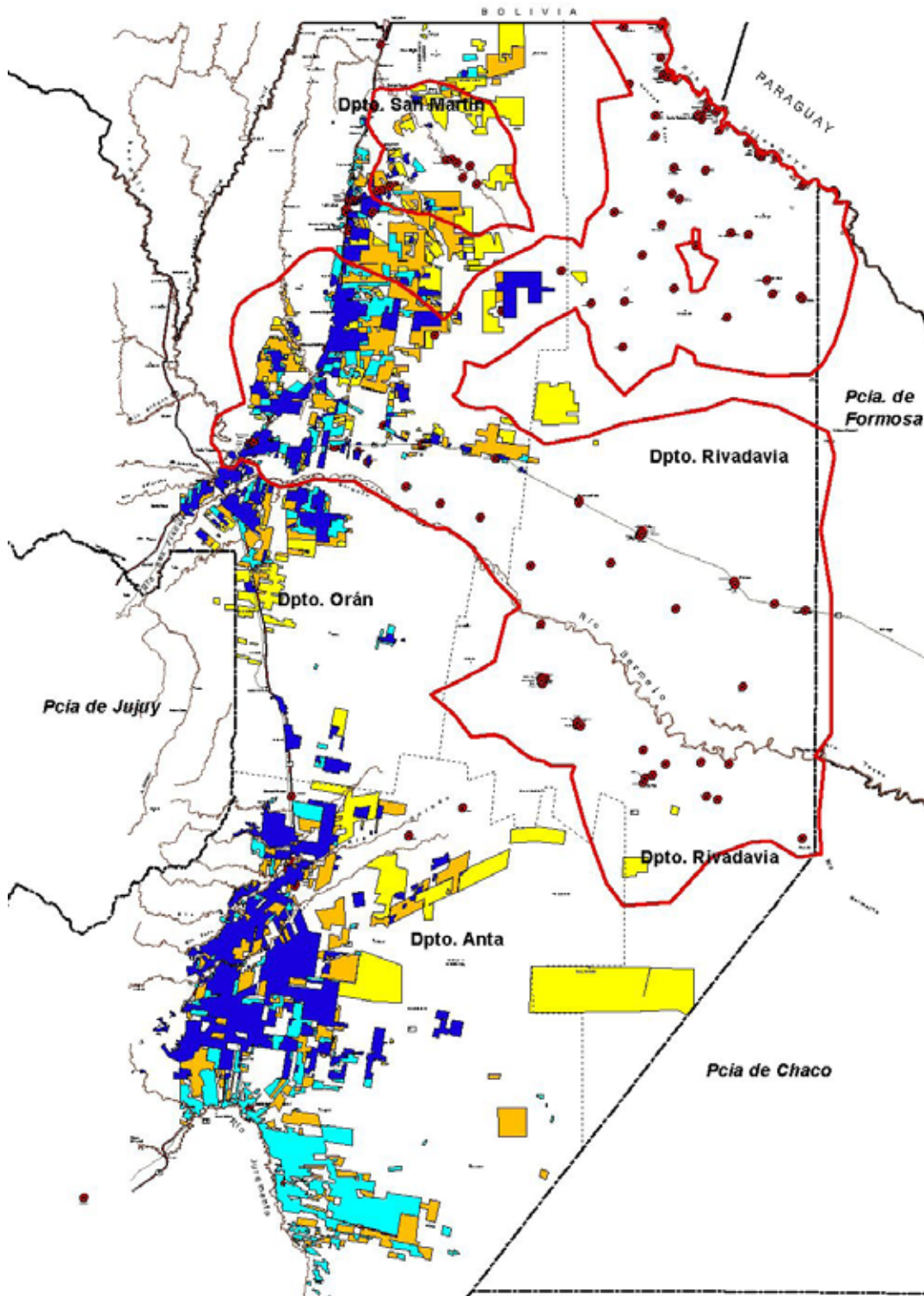
Creole families of the Dorado River Basin, Saravia, September and November 2008.

Photos

The images included in this report were taken by CAPOMA, La Soja Mata, Chaya, Gustavo González and Fundación Asociana.

6 Appendix

Figure 1: Progress of deforestation and indigenous territory in Salta's Chaco.



Deforestation: Blue: to '86, Light Blue: to '96, Orange: to '06, Yellow: to '08.
Indigenous Territory: Red line.

Figure 2: Progress of deforestation and indigenous territory in the departments of San Martín and Rivadavia

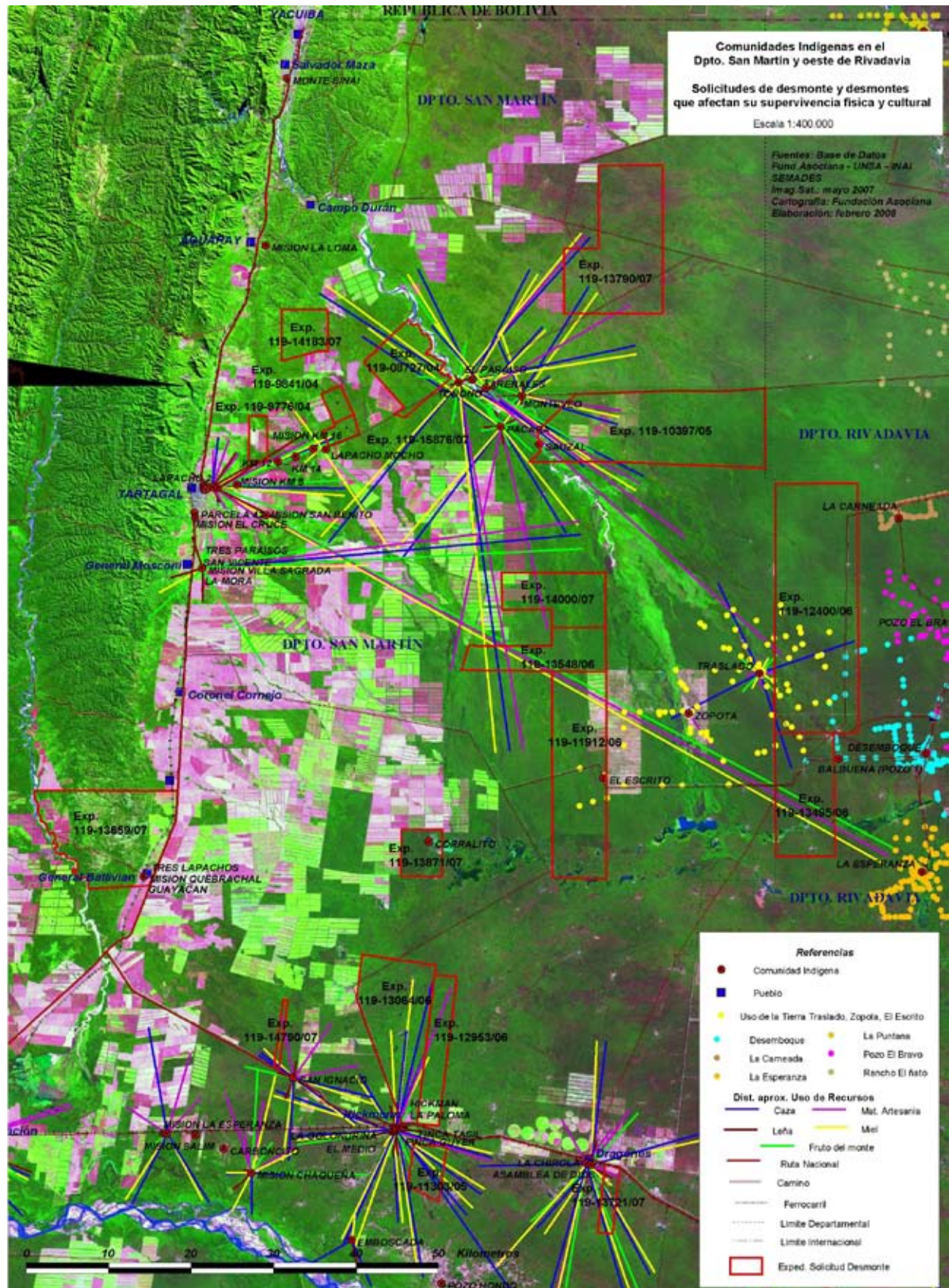
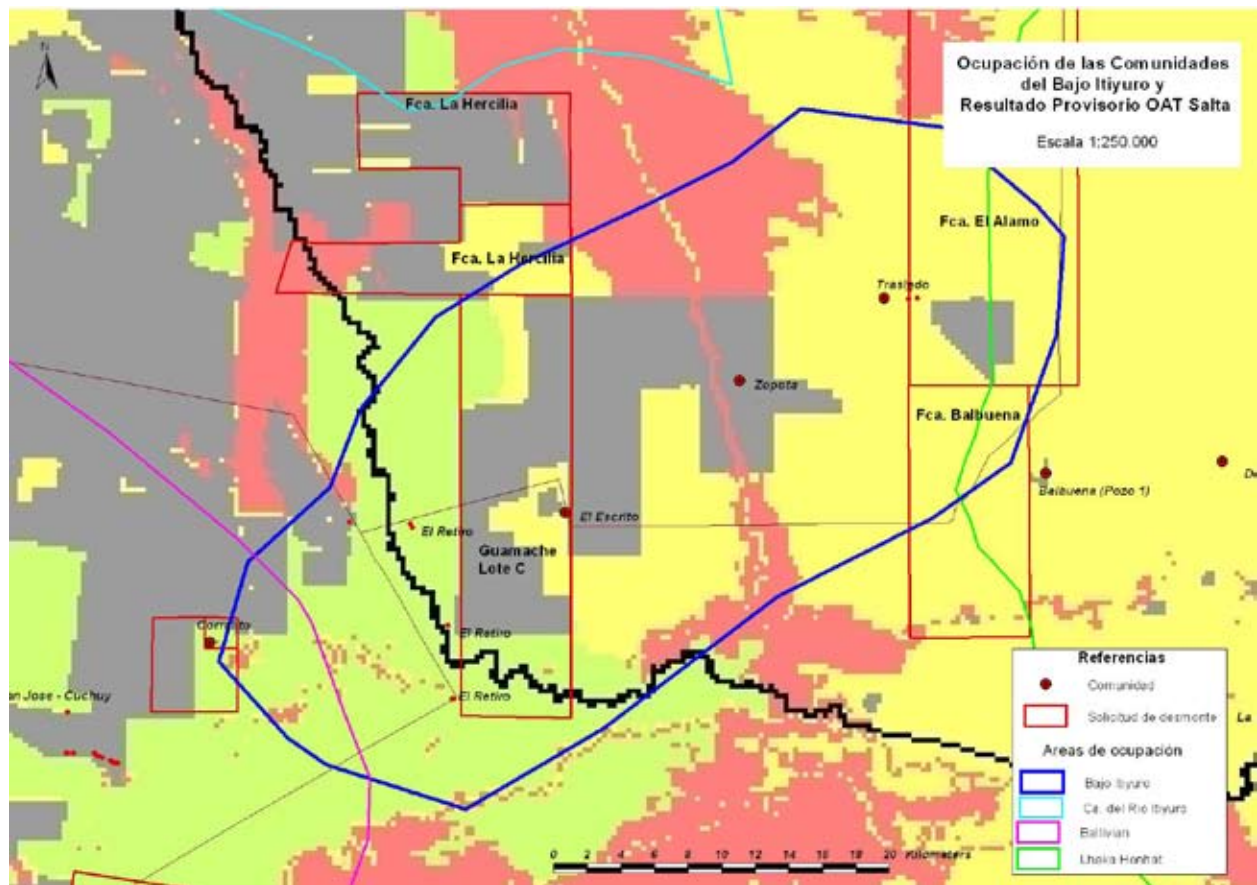
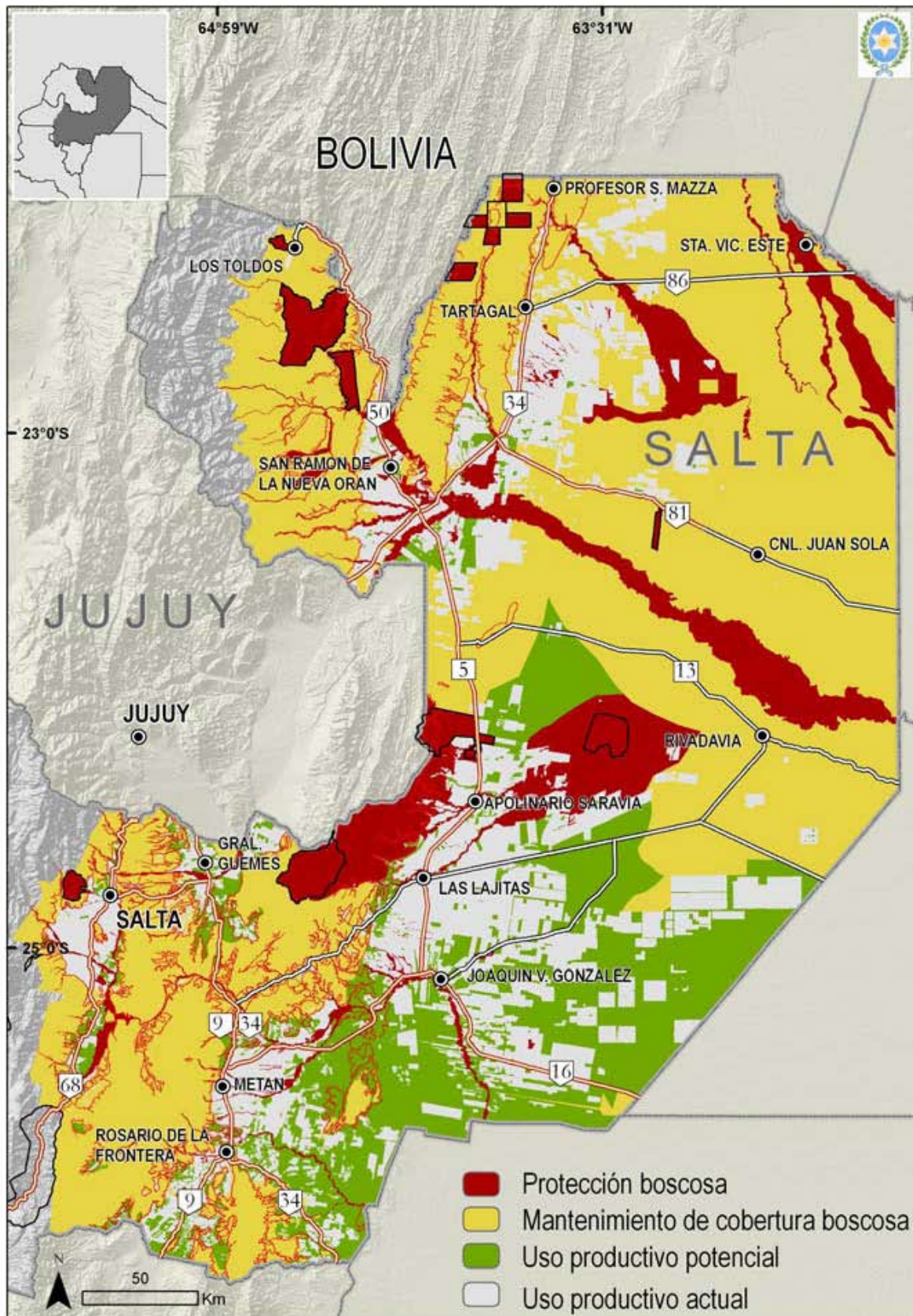


Figure 3: Zonification in the Lower Itiyuro area according to the original project of the Secretary of Environmental Politics



Source: The three maps were elaborated by the ASOCIANA Foundation, thanks to the Foundation for allowing the reproduction of these maps in this report.

Figure 4: Land Use Plan for the province of Salta (July 2009)



Conservation categories: Red: Protection of forest cover; Yellow: Maintenance of forest cover (medium conservation area); Green: Potential production area; Grey: Area under production.