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NO TODO LO QUE ES ORO BRILLA

Developing Community-Based Documentation as a Practice of Indigenous Self-Determination with the Harakbut in Madre de Dios, Peru.

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ABSTRACT

This thesis examines how community-based documentation can be adapted to the context of the Harakbut in Madre de Dios, Peru, to document human rights violations associated with illegal gold mining under conditions of intimidation and weak implementation of Indigenous rights. It argues that conventional documentation approaches are insufficient in contexts where Indigenous advocacy is restricted by violence, criminality, corruption, and institutional weakness. By combining human rights documentation practices, participatory research approaches, Indigenous methodologies, and Indigenous rights jurisprudence, the thesis develops an interdisciplinary conceptual framework for community-based documentation and evaluates its adaptation to the Harakbut context.

The research applies a qualitative and interdisciplinary methodology, combining legal analysis of international and domestic Indigenous rights frameworks with a review of literature on documentation and participatory research, comparative analysis of Inter-American Indigenous rights jurisprudence, and semi-structured interviews with Harakbut representatives. The findings demonstrate that community-based documentation differs from conventional documentation by placing community ownership, Free, Prior and Informed Consent, evidentiary criteria, and the No Harm principle at the centre of the documentation process. Rather than constituting a generic documentation model, it requires adaptation to local governance structures, documentation needs, and security conditions.

The thesis concludes that community-based documentation has significant potential to strengthen Indigenous advocacy, evidence generation, territorial governance, and the exercise of self-determination by the Harakbut. At the same time, it cannot substitute for effective implementation of Indigenous rights or state protection and should therefore be understood as a complementary strategy. Consequently, community-based documentation is not merely a technical process of recording rights violations but can become a practical exercise of Indigenous self-determination in contexts where legal protection remains insufficient.

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‘Nosotros sin el bosque y el bosque sin nosotros no hay equilibrio.’¹

‘Y los jóvenes que tenemos, queremos que ellos sean portavoces y defensores.’²

¹ Interview with Leader of the Harakbut, ‘Entrevista sobre la minería de oro en Madre de Dios y la documentación en un clima represivo de intimidación y restricciones a la defensa de los derechos.’ (5 June 2026). Us without the forest and the forest without us, there is no balance. (author’s translation)

² *ibid.* And the youth we have, we want them to become spokespersons and defenders. (author’s translation)

1. Introduction

1.1. No Todo lo que es Oro brilla³

The region Madre de Dios in southwest Peru is home to 37 indigenous communities, seven of them belonging to the Harakbut. One of the major industries in this region is gold mining, and its consequences, which are associated with territorial encroachment, environmental degradation, toxic mercury exposure, and criminal economies, constitute some of the biggest threats to indigenous peoples' self-determination and advocacy, the protection of their rights, and their survival. However, the Harakbut's issues related to gold mining are being ignored or kept quiet, due to fear and intimidation, as the mining expansion continues to gather pace, and shapes a repressive context of intimidation and restricted advocacy, fuelled by weak implementation of indigenous rights protections, corruption, and criminal activities. According to spokespersons and leaders of the Harakbut, many leaders, indigenous activists, and even local NGOs are being silenced through threats of violence against them or their families. Although their collective rights, their territory and resources, their culture, and their foundational human rights are protected by international law, as well as domestic legislation implementing international legal frameworks, indigenous people in Madre de Dios suffer from interconnected physical, economic, and social violence entailing the intrusion of their territories associated with the gold mining expansion. These issues, in the context of weak protection by the authorities and governmental incapacity, suggest that there is an implementation gap between the international rights framework and local rights protection. To protect their rights and their ancestral lands in the absence of state protection, the Harakbut engage in territorial monitoring and protection activities and organise campaigns to raise awareness with the Peruvian Government and the international community. However, conventional forms of reporting, advocacy, and activism become constrained or unsafe. Taken together with the threats to self-determination and the lack of state protections, this repressive context of intimidation and restricted advocacy creates a need for safe community-based documentation methods that the affected communities can conduct and fully control themselves without risking their well-being.

The thesis, therefore, investigates documentation not only as a method of collecting and preserving information but also as a potential mechanism through which communities can direct the production of evidence and narratives of human rights violations, support their advocacy,

³ All that glitters is not gold.

and contribute to broader visibility and protection of their rights. Existing literature covers the topics of indigenous rights, gold mining and extractivism, environmental degradation, participatory documentation and research with communities and indigenous peoples.⁴ However, it does not examine how these can be synthesised to adapt community-based documentation to indigenous communities experiencing repression, intimidation and restricted advocacy in a context of extractivism and weak implementation of indigenous rights law. By theoretically adapting community-based documentation to the Harakbut context, it examines this approach regarding how it needs to change to become an exercise of self-determination, under conditions associated with the mining expansion and faced by the Harakbut. The thesis does not assume that documentation alone guarantees accountability or protection, but rather examines how community-based documentation can be adapted to the context of the Harakbut people in Madre de Dios, Peru, to document human rights violations associated with illegal gold mining under conditions of intimidation and weak implementation of international Indigenous rights law, and to what extent such an adapted approach could strengthen Indigenous advocacy, evidence generation and rights protection?

1.2. Methodology

The thesis answers this question, using a qualitative socio-legal research approach. Through the combination of semi-structured expert interviews with a doctrinal analysis of international indigenous law, the thesis elaborates on the human rights violations committed against indigenous peoples and identifies barriers to the effective implementation of the legal indigenous rights framework. In an interdisciplinary analysis, it combines known documentation practices in the human rights field with participatory research theory and research approaches with communities and indigenous peoples to establish a distinguished conceptual framework for a community-based documentation. In a contextual and interview-based exploratory analysis of the lived realities and conditions for documentation described by

⁴ Andrea Cardoso, 'El Pueblo Harakbut Frente a Los Extractivismos En La Amazonía Del Sur de Perú' (2018) 105 Ecuador Debate 109 <<https://extractivismo.com/wp-content/uploads/2019/04/CardosoHarakbutExtractivismosPeruED18.pdf>> accessed 20 May 2026; CEDIB and others, 'Minería Ilegal de Oro: Impactos Sobre Los Derechos Humanos y La Biodiversidad En La Amazonía. Seis Países Reportan.' <https://spda.org.pe/wp-content/uploads/2024/10/INFORME-COP-16-WEB_compressed.pdf> accessed 4 April 2026; Jacques M Chevalier and Daniel J Buckles, *Participatory Action Research: Theory and Action for Engaged Inquiry* (1st Edition, Routledge 2013); Tony Hoare, Chris Levy and Michael P Robinson, 'Participatory Action Research in Native Communities: Cultural Opportunities and Legal Implications' (1993) 13 The Canadian Journal of Native Studies 43 <<https://cjns.brandonu.ca/wp-content/uploads/13-1-hoare.pdf>> accessed 20 May 2026; S James Anaya, 'The Right of Indigenous Peoples to Self-Determination in the Post-Declaration Era' in Claire Charters and Rodolfo Stavenhagen (eds), *Making the Declaration Work: The United Nations Declaration on the Rights of Indigenous Peoples* (IWGIA (International Work Group for Indigenous Affairs) 2009).

interview participants, combined with comparative legal case studies, this model and its adaptation will be evaluated.

Two expert interviews were conducted in April and June during the research, and one personal conversation during a visit in Puerto Maldonado took place before starting research, in which the author was introduced to the topic of this thesis. The first interviewed expert is a spokesperson, leader, and technical advisor of the Harakbut, assisting in research collaborations with external researchers and preserving traditional knowledge and medicine. For anonymity purposes, he is called Sr H. throughout the thesis. The second interviewee is Sr O., the leader of a Harakbut community and of the Harakbut executives. Both bring expertise on the struggle for rights protection, advocacy, and the lived experience of the Harakbut to this thesis and legitimately represent the Harakbut communities. Due to the geographical distance in combination with the repressive climate in Madre de Dios, the interview partners were approached through online messages by recommendation of an indigenous rights and environmental defender acquainted to the author, who established the contact. For the same reasons, and given the amount of time available, the interviews were conducted online. However, this led to higher efforts and expenses by the interviewees, and technical problems such as electricity and internet access. Both interviews were conducted in Spanish. All quotations from the interviews included in this thesis have been translated by the author, while aiming to preserve the context and meaning of the original statement as closely as possible. All translations were confirmed by using [deepl.com](https://www.deepl.com), as far as possible. In accordance with free, prior, and informed consent, the interviews were guided by semi-structured question catalogues, sent to the interviewees in advance, together with comprehensive information on the thesis aim, interview purposes, institutional framework, supervision of the thesis, and privacy policy. The interviews were conducted over three sessions. Two sessions took place via the Zoom platform, each lasting half an hour for the first interview, and one hour-long session for the second interview via a WhatsApp call. The interviews were recorded and transcribed with the consent of the interviewees, although all names were anonymised in the transcripts. As the resulting transcripts from OpenAI's Whisper program were inaccurate, the author corrected and completed them, using them as a foundation where correct. While the first interview focuses on the experience of the Harakbut linked to the mining expansion and the exploration of a focus matter for this thesis, the second interview aims to examine the repressive context of intimidation and restricted advocacy and its impact on community-based documentation. While relying only on two principal interviews, which limits community representation, the thesis does not conduct any fieldwork to explore the context or adapt and evaluate the community-

based documentation model, which entails the theoretical nature of the adaptation rather than real implementation. Furthermore, the conducted research faces some limitations, including security constraints, technical limitations, and the external nature of this study. Some of these constraints resemble challenges to documentation established in this thesis. As it develops a conceptual framework, which has not yet been implemented, the thesis has not evaluated a completed documentation approach but provides a theoretical foundation for future research and practical implementation. Nevertheless, thorough consideration of ethical and security concerns and the available timeframe, and by communicating closely with the interviewees, ensuring their consent, and relying on their priorities and perspectives, the author aims for an appropriate application of research methods. Furthermore, the research is strengthened by triangulation with extensive secondary sources.

1.3. Thesis Outline

This study is divided into six chapters, whereby it outlines the current situation in the region of Madre de Dios, in the context of human rights violations associated with the gold mining expansion and committed against the Harakbut. It establishes a conceptual framework for community-based documentation and evaluates its adaptation to the Harakbut context regarding its potential to support advocacy, self-determination, and evidence generation for broader rights protection.

Following this introduction as the first chapter, Chapter 2 presents the context associated with the gold mining expansion and faced by the Harakbut indigenous communities and explores why advocacy and documentation are restricted. The first interview contributes Harakbut expertise and experience to define the characteristics of this context. The findings emerging from this interview, combined with the analysis of relevant literature, outline issues such as environmental degradation, intimidation and violence, corruption, and weak implementation of rights protection, as well as repression and restricted advocacy. The interview shifts the focus towards the perspective and lived reality of the affected. It does not seek to generalise the experiences of all Harakbut communities but rather uses interview findings in combination with a legal analysis to place focus on the implementation gap between recognised Indigenous rights and the experienced realities described by interview participants, to explore focus matters for this study and discuss the necessity of community-based documentation.

The third chapter will first focus on participatory research approaches and practices of documentation in the field of human rights, to examine how documentation should evolve to

match the context established in the previous chapter. It then defines community-based documentation as a distinguished approach and produces a conceptual framework including guiding principles and possible documentation methods. Particular attention will be paid to questions of self-determination, community ownership, security, FPIC, the principle of No Harm, and other imperatives as a result of discussing opportunities and challenges of community-based documentation.

To explore possible functions and successful implementation of community-based documentation, especially regarding evidence production and rights protection, jurisprudence of the Inter-American Court of Human Rights is analysed in Chapter 4. This comparative analysis discusses how community-based documentation contributed to the decisions of the court, and the development and protection of indigenous rights. This establishes a benchmark against which to assess the subsequent adaptation of the documentation approach.

Finally, the fifth chapter examines community-based documentation in the Harakbut context. To this end, it further defines the repressive context of intimidation and restricted advocacy by complementing and expanding previous findings with the second interview. Additionally, it will preliminarily map documentation strategies that are already being implemented by the Harakbut, and discuss opportunities, challenges, and documentation needs resulting from these findings taken together. Lastly, the chapter will adapt the previously established community-based documentation model to the Harakbut context according to the guiding principles from the third chapter, to then evaluate it based on the interview findings and the jurisprudence of Chapter 4. This evaluation will critically assess the potential contribution of community-based documentation to evidence production, advocacy, self-determination, territorial governance and rights protection.

Ultimately, the conclusion seeks to argue that community-based documentation has particular potential for the Harakbut, although it cannot supplement effective implementation of indigenous rights and state protection to solve the conflict in Madre de Dios. Furthermore, community-based documentation should not be understood merely as a technical process for recording human rights violations. Instead, if the Harakbut cannot safely advocate for themselves and legal protection remains inadequate, documentation itself must become an exercise of indigenous self-determination, through which communities strengthen their advocacy, preserve knowledge, protect their territory and assert their rights. These findings can help the Harakbut to strategise future advocacy efforts or contribute to scholarship in future

research by providing a framework on adaptation of documentation approaches to indigenous or extractive contexts.

2. Madre de Dios, The Harakbut, and the Gold Mining Expansion

Madre de Dios, located in the south-eastern Peruvian Amazon, has become one of the country's most affected regions by extractive industries. Here, the gold mining expansion increasingly affects Indigenous rights through environmental degradation, health impacts, intimidation and repression combined with weak state governance. The region contains biodiverse rainforest ecosystems and is home to several Indigenous peoples, including the Harakbut, whose territories and ways of life are closely tied to it. While gold extraction is not a new phenomenon in the region, the expansion of artisanal and small-scale gold mining increased significantly in recent years. Gold mining constitutes a form of extractivism, which, according to scholars, has environmental, social, political, and economic effects on the area where it is conducted. It plays a major role in territorial restructuring and poses urgent dangers to local and indigenous communities, their ecosystems, their health, and their culture.⁵ According to an article from Andrea Cardoso about the fight of the Harakbut against such impacts, the gold mining activities in Madre de Dios, are meeting extractivism defining criteria.⁶ Here, gold mining has increasingly transformed Indigenous territories into contested areas characterised by environmental destruction, criminal economies, and misappropriation of land, resources, and political authority. For the Harakbut, these developments are critically threatening, putting the integrity of their territory, their rights and self-determination, and their livelihoods in danger. The following chapter outlines the expansion of gold mining, in this case mostly artisanal, small-scale gold mining (ASGM), and its impacts on the Harakbut communities. Drawing on academic literature, environmental monitoring reports, legal instruments, and an interview conducted with a Harakbut spokesperson and leader, it examines the environmental, health-related, territorial, cultural, and security-related consequences of the mining expansion, as well as the broader context of criminalisation, corruption, and weak state protection. Furthermore, the chapter analyses these findings in the context of the applicable Indigenous and international human rights framework. The chapter argues, that in Madre de Dios the expansion of gold mining linked to criminal organisations creates a repressive context of intimidation, violence, and institutional weakness that restricts advocacy and limits the visibility of rights violations.

⁵ Eduardo Gudynas, *Extractivismos: Ecología, Economía y Política de Un Modo de Entender El Desarrollo y La Naturaleza* (Red Peruana por una Globalización con Equidad (RedGE) 2015), 13, 425-426.

⁶ Cardoso (n 4) 2.

Consequently, it poses a significant obstacle to conventional forms of documentation and evidence gathering, entailing the necessity of community-led and safety-oriented documentation approaches.

2.1. The Gold Mining Expansion in Madre de Dios

The River Madre de Dios is one of the longest tributaries of the Amazon. It originates in the Peruvian Andes and flows through southwestern Peru, crossing the border into Bolivia and later into Brazil, where it continues into the lower Amazon Basin. It crosses the department of Madre de Dios, which is located in the border area between Bolivia, Brazil, and Peru, and is covered by large areas of primary forest, sheltering some of the highest biodiversity in plants and animals in the world.⁷ The ancestral indigenous lands of this area, home to seven indigenous language groups with multiple subcommunities, span multiple departments, while the region's wealth extends from its flora and fauna, earning it the name of Peru's biodiversity capital, to a richness deep underground: the gold deposits.⁸ One of the local indigenous language groups is the Amarakaeri, also known as the Harakbut. Its subcommunities include the Harakbut, the Arasaeri, the Pikirieri, the Sapiteri, the Toyeri, the Huachiperi, and the Kusamberi.⁹ The Amarakaeri or Harakbut live in the river basins of several rivers, such as the Río Colorado, the Río Pukiri, and the Río Inambari, mainly in the southeast of Madre de Dios¹⁰. Scholarship states that they first engaged with non-indigenous people in the mid-twentieth century, at the same time as the rubber extraction boom and the resulting mistreatment of the indigenous peoples in the area¹¹. According to interviews with three indigenous leaders of the Harakbut, conducted by Andrea Cardoso, they still live in deep connection to their land and territory¹². However, interviewed as part of the research of this thesis, the Harakbut spokesperson and advisor Sr. H, states that less than a third of their ancestral land is recognised by the state as Reserva Comunal Amakaeri,¹³ and the Harakbut do not have any ownership of it.¹⁴

⁷ Amor Torre-Marin Rondo and others, 'Towards Sustainable Futures for Nature and People: An Appraisal Report for Madre de Dios, Peru' (Wyss Academy for Nature 2021) <<https://doi.org/10.48350/161385>> accessed 15 May 2026, 3.

⁸ *ibid* 3; FENAMAD, 'Los Pueblos Originarios de Madre de Dios Son': <<https://fenamad.com.pe/sobre-nosotros/pueblos-indigenas/>> accessed 15 April 2026; CEDIB and others (n 4) 10.

⁹ FENAMAD (n 8); Cardoso (n 4) 115.

¹⁰ FENAMAD (n 8); Cardoso (n 4) 115.

¹¹ Cardoso (n 4) 115.

¹² *ibid*.

¹³ Interview with Spokesperson and Advisor of the Harakbut, 'Entrevista sobre las consecuencias de la minería de oro en Madre de Dios y en las comunidades de los Harakbut, session two.' (24 April 2026) 2.

¹⁴ Establecen la Reserva Comunal Amarakaeri ubicada en el departamento de Madre de Dios DECRETO SUPREMO N° 031-2002-AG 2002 (031-2002-AG), art 2.

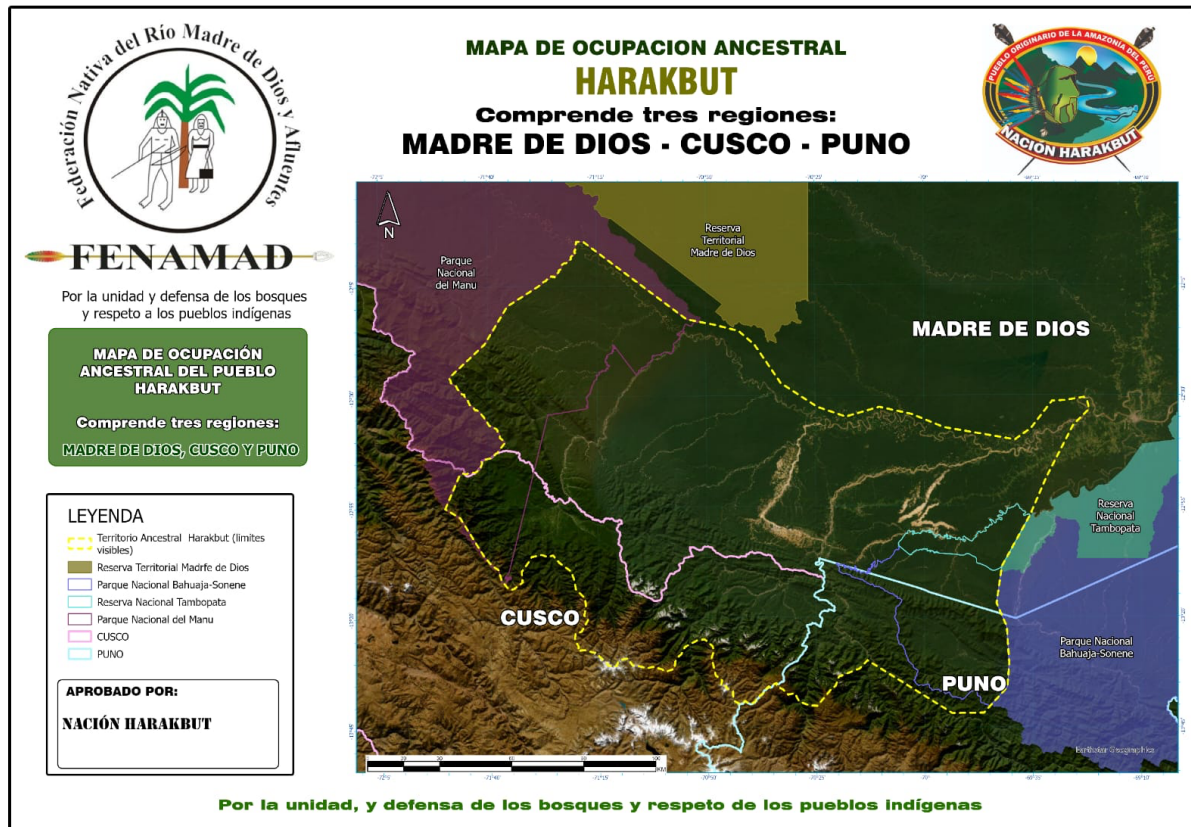


Figure 1. Community map of the Harakbut ancestral territory in Madre de Dios, Cusco, and Puno from 2023. *Source: Community-produced map with assistance of FENAMAD and external technical support. Shared by Sr O. via personal communication and reproduced with his permission (June 2025).*

The region's geographical position attracted migration and trade, which led to settlers forcing the region out of isolation during the rubber boom in the late 19th century, and by making it accessible through road construction in the sixties.¹⁵ It emerged during the Interview, that gold mining in Madre de Dios was already practiced by communities belonging to the Harakbut in times of the Inka. Without today's value system, gold formed part of the Harakbut culture.¹⁶ Much later, after the rubber boom, the possibility of alluvial gold extraction attracted further migration movements to Madre de Dios. The high profits from gold sales on the international market led the Peruvian government to promote gold mining, culminating in the allocation of land to small-scale miners and, later, to larger mining companies depending on the Banco Minero del Perú for sales and exportation to the international market.¹⁷ The extraction of gold

¹⁵ Torre-Marin Rondo and others (n 1), 3.

¹⁶ Interview with Spokesperson and Advisor of the Harakbut, 'Entrevista sobre las consecuencias de la minería de oro en Madre de Dios y en las comunidades de los Harakbut.' (23 April 2026), 5.

¹⁷ Juan García Morcillo, 'Del Caucho al Oro: El Proceso Colonizador de Madre de Dios' (1982) 12 Revista Española de Antropología Americana 255-268,

in Madre de Dios continues to this day and has expanded extensively. Today, most of the mining operations in the area are independent, formal, and informal artisanal or small-scale (ASGM).¹⁸ Despite this, there are such high quantities of operations, and therefore their environmental impacts are so intense, that gold mining in Madre de Dios is being considered extractive.¹⁹ In 2022, the number of active mining operations was estimated at 1088, of which almost half affect indigenous communities.²⁰ Illegal gold mining in Madre de Dios has seen a significant increase due to a combination of rising global gold prices, improved accessibility following the construction of the Interoceanic Highway, and weak state governance paired with institutional incapacity. These circumstances, combined with limited alternative economic opportunities, policies favouring extractive industries, a high corruption rate, and the growing involvement of organised crime, have facilitated the rapid expansion of both legal and illegal artisanal and small-scale gold mining (ASGM) since the early 2000s.²¹

It must be emphasised that the construction of the Highway ‘Interoceánica Sur’ fundamentally transformed Madre de Dios by integrating the region into transnational economic and transport networks, thereby accelerating migration, urban sprawl, and the extraction of raw materials. Whilst the motorway was promoted as a project to foster trade and regional development between Peru and Brazil, its most significant impacts were felt indirectly through the proliferation of secondary roads, improved access to remote forest areas, and the expansion of illegal ASGM and agricultural land²². The improved infrastructure facilitated large-scale migration to Madre de Dios, particularly by impoverished groups seeking work in ASGM, which contributed to extensive deforestation, widespread mercury pollution, and the rapid growth of mining settlements.²³

<<https://revistas.ucm.es/index.php/REAA/article/view/REAA8282110255A/25166>> accessed 15 May 2026, 266.

¹⁸ Matt Finer and Nadia Mamani, ‘Gold Mining in the Southern Peruvian Amazon, Summary 2021-2024’ (Monitoring of the Andean Amazon Project (Maap) 2024) 208 <<https://www.maaprogram.org/maap-208-gold-mining-in-the-southern-peruvian-amazon-summary-2021-2024/>> accessed 8 April 2026.

¹⁹ Cardoso (n 4) 110.

²⁰ CEDIB and others (n 4), 16.

²¹ United States Agency for International Development (USAID), ‘Case Study: Artisanal and Small-Scale Mining in Madre de Dios, Peru’ (USAID 2020), 4 <<https://www.planetgold.org/sites/default/files/2020-12/USAID.%202020.%20Case%20Study%20ASM%20and%20ASGM%20in%20Madre%20de%20Dios.pdf>> accessed 15 May 2026.

²² Environmental Justice Atlas (EJAtlas), ‘Interoceánica as a Driver of Deforestation and Land Use Change in Madre de Dios, Peru’ (*Environmental Justice Atlas (EJAtlas)*, 2023) <<https://ejatlas.org/print/interoceanica-as-a-driver-of-deforestation-and-land-use-change-in-madre-de-dios-peru>> accessed 15 May 2026.

²³ *ibid.*

Having outlined the expansion of extractive gold mining in Madre de Dios, the following section examines its environmental and social consequences, particularly regarding indigenous peoples, such as the Harakbut. Andrea Cardoso frames extractivism in this area as a conflict between extractive economies and indigenous peoples.²⁴ The impacts of the ASGM mining expansion defining this conflict extend beyond environmental degradation and increasingly affect the health, subsistence systems, and cultural continuity of Indigenous communities.

2.2. The Impacts of the Mining Expansion

In Madre de Dios, the direct impacts of gold mining are most visible in the form of deforestation and environmental pollution. Furthermore, gold mining activities often constitute an encroachment on indigenous territory. But, given the strong dependence of indigenous communities on their land, this also has serious consequences for health and the availability of essential resources. Moreover, the destruction and change brought about by this encroachment jeopardise the Harakbut's relationship with their ancestral land, thereby threatening not only their traditional knowledge and culture but also their survival as indigenous peoples.

Between 1985 and 2019, a total of 95,750 hectares were deforested in the Madre de Dios department as a result of mining activities.²⁵ According to reports of the Amazon mapping program MAAP in collaboration with the local organisation FENAMAD,²⁶ representing the indigenous communities in Madre de Dios, in the years between 2021 and 2024, more than one quarter of deforestation connected to mining activities was conducted in prohibited areas, meaning in the territory of indigenous communities or near water bodies.²⁷ This emphasises the severity of the gold mining expansion into indigenous territory. According to Sr. H, the Aguajales, unique Amazonian wetlands that are home to the special Aguaje tree and a vast diversity in plants, essential for the sequestration of carbon and methane,²⁸ are being destroyed for the gold that was found in these areas.²⁹ One of the most impactful experiences for his community is 'witnessing the daily destruction of their territory by big machinery'³⁰.

²⁴ Cardoso (n 4) 14.

²⁵ CEDIB and others (n 4), 33.

²⁶ FENAMAD, 'Sobre Nosotros' <<https://fenamad.com.pe/>> accessed 15 April 2026.

²⁷ Finer and Mamani (n 18).

²⁸ World Wide Fund for Nature (WWF), 'Humedales de Madre de Dios: Impactos y Amenazas En Aguajales y Cochas' (WWF Peru, 8 March 2014) <<https://www.wwf.org.pe/?219570/humedalesmadredediosimpactosamenazasenaguajalescochas>> accessed 20 May 2026.

²⁹ Interview with Spokesperson and Advisor of the Harakbut (n 16) 3–4.

³⁰ *ibid* 3 (author's translation).

Adding to the environmental degradation, gold mining operations generate a big part of the planet's mercury pollution. Mercury is used to bind gold particles in the ores, to extract and then separate them in a heating process, in which toxic mercury vapours are released.³¹ It accumulates in the environment and thus becomes one of the biggest threats to the integrity of the local ecosystem, including, among others, the animals and indigenous peoples living in the area.³² As mentioned above, the MAAP Program also monitors increasing mining deforestation, of which one-third has impacts on the surrounding water bodies.³³ Gold mining in Peru contributes especially to alluvial deposits transported by water. In the last 20 years, an estimated 3000 tons of mercury have been deposited in its liquid state into the water systems.³⁴ This way, the rivers and their ecosystems, including the fish and dependent persons, are contaminated.³⁵ This becomes even more threatening, as toxic mercury contamination can not only be measured in the direct surroundings of gold mining operations, but can also travel long distances through air, sediment erosion, and water.³⁶ Toxic mercury biomagnifies in the aquatic food chain, thus becoming a direct threat to animals and humans dependent on fish or water.³⁷ This has devastating impacts on the ecosystems and their biodiversity, such as biodiversity loss and the disruption of biological cycles.³⁸ According to the interviewee Sr. H, the Harakbut base their alimentation on fish, which is now contaminated as a consequence of mercury pollution. As a consequence, there is no clean, uncontaminated water available for their communities.³⁹ Therefore, Indigenous and riverine communities are the most affected because of their exposure to contaminated water and fish in combination with their dependency on those as a dietary basis.⁴⁰

The threat resulting from mercury poisoning to human health is imminent. It is highly toxic, particularly to foetal and early childhood development.⁴¹ It exists in elemental, inorganic, and

³¹ UN environment programme, 'Mercury Has Long Poisoned Gold Miners. This New Strategy Is Helping Change That.' <<https://www.unep.org/news-and-stories/story/mercury-has-long-poisoned-gold-miners-new-strategy-helping-change>> accessed 4 april 2026.

³² CEDIB and others (n 4), 16.

³³ Finer and Mamani (n 18).

³⁴ CEDIB and others (n 2), 29.

³⁵ *ibid* 29.

³⁶ Alexandra Steffen and Heather Morrison, 'Canadian Mercury Science Assessment. Report' (Environment and Climate Change Canada ed, Government of Canada 2016) <https://publications.gc.ca/collections/collection_2017/eccc/En84-130-3-2016-eng.pdf> accessed 4 April 2026.

³⁷ World Health Organization, 'Mercury and Health' (World Health Organization 2024) <<https://www.who.int/news-room/fact-sheets/detail/mercury-and-health>> accessed 8 April 2026.

³⁸ CEDIB and others (n 2), 21.

³⁹ Interview with Spokesperson and Advisor of the Harakbut (n 14), 2, 4.

⁴⁰ CEDIB and others (n 2), 29.

⁴¹ World Health Organization (n 28).

organic forms, all of which can damage ‘the nervous, digestive, and immune systems, as well as organs like the lungs, kidneys, skin, and eyes’⁴². Exposure occurs either by inhaling toxic vapours or consuming intoxicated fish, water, or even crops produced from fields irrigated with contaminated water.⁴³ In areas where gold is mined, chronic illnesses, high-risk pregnancies, congenital malformations, cerebral palsy, and cognitive and physical disabilities have been recorded⁴⁴. In addition to the mercury poisoning, as a further result of the mining expansion, indigenous communities also suffer from the spread of infectious diseases. These are the most dangerous for Women of childbearing age, children, and the elderly.⁴⁵ Sr H. also describes congenital disorders and neurological damage, and links them to the mercury contamination. ‘[...] Children that are born today are born with defects. Things we’ve never had before, things we’ve never seen before, the diseases. And they’re born with defects, mental disorders, excuse me, blind, deaf. [...] That’s a consequence of the pollution that’s having a severe impact on the (Harakbut) communities’⁴⁶. Also, sexually transmitted diseases associated with prostitution are linked to the mining expansion.⁴⁷

The fact that environmental degradation, including deforestation, mercury pollution, and the destruction of resources and ecosystems essential for the local communities’ subsistence and cultural life, are also happening directly on indigenous lands suggests that the mining expansion has severe impacts on the integrity of Harakbut territory.⁴⁸ This is also reflected in the interview, in which territory is portrayed as integral to the very existence of the Harakbut, as it holds their sacred sites and stands at the very centre of their traditional knowledge.⁴⁹ Sr H. describes drastic change in context of the mining expansion and a transformation from subsistence indigenous economies toward external market dependency caused by environmental destruction, weakening cultural cohesion and spiritual practices.⁵⁰ He experiences a decrease in spiritual discipline amongst the healers due to external pressures, as ‘many have turned to drink, to alcohol, and that is where they lose the connection (to the land and their traditional medicine)’⁵¹. The Harakbut cannot rely anymore on their self-sufficiency, as their foundations of life are

⁴² *ibid.*

⁴³ *ibid.*; CEDIB and others (n 4) 21.

⁴⁴ CEDIB and others (n 4) 79.

⁴⁵ *ibid.*

⁴⁶ Interview with Spokesperson and Advisor of the Harakbut (n 14), 2.

⁴⁷ *ibid.*

⁴⁸ Markus Kröger, ‘Gold Mining and Indigenous Conflicts in Madre de Dios, Peru’ *Clearcut Political Economies of Deforestation* (Cambridge University Press 2025) <<https://doi.org/10.1017/9781009389556.009>>, 134-136.

⁴⁹ Interview with Spokesperson and Advisor of the Harakbut (n 13) 2.

⁵⁰ Interview with Spokesperson and Advisor of the Harakbut (n 16) 4.

⁵¹ Interview with Spokesperson and Advisor of the Harakbut (n 13) 3.

being destroyed with their territory, nor can they enjoy their culture as it is threatened by environmental degradation.

‘[...] We have our own land, we have a pharmacy, we have our own market. But not anymore. That all changed 15 years ago. Because they have been, and are still, destroying our habitat, our market, our land [...]’⁵².

As outlined, environmental degradation, including deforestation and mercury contamination in Madre de Dios, has serious impacts on health, subsistence, and cultural survival of the Harakbut. Beyond this, it is inextricably linked to the broader processes of territorial appropriation. The expansion of mining has intensified territorial invasions, migration into Indigenous lands, crime, violence, and insecurity in communities.⁵³ The interview findings are consistent with previous scholarship and reports in this regard. After external mining actors first entered Indigenous territories, Indigenous communities later became involved themselves after facing territorial destruction and economic pressure. The mining concessions were awarded ‘by the state without the permission or consultation’⁵⁴ of the indigenous communities. As informal ASGM activities expand geographically, indigenous communities are also increasingly confronted with encroachment on their ancestral lands, control of their resources by external actors, and growing insecurity within their territories.

2.3. The Repressive Environment of Intimidation and Restricted Advocacy

Violent attacks and a climate of fear, repression and intimidation, which is exacerbated by the lack of state protection, further fuel insecurity for the Harakbut. Corruption and the influence of criminal organisations in the gold mining sector play a decisive role in this. According to newspaper reports, 35 indigenous people have been murdered in Peru for defending their right to territory.⁵⁵ Although regulations have been introduced to prevent risks and protect human rights defenders, the number of murders and threats continues to rise⁵⁶. According to the report about the impacts of illegal gold mining in the Amazon by CEDIB and others, the Peruvian Ministry of Justice counted more than 300 high-risk situations, recorded by February 2024, most of which were linked to the protection of the environment, territorial rights, and the rights of indigenous peoples against gold mining activities. The same report establishes a direct link

⁵² *ibid.*

⁵³ Kröger (n 32), 133.

⁵⁴ Interview with Spokesperson and Advisor of the Harakbut (n 9) 2.

⁵⁵ CEDIB and others (n 2), 44.

⁵⁶ *ibid* 44.

between the rise in illegal mining and the increasing risks, including murders, faced by environmental activists in Peru, which are grounded in structural causes.⁵⁷ The danger of the situation for human rights defenders in Madre de Dios is further highlighted by the experiences of a local journalist who has received death threats and been attacked for reporting on criminal activities, such as kidnappings and murders, within the gold industry in Madre de Dios.⁵⁸

This suggests that indigenous leaders, journalists, and environmental activists face increased risks, when speaking out against abuses from the mining sector. Weak governmental enforcement and widespread corruption in the mining sector contribute to this and further encourage illegal mining activities, as these incidents rarely result in any consequences.⁵⁹ Some isolated measures in Peru give the political impression of a strategy to combat illegal mining. There are regulations governing the prosecution of the offence of illegal mining, recognising their link to organised crime offences, but these measures are inadequately implemented, often because they focus on the operators rather than the organisation behind them.⁶⁰ It is apparent that the evidence-gathering and investigations carried out by the public prosecutor's office are often incomplete and do not adequately cover all the constituent elements of the offence.⁶¹ Furthermore, the investigating authorities are understaffed. It has also been reported that, in Peru between 2019 and 2023, more than half of the cases taken on have shown no progress or have come to a standstill.⁶² However, it must be mentioned that the state of Peru launched a military operation, called Operación Mercurio, in 2019. It tackled illegal mining in the area of La Pampa in Madre de Dios, which then shortly experienced a significant decrease in deforestation linked to gold mining activities. Nevertheless, the military operation did not manage to stop the mining expansion, and even mining activities in the same target area of the operation were documented again afterwards, which indicates their continuing expansion.⁶³ Sr H. also confirms this and states that ASGM came back even stronger.⁶⁴

⁵⁷ *ibid.*

⁵⁸ Office of the United Nations High Commissioner for Human Rights, 'A Life in Peril to Unearth the Truth' (*OHCHR*, 2 May 2025) <<https://www.ohchr.org/en/stories/2025/05/life-peril-unearth-truth>> accessed 23 May 2026.

⁵⁹ CEDIB and others (n 4) 62.

⁶⁰ *ibid* 62.

⁶¹ *ibid* 60.

⁶² *ibid* 60.

⁶³ Lucio Villa and Matt Finer, 'MAAP #104: Gran Reducción de Minería Ilegal En La Amazonía Peruana Sur Por Operación Mercurio' (*MAAP (Monitoring of the Andean Amazon Project)*, 4 August 2019) <https://www.maaproject.org/es/lapampa_2019/> accessed 20 May 2026; Matt Finer and Sara Novoa, 'MAAP #130: Illegal Gold Mining Down 78% in Peruvian Amazon, But Still Threatens Key Areas' (*MAAP (Monitoring of the Andean Amazon Project)*, 1 December 2020) <<https://www.maaprogram.org/mining-peru-tambopata/>> accessed 20 May 2026.

⁶⁴ Interview with Spokesperson and Advisor of the Harakbut (n 16) 6.

In Addition to the lack of institutional capacity, corruption plays a major role in the gaps of accountability in Peru. The National Corruption Monitoring Centre of the Supreme Audit Office has identified very high levels of corruption in sectors linked to mining⁶⁵. In this context, journalists and the Peruvian Public Prosecutor's Office have noted that criminal organisations are involved in the mining sector in a variety of ways, including through management roles, participation in extraction, or involvement in marketing.⁶⁶ Furthermore, they are involved in processes in which officials and public servants are also implicated, and, in addition, criminal organisations invest in the mining sector or use it for money laundering purposes.⁶⁷ This suggests that links between the government and actors in the mining sector support the repressive context in Madre de Dios. Sr. H states that criminal organisations are one of the biggest issues connected to the gold mining expansion, as they conduct 'violence, attacks, and racketeering'⁶⁸ and are inextricably linked to corruption.⁶⁹ When defending their rights and lands against the miners, the Harakbut do not have any support from the authorities because these same authorities, are 'part of that corruption surrounding illegal mining.'⁷⁰ He suggests, that the corruption of the legal system is being exploited by gold miners to seize indigenous land, 'while the community members who stand to benefit are the ones being reported.'⁷¹ This indicates that criminal organisations exercise significant power and control over the situation surrounding gold mining in Madre de Dios.

In addition to their complicity, Sr. H furthermore portrays local state institutions as ineffective and absent regarding the issues of illegal mining, mainly due to corruption. 'The corruption that both the police and the public prosecutor's office are so involved in, is being treated as if there were no problem, as if the abuse did not exist, as if none of it existed at all'⁷². Indigenous leaders are 'being held at gunpoint by criminal gangs'⁷³ and indigenous movements are being infiltrated, for example to the end of removing the leaders of this movement from office and thereby destabilise it politically.⁷⁴ And while bearing the most risk, 'the (community) leaders are already afraid to report [...] to the police'⁷⁵. Thus, not only intimidation but also mistrust shape this repressive situation, in which the Harakbut 'are being held hostage by illegal

⁶⁵ CEDIB and others (n 2) 62.

⁶⁶ *ibid* 60–62.

⁶⁷ *ibid*.

⁶⁸ Interview with Spokesperson and Advisor of the Harakbut (n 14), 4.

⁶⁹ *ibid*.

⁷⁰ *ibid* 2.

⁷¹ *ibid* 7.

⁷² Interview with Spokesperson and Advisor of the Harakbut (n 13) 3.

⁷³ *ibid*.

⁷⁴ *ibid* 4.

⁷⁵ Interview with Spokesperson and Advisor of the Harakbut (n 6), 4.

mining⁷⁶, as the interviewee summarises vividly. Speaking out against gold mining not only puts one's own life at risk, but also that of one's family.⁷⁷ Sr H. points out that even the local indigenous and representative organisations have remained silent on the issue for the past years for the reasons he has outlined.⁷⁸ Implicating that illegal mining interests have neutralised public opposition within formal Indigenous representation structures. This context of intimidation and repression resembles one of the strongest themes in the interview.

The preceding sections demonstrate that the impacts of mining expansion extend far beyond environmental degradation and encompass threats to health, territorial integrity, cultural survival, and personal security, while indigenous advocacy is restricted by a climate of intimidation and fear. The following section situates these developments within the applicable domestic and international Indigenous and human rights framework.

2.4. The Legal Framework

Human rights and the rights of indigenous people in Peru lack implementation and enforcement. The Peruvian state recognises relevant international frameworks, such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)⁷⁹, which establishes a framework of minimum standards for indigenous rights and provisions that reflect customary international law, although it is not binding or sufficiently respected.⁸⁰ The Indigenous and Tribal Peoples Convention No. 169 by the General Conference of the International Labour Organisation (ILO)⁸¹, which constitutes a binding international treaty dedicated to indigenous peoples,⁸² and the American Convention on Human Rights. Although the latter does not explicitly recognise the rights of indigenous peoples, they are progressively incorporated through jurisprudence and interpretation by the Inter-American Court. Peru is therefore required to implement and protect these rights in domestic legislation and practical enforcement. Its domestic legislation implements some policies to encourage the prosecution of illegal gold mining or criminal activities associated with it, but the rights of indigenous peoples in extractive contexts are scarcely protected.

⁷⁶ Interview with Spokesperson and Advisor of the Harakbut (n 13) 5.

⁷⁷ Interview with Spokesperson and Advisor of the Harakbut (n 35) 3, 4.

⁷⁸ *ibid* 3.

⁷⁹ United Nations General Assembly, 'United Nations Declaration on the Rights of Indigenous Peoples UNDRIP' (United Nations 2007) A/RES/61/295.

⁸⁰ *ibid* 43; Roxanne Dunbar-Ortiz and others (eds), *Indigenous Peoples' Rights in International Law: Emergence and Application*, vol 2 (Gáldu & IWGIA 2015) 12–13.

⁸¹ Indigenous and Tribal Peoples Convention, 1989 (No 169) 1989 (1650 UNTS 383).

⁸² *ibid* 3; Dunbar-Ortiz and others (n 80) 14.

Regarding the legal framework for land and territorial rights, the international indigenous rights instruments, like the UNDRIP and the ILO Convention No 169, enshrine several rights, and link them to the concepts of Free, Prior, and Informed Consent, and self-determination. Articles 25 and 26 of the UNDRIP describe the rights to ownership, control, external recognition, and protection of lands that indigenous peoples ‘traditionally owned, occupied or otherwise used or acquired’.⁸³ Including the natural resources of these lands and the subsistence spiritual connection to these lands.⁸⁴ In the Inter-American legal system, indigenous territorial and land rights were first established through the interpretation of its Article 21 in landmark cases. While the case *Awás Tingni v. Nicaragua*, established a state requirement to recognise and protect indigenous territory, the decision of *Saramaka v. Suriname* specifically requires states, as a provision of Article 21 of the American Convention, to protect indigenous property rights and respect their special relationship to their territory in this regard, and to take appropriate domestic measures.⁸⁵ This therefore also applies to Peru, which recognises communal land rights of indigenous peoples accordingly in the Law on Indigenous Communities (Law No. 22175). However, another law, the Forestry and Wildlife Act (Act No. 29763), prohibits the full ownership of forest land if it is not suitable for agricultural use, also applying to indigenous communities in the Amazon region.⁸⁶ Despite the incorporation of communal land rights into the constitution and domestic legislation, in 2014, around 1,200 communities were still awaiting title deeds for occupied or claimed land, whilst no such rights have been granted in the Amazon region since 2010. Regarding the particular context of the Harakbut, in 2002, the state of Perú established the Reserva Comunal Amakaeri as an area of environmental protection, referring to the indigenous communities living in connection and interdependency with this land, but not recognising any form of indigenous ownership over it.⁸⁷ This reserve is administered by an organisation representing the Amakaeri (Harakbut) communities, and by a governmental institution for environmental protection.⁸⁸ However, as stated by the interview, it does not represent the whole ancestral territory of the Harakbut. Therefore, it does not constitute

⁸³ United Nations General Assembly (n 79) art 26.

⁸⁴ *ibid.*, art. 25-26.

⁸⁵ *Case of the Mayagna (Sumo) Awás Tingni Community v Nicaragua* [2001] Inter-American Court of Human Rights (IACtHR) Series C No. 79 para 173; *Saramaka v. Suriname* (n 68) para 91.

⁸⁶ Sandra Rodríguez, Juan Pablo Sarmiento Barletti and Anne M Larson, ‘REDD+ Safeguards and Indigenous and Community Rights in Peru’ (Center for International Forestry Research (CIFOR) 2022) 2 <<https://www.cifor-icraf.org/gcs/research-themes/multilevel-governance/safeguards/>> accessed 19 May 2026, 2.

⁸⁷ Establecen la Reserva Comunal Amarakaeri ubicada en el departamento de Madre de Dios DECRETO SUPREMO N° 031-2002-AG.

⁸⁸ B Huamán and others, ‘MAAP #205: Situación Actual de La Reserva Comunal Amarakaeri (Amazonia Peruana)’ (*MAAP – Monitoring of the Andean Amazon Project*, 21 February 2024) <<https://www.maaprogram.org/es/maap-205-situacion-actual-de-la-reserva-comunal-amarakaeri-amazonia-peruana/>> accessed 25 May 2026.

indigenous property, although it carries the name of the local indigenous peoples, and requires the state of Perú to protect its nature to benefit the indigenous and local communities.⁸⁹ In the context of mining activities on indigenous land, Peru has stipulated in the constitution and other laws that minerals and hydrocarbons belong to the state, thereby significantly restricting the jurisdiction of indigenous communities over natural resources in their territories.⁹⁰

As emerging from the interview findings, Indigenous peoples like the Harakbut are reliant on territorial integrity. While environmental protection and conservation of indigenous territories are covered in Article 29 of the UNDRIP,⁹¹ the Inter-American jurisprudence ties indigenous territorial rights to cultural rights and the right of a healthy environment, emphasising the importance of the integrity of land and its resources to indigenous cultural survival and well-being.⁹² The ILO Convention No 169 requires the protection of very similar rights, adding also the need for the identification of indigenous land by governments to establish proper protection.⁹³ These grant indigenous people the right of control over their land and resources and require free, prior informed consent and participatory risk assessment, specifically linking these rights to the exploitation of resources or activities affecting the environment and resources of indigenous lands. The ILO even requires these rights to be respected in cases where the government legally owns the resources on the land.⁹⁴

The concept of Free, Prior and Informed Consent in Peruvian domestic legislation stipulates that consultations must take place in good faith and within the framework of an intercultural dialogue before measures affecting indigenous peoples are adopted. It enables indigenous peoples to decide, through their own representative institutions, whether to approve legislative or administrative measures or projects affecting them, their lands and territories, or their resources. In this context, consent is free when it is given without coercion or manipulation, consent has to be given prior to any decisions, and consent requires complete and understandable information about the concerning issue. Furthermore, it includes the option of withholding or withdrawing approval.⁹⁵ The Act No. 29785 establishes a legal framework for

⁸⁹ Establecen la Reserva Comunal Amarakaeri ubicada en el departamento de Madre de Dios DECRETO SUPREMO N° 031-2002-AG.

⁹⁰ Anaya (n 66); Rodríguez para 32, Sarmiento Barletti and Larson (n 67).

⁹¹ *ibid*, art. 29.

⁹² *Case of the Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v Argentina* [2020] Inter-American Court of Human Rights (IACtHR) Series C No. 400.

⁹³ ILO Convention No 169, art. 13-14.

⁹⁴ United Nations General Assembly (n 75), art 29, 32; ILO Convention No 169, art 15.

⁹⁵ Office of the United Nations High Commissioner for Human Rights, 'Free, Prior and Informed Consent of Indigenous Peoples' (OHCHR 2013).

the Prior Consultation of indigenous peoples.⁹⁶ However, the law on Prior Consultation of Peru aims to reach agreements with indigenous peoples, but does not explicitly require their consent. Although it must be interpreted with ILO Convention No. 169, whilst the implementing regulations also refer to the UNDRIP,⁹⁷ it has been criticised that the right to prior consultation is restricted by unclear and restrictive criteria on the application of indigenous status.⁹⁸ Inter-American jurisprudence actually obliges states to implement FPIC as a practical right, particularly in relation to extractive projects, and to make the necessary amendments to domestic legislation in order to prevent any restrictions to this right.⁹⁹ This leads to the conclusion that in accordance with international law, Peru has established a formal legal framework for the consultation and recognition of indigenous peoples, notably through constitutional guarantees and the Law on Prior Consultation, but still lacks normative adaptation to ensure effective implementation. As emerging from the contextual findings inconsistency in implementation is particularly visible concerning extractive mining projects, the granting of land titles, environmental protection, and the participation of indigenous peoples in decision-making within the extractive sector.

Closely linked to the concept of FPIC is the right to self-determination of indigenous peoples. The concept of FPIC is a concrete expression of the self-determination of indigenous peoples. It enables them to exercise independent control over decisions affecting their territories and their future, which is why the two rights are closely linked.¹⁰⁰ While indigenous culture is formally protected by the UNDRIP in several Articles, and linked to territorial integrity and self-determination,¹⁰¹ the mining expansion in Madre de Dios severely interferes with the enjoyment of culture, and therefore with cultural survival and self-determination of the Harakbut. ICCPR and ICESCR both enshrine in Article 1 the right of peoples to self-determination, the UNDRIP specifically refers to the same right for indigenous peoples.¹⁰² In this regard, in the 1993 Peruvian Constitution, the state recognises the legal personality of ‘peasant’ and ‘indigenous’ communities. They are recognised as ‘autonomous in their

⁹⁶ James Anaya, ‘Report of the Special Rapporteur on the Rights of Indigenous Peoples: The Situation of Indigenous Peoples’ Rights in Peru with Regard to the Extractive Industries’ (United Nations Human Rights Council 2014) A/HRC/27/52/Add.3, para 32.

⁹⁷ *ibid* (n 66), para 33-34; *ibid* (n 67), 1-3.

⁹⁸ *ibid* (n66) para 42.

⁹⁹ *Saramaka v. Suriname* (n 68) para 214.

¹⁰⁰ Nathan Yaffe, ‘Titel Indigenous Consent: A Self-Determination Perspective’ (2018) 19 Melbourne Journal of International Law 10 <https://law.unimelb.edu.au/__data/assets/pdf_file/0009/2983059/Yaffe-unpaginated.pdf> accessed 29 May 2026.

¹⁰¹ United Nations General Assembly (n 75), art. 8, 11-12, 25, 31.

¹⁰² United Nations Human Rights Committee (n 88), art. 1; International Covenant on Economic, Social and Cultural Rights ICESCR, art 1; United Nations General Assembly (n 75), art 3, 4.

organisation, in community work, and in the use and free disposal of their land, as well as in economic and administrative matters'.¹⁰³ The Constitution also enshrines the autonomy of the communities in terms of their organisation, collective activities, and the free use of their land, as well as their jurisdiction over activities carried out within their territory.¹⁰⁴ Concluding, the right to self-determination is interrelated to several collective rights of indigenous peoples, and is seriously lacking implementation, particularly regarding territorial rights, FPIC, and cultural rights.

Environmental degradation such as mercury pollution significantly affects indigenous territories in Madre de Dios and therefore also violates foundational human rights. The right to health is established the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR)¹⁰⁵. Its Article 12 recognises 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'.¹⁰⁶ Furthermore, it specifically mentions 'infant mortality and [...] healthy child development'¹⁰⁷, as well as 'environmental and industrial hygiene'¹⁰⁸, which apply directly to the findings about the mining expansion in Madre de Dios. Moreover, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) states that indigenous peoples have the right to enjoy the right to health, including the enjoyment of their traditional medicine, access to health services, and the highest health standards possible.¹⁰⁹ Article 29 of the UNDRIP refers particularly to the protection of indigenous peoples' health from the impacts of hazardous materials and their disposal.¹¹⁰ Similarly, the Convention No. 169, requires governments to protect Indigenous peoples' environment and maintain the highest possible health standards and access to health services, linking health to their specific situational and traditional context and self-determination.¹¹¹ The above established weak enforcement of mercury use restrictions implies, in light of this extensive framework, that the right to health is not adequately protected. Particularly, given the increased exposure and the vulnerability of the Harakbut communities to mercury pollution and other diseases.

¹⁰³ Constitución Política del Perú 1993, art. 89.

¹⁰⁴ *ibid*, art. 149.

¹⁰⁵ International Covenant on Economic, Social and Cultural Rights ICESCR.

¹⁰⁶ *ibid*, art. 12.

¹⁰⁷ *ibid*, art. 12 (2)(a).

¹⁰⁸ *ibid*, art. 12 (2)(b).

¹⁰⁹ *ibid*, art. 24.

¹¹⁰ *ibid*, art. 29 (2)(3).

¹¹¹ *ibid*, art. 7(4), art. 25.

This right to water is enshrined in the UNDRIP through Article 29,¹¹² in Article 11 of the ICESCR, which is directly related to its Article 12, the right to health.¹¹³ It is further supported by the General Comment No. 15 on the Right to Water, recognising access to safe and sufficient water,¹¹⁴ specifically mentioning the requirement for safe and healthy water that carries no chemical substances.¹¹⁵ Furthermore, it highlights the special protection of the right to water of indigenous peoples,¹¹⁶ in particular the protection of their ‘access to water resources on their ancestral lands [...] from encroachment and unlawful pollution’¹¹⁷. Mercury disposal in water systems, essential for the local indigenous communities, makes this right particularly applicable to the Harakbut context.

The repressive environment of intimidation and fear, characterised by violence, murders, and disappearances, entails the relevance of rights to physical integrity and life. The ICCPR manifests the right to life in its Article 6.¹¹⁸ Additionally, Article 7 of the ICCPR should be mentioned, as it recognises freedom from ‘cruel, inhuman, or degrading treatment’¹¹⁹, which includes psychological harm and mental suffering.¹²⁰ Regarding the rights of indigenous peoples, the UNDRIP states clearly their right to life, physical and mental integrity, liberty and security of person.¹²¹ Inter-American jurisprudence also ties intimidation and threats of violence as an interference with rights activism to the right to freedom of association, and requires states to protect rights defenders in this regard.¹²² In the Harakbut context, it is particularly important to acknowledge that these rights are not protected, because this weak implementation itself supports the repressive environment and therefore the violation of other rights.

The legal framework established in this section applies specifically to the Harakbut context of the mining expansion. Although international law seemingly covers the issues faced by the

¹¹² United Nations General Assembly (n 75), art. 29 (1).

¹¹³ International Covenant on Economic, Social and Cultural Rights ICESCR, art. 11-12.

¹¹⁴ Committee on Economic, Social and Cultural Rights, ‘General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)’ (2003) UN Doc E/C.12/2002/11, para 2-3.

¹¹⁵ *ibid*, para 11, 12 (b).

¹¹⁶ *ibid*, para 7, 16.

¹¹⁷ *ibid*, para 16 (d).

¹¹⁸ International Covenant on Civil and Political Rights 1966 (999 UNTS 171), art. 6.

¹¹⁹ *ibid*, art 7.

¹²⁰ United Nations Human Rights Committee, ‘CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)’ (1992) UN Doc HRI/GEN/1/Rev.1, para 5.

¹²¹ United Nations General Assembly (n 75), art. 7 (1).

¹²² *Kawas-Fernández v Honduras* [2009] Inter-American Court of Human Rights Series C No 196, para 145.

Harakbut extensively, domestic legal implementation and practical enforcement are lacking. In the following, the core rights violations emerging from this legal analysis will be presented.

2.5. Core Rights Violations

The communities belonging to the Harakbut face multiple rights violations linked to the gold mining expansion in Madre de Dios. By analysing the findings that emerged in this chapter and from the interview, in the context of the relevant legal framework of Peru, the core human and collective indigenous rights violations are identified. These rights violations will form the central issues to be documented in a community-based documentation approach.

The most extensively evidenced human rights violation concerns the right to health. The chapter outlines severe mercury contamination of rivers, fish, and water systems, and food chains resulting from mining activities. This entails poisoning with toxic mercury, which has serious health impacts for consumers. In addition, the spread of infectious diseases increased in correlation with the expansion of mining in Madre de Dios. Taken together with the increased vulnerability of the Harakbut, this constitutes a violation of their right to health according to the international legal framework of human rights and indigenous rights. The mercury contamination of rivers and water systems furthermore represents a violation in itself of the right to water. The literature and interview findings specifically state that toxic mercury is polluting water systems subsistent to the Harakbut, who are riverine communities. Both rights are interconnected to rights, like the right to a healthy environment, or the right to life and physical integrity. Not only environmental poisoning, but also violence, threats, and killings violate these rights. Rights defenders, as well as the Harakbut, advocating for their rights, are threatened, intimidated with arms, abducted, and murdered. It can therefore be concluded that gold mining in Madre de Dios produces violations of several interconnected fundamental human rights. Moreover, collective Indigenous rights are violated, as outlined in the following.

Emerging from the Interview findings and literature, it is evident that ASGM in Madre de Dios expands into indigenous territories. Concessions for mining are granted on indigenous land, regardless of ‘permission or consultation’¹²³. Although the state of Peru formally recognises indigenous territorial rights and the right to FPIC, the situation in Madre de Dios is characterised by profound failures of implementation of these rights. Moreover, Peru’s legislation limits indigenous land rights significantly through laws like the above-mentioned Forestry and

¹²³ Interview with Spokesperson and Advisor of the Harakbut (n 16) 2.

Wildlife Act, or by keeping ownership over natural resources on indigenous lands. Moreover, environmental degradation and the extractive and therefore destructive encroachment on indigenous lands entail degradation of indigenous culture. Concluding, these constitute violations of indigenous land rights in relation to cultural rights, the right to FPIC and Self-determination. Self-determination in the indigenous context is the foundational principle underpinning the rights of indigenous peoples. Therefore, it is not a right to autonomy in its own right, but rather the right of indigenous peoples to govern their own affairs, preserve their institutions and promote their political, economic, social and cultural development, within a state but independently of state sovereignty.¹²⁴ According to James Anaya, this makes it an instrument of reconciliation.¹²⁵ Sr H. argues that currently, the Harakbut are unable to exercise full territorial control and protection against invasions and environmental degradation because the mining expansion is supported by criminal organisations and the ineffectiveness and corruption of the state.¹²⁶ In this context, the lack of territorial control to protect their ancestral territory and their culture in a sense of self-determination constitutes one of the most impactful rights violations for the Harakbut, and documenting it is particularly important.

The analysis of the situation in Madre de Dios, in the context of the framework of human rights and the rights of indigenous peoples in Peru, reveals a number of key human rights violations. Additionally, several collective indigenous rights are violated. It turns out that, although these are the core rights violations emerging from the findings, they are linked to several other rights. Due to the synergetic nature of the circumstances in Madre de Dios, these rights are not to be seen as separate but interconnected and mutually reinforcing.

2.6. Conclusion

Based on the information gathered, both from the interview and from additional literary sources, the picture of a very threatening crisis emerges. This crisis is characterised by the ongoing expansion of the mining industry and its criminal structures. As a result, the Harakbut are experiencing encroachment and destruction of the natural environment vital to their survival within their territories. Furthermore, they experience human rights violations, breaches of their collective indigenous rights, and a repressive climate of violence, intimidation, and restricted advocacy. These circumstances are exacerbated by weak rights protection and implementation, grounded in the ignorance, ineffectiveness, and corruption of the state and the authorities

¹²⁴ Anaya (n 4).

¹²⁵ *ibid.*

¹²⁶ Interview with Spokesperson and Advisor of the Harakbut (n 6), 7.

responsible for upholding the rule of law. However, the international legal framework requires the state of Peru to ensure implementation, drawing on international treaties, declarations, and indigenous rights jurisprudence before the IACtHR. This would require adaptations in domestic legislation, which emphasises that there is no political will or capability to implement indigenous rights and protect them. The findings of this Chapter suggest that corruption and economic interests play a major role in this regard.

In the interview with Sr H., the topic of repression and intimidation, which entails restricted advocacy, was highlighted several times. Answering the question on the priorities of investigation for this thesis, Sr H. states that he deems it particularly important, to visualise ‘the political context of indigenous advocacy in Madre de Dios’¹²⁷, while he refers specifically to the repressive context of intimidation, in which Harakbut advocates are unable to act. Furthermore, to collect evidence of mercury poisoning, and to create awareness for the topic of autonomous governance, to establish territorial control, and protect its integrity.¹²⁸ Paired with the chapter's findings, supporting advocacy, collecting evidence and protecting the Harakbut territory appear to be the most pressing concerns. However, these are severely restricted by the climate of intimidation and repression. Conventional documentation of these issues is either too dangerous for the documenters, as they face risks of violence and intimidation, or compromises the integrity of evidence, especially when gathering information that may contribute to accountability and advocacy. Dependency on external partners or weak control over data and narratives could also expose indigenous communities to harm. Consequently, effective documentation practices must be adapted to these circumstances to be safe, community-led, and aim at the focus matters of the Harakbut. For example, violations of fundamental human rights, like the right to health, the right to water, and the rights to life and physical integrity, or the violation of several collective indigenous rights, thus territorial and land rights, the right to free, prior and informed consent, and the right to self-determination and culture. Following the previous analysis of the context and the legal framework, it becomes clear that these rights violations cannot be viewed in isolation. Therefore, the documentation of a particular piece of information can provide evidence of the violation of various rights. Of course, there is no guarantee that such successful documentation will ensure visibility and public attention, while the threat to indigenous survival by gold mining in Madre de Dios continues unabated and unchallenged. However, under these circumstances, documentation could be essential, not only

¹²⁷ Interview with Spokesperson and Advisor of the Harakbut (n 13) 5.

¹²⁸ *ibid* 5–6.

as a means of preserving evidence and highlighting rights violations, but also as a prerequisite for strengthening the representation of the indigenous population's interests and supporting the exercise of self-determination by the indigenous population in the context of weak state protection.

3. Community-based Documentation

3.1. Introduction

Documentation of rights violations is a central practice in human rights monitoring and accountability efforts. It supports the production of evidence and the preservation of information to pursue advocacy and rights assertion. Conventional documentation methods and research approaches with indigenous peoples, often treat the affected communities primarily as sources of information.¹²⁹ Focusing exclusively on the results of the research, without taking into account the impact on the lives of the people being studied.¹³⁰ Although many programmes in the human rights field do consult local communities, they then go on to implement projects without involving them further.¹³¹ Particularly when it comes to establishing criminal liability, those affected are often marginalised by being used solely as witnesses, rather than being involved as active participants.¹³² A community-based approach emphasises community participation and expands it to community leadership and ownership of the documentation process, including gathering, reporting and preserving information, and of the information itself.

Community-based documentation will be introduced in this chapter as a documentation approach that prioritises advocacy efforts of communities over mere evidence production. To this end, it places the affected communities not only at the heart of the process, but involves them at every stage as agents, responsible for defining and directing the process, and sharing information.¹³³ The approach follows principles that concentrate on the well-being and security of communities, and on the control over information, without compromising accountability

¹²⁹ Alexandra S Dawson, Elaine Toombs and Christopher J Mushquash, 'Indigenous Research Methods: A Systematic Review' (2017) 8 *The International Indigenous Policy Journal* 1 <<https://doi.org/https://doi.org/10.18584/iipj.2017.8.2.5>> accessed 1 July 2026; Hoare, Levy and Robinson (n 4) 52.

¹³⁰ Hoare, Levy and Robinson (n 4) 52.

¹³¹ United Nations High Commissioner for Refugees (UNHCR), 'Understanding Community-Based Protection' (2013) 3 <<https://www.unhcr.org/ngo-consultations/ngo-consultations-2014/Understanding-Community-Based-Protection.pdf>> accessed 10 May 2026.

¹³² International Accountability Platform for Belarus (IAPB), 'A Survivor-Centred Approach to Documentation for Criminal Accountability' (2025) 6 <https://iapbelarus.org/app/uploads/2025/06/SCA-Paper_EN.pdf> accessed 25 April 2026.

¹³³ Dawson, Toombs and Mushquash (n 129) 1.

where this is of interest. Particularly in the indigenous context, it places self-determination and advocacy at the centre of its implementation. First, documentation is situated in the following within the broader field of human rights, and participatory and community-led research traditions to develop a definition of community-based documentation. Then the chapter discusses opportunities and challenges of community-based documentation approaches and introduces known documentation methods that could be implemented in a community-based approach. Based on these methods, the opportunities and challenges, and the common guidelines emerging from human rights scholarship, the chapter develops principles for community-based documentation. Together, these sections establish the conceptual framework that defines the community-based documentation model and guide its adaptation and assessment in the Harakbut context.

3.2. The Concept

Before examining and outlining community-based documentation methods and principles, this section attempts to clarify what distinguishes a community-based documentation approach from conventional forms of documentation.

The documentation process includes the stages of systematic collection, communication, and preservation of information.¹³⁴ In the broader human rights field, documentation is a common practice and aims for advocacy and justice. For example, the documentation of human rights violations plays a central role in monitoring human rights. If adequately conducted, it serves evidence production and may produce accountability for rights violations.¹³⁵ However, the strong focus on information as evidence for prosecution can lead to a distinction between competent and non-competent investigators. Competent investigators include officially investigating institutions with governmental or international mandates.¹³⁶ Nevertheless, initial field engagement by non-official investigators, such as civil-society organisations, before official investigations is highly important for accountability efforts. Documentation conducted in this context can contribute significantly to accountability by documenting and preserving information and evidence that might be inaccessible for official investigations, but also faces

¹³⁴ Asia Indigenous Peoples Pact (AIPP) (ed), 'Indigenous Peoples Human Rights Defenders Field Handbook on Human Rights Documentation and Advocacy' (Asia Indigenous Peoples Pact (AIPP) 2020) 32.

¹³⁵ Office of the United Nations High Commissioner for Human Rights, 'Manual on Human Rights Monitoring' (United Nations Office of the High Commissioner for Human Rights 2011), 9.

¹³⁶ European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC), 'Documenting International Crimes and Human Rights Violations for Criminal Accountability Purposes: Guidelines for Civil Society Organisations' (2021) 5 <<https://doi.org/10.2812/682168>>.

limits and risks regarding court admissibility or security, if not conducted according to crucial standards of documentation.¹³⁷ Transitional justice approaches, for example, rely on community-led documentation of human rights violations during times of conflict.¹³⁸ This suggests that not the investigating person is decisive for effective evidence gathering, but the documentation approach. To achieve justice, accountability must not outweigh advocacy of the affected, as they are at risk of being marginalised in the course of accountability efforts.¹³⁹ Principles for documentation of human rights violations implement the centrality of the affected communities in the documentation process, through concepts like Free, Prior, Informed Consent, and the prioritisation of community interests and objectives.¹⁴⁰ Thus, a community-based documentation approach in the context of human rights violations follows principles that do not prioritise criminal justice over community priorities. While communities as competent investigators can contribute crucially to accountability efforts, preserving the community's well-being and rights is important through every phase of documentation.

Research approaches in other fields acknowledge the importance of community-centricity as well. The concept of Participatory Action Research or Community-Based Participatory Research, for example, relies primarily on community participation to gather information. Participatory Action Research is a research approach that aims to involve those affected as equal partners in the research process. At the same time, it integrates education as a form of empowerment for the participating communities into the research approach.¹⁴¹ Rather than methods, these approaches are research concepts that pursue inquiry and emphasise mutual respect, co-learning, and power-sharing.¹⁴² Participatory Action Research aims to combine scientific methodology with authentic democratic dialogue to achieve justice as it is understood and defined by the affected individuals or communities.¹⁴³ In the indigenous context, through active engagement in research praxis, such as documentation, by indigenous peoples,

¹³⁷ *ibid* 4–7.

¹³⁸ Jennifer Tsai and Simon Robins, 'Strengthening Participation in Local-Level and National Transitional Justice Processes: A Guide for Practitioners' (Global Initiative for Justice, Truth and Reconciliation (GIJTR) 2018) 40–41 <<https://www.sitesofconscience.org/wp-content/uploads/2018/06/Strengthening-Participation-Toolkit-online.pdf>> accessed 20 April 2026.

¹³⁹ International Accountability Platform for Belarus (IAPB) (n 132) 6.

¹⁴⁰ European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 8; Frederica D'Allessandra and others (eds), 'Handbook on Civil Society Documentation of Serious Human Rights Violations. Principles & Best Practices' (PILPG Public International Law & Policy Group 2016) 22; International Accountability Platform for Belarus (IAPB) (n 132) 6.

¹⁴¹ Chevalier and Buckles (n 4) 5; Hoare, Levy and Robinson (n 4) 51.

¹⁴² Meredith Minkler and Nina Wallerstein, *Community-Based Participatory Research for Health: From Process to Outcomes* (Second Edition, Jossey-Bass 2008) 6.

¹⁴³ Chevalier and Buckles (n 4) 5.

Participatory Action Research aims to increase community autonomy, valuing and recognising indigenous perspectives.¹⁴⁴ Furthermore, it implements standards to ensure community ownership for the indigenous peoples as knowledge holders and control over the research process.¹⁴⁵ Chevalier and Buckles, in their book about Participatory Action Research, categorise various community-based approaches to information gathering and documentation. According to them, research involving humans has to follow ethical principles in order to avoid ‘harm, disrespect or unfair treatment’¹⁴⁶, while the applicability of these depends strongly on the specific situational context.¹⁴⁷ Participatory Action Research and Community-based Participatory Research form another important conceptual framework for the engagement with communities to document rights violations.

Although it serves similar functions, this chapter distinguishes a community-based approach from conventional human rights documentation and participatory research approaches. The community-based documentation approach, which is to be adapted to the Harakbut context, orients on the previously outlined approaches and expands them. It shifts the practice of documentation from treating affected communities as mere information sources or participants to constituting ‘strategic acts of reclaiming narrative authority, cultural ownership, and epistemic sovereignty’¹⁴⁸. This means that communities can play a directing role and exercise self-determination in all aspects of research projects that affect them. To strengthen the community’s leading position in the process and enable it to actively contribute to or bring about change, such an approach must avoid only consulting communities or their representatives to favour an external implementation of the project without further involvement of those affected.¹⁴⁹ Especially for vulnerable communities, this is deemed particularly important by scholars, as expert-driven approaches are marginalising community perspectives and exacerbating the already present experience of inequity.¹⁵⁰ Therefore, a community-based documentation approach is based on continuous community authorisation and consultation in all phases of the documentation process, for example by giving them control over the focus

¹⁴⁴ Hoare, Levy and Robinson (n 4) 51.

¹⁴⁵ Dawson, Toombs and Mushquash (n 129) 1.

¹⁴⁶ Chevalier and Buckles (n 4) 171.

¹⁴⁷ *ibid* 181.

¹⁴⁸ Munyika Sibanda, ‘Community-Driven Archiving: Safeguarding Intangible Culture through Participatory Documentation in Zimbabwe’ (2025) 2 *International Journal of Documentary Heritage* 6–7 <<https://doi.org/10.71278/IJODH.2025.2.1.1>> accessed 28 May 2026.

¹⁴⁹ United Nations High Commissioner for Refugees (UNHCR) (n 131) 3.

¹⁵⁰ RA Afifi and others, ‘Implementing Community-Based Participatory Research (CBPR) with Communities Affected by Humanitarian Crises: The Potential to Recalibrate Equity and Power in Vulnerable Contexts’ (2020) 66 *American Journal of Community Psychology* 381 <<https://onlinelibrary.wiley.com/doi/10.1002/ajcp.12453>> accessed 18 April 2026.

matters and the narrative of information gathering. This also restores their power over the administration of information, including storage and communication. Consequently, decisive power over advocacy, possible change, and sustainable rights protection.¹⁵¹

Participatory Action Research with indigenous communities already pursues participation as a way to increase indigenous self-determination. Community-based documentation in repressive and extractive contexts should place even greater emphasis on self-determination, and therefore on community-control regarding the documentation process, as additional considerations about security, misappropriation, and external influence and interference are required. Thus, a community-based approach should not only be participatory but primarily led by the indigenous communities. This does not exclude the support of external professional organisations, staff, or resources. Community-based documentation of indigenous and human rights violations is therefore a documentation approach that prioritises the advocacy of communities, making them primarily responsible for the documentation and enabling them to control and direct every stage of the process. To this end, it relies on principles that place the well-being and security of communities, community ownership and control, and self-determination at the centre, without compromising accountability where this is of interest. To define these principles, the opportunities and challenges of community-based documentation are being outlined in the following section.

3.3. Opportunities and Challenges

As previously established, community-based documentation serves several important functions that support the long-term struggle for rights protection, advocacy, and self-determination of indigenous peoples beyond accountability efforts and immediate legal recourse. However, although the latter is not the main priority, it remains an important function of community-based documentation to contribute to evidence production and the preservation of important information for possible future accountability.¹⁵² Particularly in the indigenous context, community-based documentation can support the preservation of indigenous knowledge, mostly transmitted orally, by creating a verifiable record that supports legal claims in accountability processes.¹⁵³ Furthermore, documentation creates evidence that raises awareness and supports broader advocacy by increasing visibility of certain violations. This can empower communities in restricted contexts significantly.¹⁵⁴ Images, for example, can serve as evidence

¹⁵¹ United Nations High Commissioner for Refugees (UNHCR) (n 131) 6.

¹⁵² D’Alessandra and others (n 140) 11–13.

¹⁵³ Hoare, Levy and Robinson (n 4) 44–45.

¹⁵⁴ International Accountability Platform for Belarus (IAPB) (n 132) 15.

and additionally have the potential to raise public awareness and support for a certain rights abuse.¹⁵⁵ As established in the previous section, in a community-based approach, the community members are the documenters, which entails that, with control over this process, they can shape the narrative of imagery and display their unique perspective.

In this context, documentation practices can contribute to the direct assertion and protection of rights. For example, land rights or rights over traditional knowledge and their protection.¹⁵⁶ Through documentation, records can be provided that prove previous relations to land, like its use and occupation, which may contribute to the protection from encroachment by restating the land rights.¹⁵⁷ In the same way, documentation can reinforce state responsibility by confronting authorities with their legal obligations arising from these rights. This is considered a central objective of human rights monitoring and is part of determining criminal responsibility but can therefore also help to reinforce governmental rights protection.¹⁵⁸ In contexts shaped by weak governmental and legal presence, this becomes an essential strategy to protect rights, even though their institutional enforcement may be lacking.

Community-based documentation also serves the purpose of self-determination directly. In this context, the documentation of traditional knowledge, for instance, is a further possibility for indigenous communities to reclaim their culture. Particularly, community-based documentation conducted in indigenous communities captures the unique indigenous perspective and worldviews.¹⁵⁹ In this context, but also given the implementation of community-ownership and FPIC, community-based documentation may constitute political practice, as it enables the community to govern their knowledge, for example regarding culture or territory. Therefore, it becomes an instrument for Indigenous self-determination, which allows not only full control over information but also recognition of traditional knowledge that has been suppressed in colonial contexts.¹⁶⁰ In this regard, the creation and control of their own narrative enables communities to challenge historical records of entities whose interests conflict with or do not align with those of the community, thereby allowing errors to be corrected.¹⁶¹ This is especially

¹⁵⁵ D'Allessandra and others (n 140) 75.

¹⁵⁶ World Intellectual Property Organization, 'Documenting Traditional Knowledge - A Toolkit' (World Intellectual Property Organization 2017) 14 <https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1049.pdf> accessed 5 May 2026.

¹⁵⁷ Hoare, Levy and Robinson (n 4) 44-45, 58.

¹⁵⁸ Office of the United Nations High Commissioner for Human Rights, 'Manual on Human Rights Monitoring' (n 135) 99-100; D'Allessandra and others (n 140) 61.

¹⁵⁹ Hoare, Levy and Robinson (n 4) 44, 53.

¹⁶⁰ *ibid* 52-53; Samantha McMahon and Anthony McKnight, 'It's Right, Wrong, Easy and Difficult: Learning How to Be Thoughtful and Inclusive of Community in Research' in Victoria Rawlings, James L Flexner and Lynette Riley, *Community-Led Research: Walking New Pathways Together* (Sydney University Press 2021) 62.

¹⁶¹ Hoare, Levy and Robinson (n 4) 58.

valuable for communities when external actors shape a narrative that contradicts community perspectives. Increasing self-determination can be an important opportunity for indigenous communities, especially when advocacy for indigenous culture is repressed, and the environment, which is central to indigenous culture, is being destroyed by invaders.

Although community-based documentation offers opportunities, such as evidence production, advocacy, rights assertion and protection, self-determination, cultural preservation, and decolonisation efforts, it can be limited by certain challenges. In repressive environments of intimidation and restricted advocacy, it faces limits and challenges regarding security and a lack of immunity, an evidentiary barrier, and institutional incompatibility. Unlike official investigators, community documenters enjoy neither international immunity nor specific privileges, but are particularly vulnerable to repressive measures, pressure tactics, or acts of retaliation, as they are usually in proximity to the perpetrators.¹⁶² It can be assumed that those responsible for infringements are interested in destroying evidence, even if this involves the use of force. It should be considered that this threat may come from various groups or individuals, including criminal organisations and state institutions.¹⁶³ This leads to the assumption that documentation activities aiming for accountability, rights assertion, or advocacy can expose communities to great security risks. Particularly, if law enforcement agencies are partly responsible for the climate of repression or are not present to prevent it.

Although, as stated above, documentation practices aim for evidence production and can help to create admissible evidence, community-based documentation faces an evidentiary barrier. Particularly, indigenous legal claims are often restricted through epistemic injustice, which refers to the systematic devaluation and marginalisation of indigenous knowledge systems.¹⁶⁴ In Western-shaped legal systems, indigenous oral traditions are often presumed less reliable and therefore less valuable for supporting legal claims.¹⁶⁵ Moreover, information is considered unreliable if evidence is produced by unofficial researchers and documenters, not only because of their alleged unprofessionalism, but also because of divisions within a community that may

¹⁶² European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 9; D'Allessandra and others (n 140) 127–128.

¹⁶³ D'Allessandra and others (n 140) 44; European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 11.

¹⁶⁴ Eva Maria Fjellheim, 'Wind Energy on Trial in Saepmie: Epistemic Controversies and Strategic Ignorance in Norway's Green Energy Transition' (2023) 14 *Arctic Review on Law and Politics* 140, 142 <<https://doi.org/10.23865/arctic.v14.5586>>.

¹⁶⁵ Hoare, Levy and Robinson (n 4) 56–57, 59.

create inaccuracies in certain information.¹⁶⁶ In the same context, indigenous or communal methodologies or perspectives are not recognised or respected by the non-indigenous systems. For example, the relationship to the land and its fundamental nature to indigenous cultural understanding, including the engagement with research practices such as documentation.¹⁶⁷ The dominant legal regimes are susceptible to state parties, who strategically produce doubt regarding traditional knowledge systems and frame them into ‘positivist-reductionist’¹⁶⁸ presumptions, because they already manifest power asymmetries in regulations, for example, impact assessments heavily reliant on corporate or state-conform science rather than indigenous epistemologies.¹⁶⁹ This constitutes a structural challenge, especially for indigenous community-based documentation, and requires epistemological translation of traditional knowledge into admissible evidence, if it aims to support legal claims. Furthermore, community-based documentation faces the risk of not being sustainable enough to maintain rights protection after documentation processes, and therefore the full control of the community over these ends. External stakeholder entities involved in further processes of accountability or advocacy tend to aim for quick, rather than sustainable solutions that are in the interest of the community¹⁷⁰. The cooperation with and support of governmental institutions and other authorities may be essential for effective rights protection but can only achieve sustainability and avoid marginalisation if recognising and respecting the community and their self-determination.

3.4. Documentation Methods

Having examined the functions and challenges of community-based documentation, this chapter now turns to the methods by which such documentation can be carried out. The aim here is not to identify a single preferred method, but rather to highlight the various methods available to communities and the types of information they can generate using them. Furthermore, these methods do not define a community-based documentation approach but can be applicable under it.

When planning the documentation, and to ensure that documentation is truly community-based, it has to focus on the most relevant issues as perceived by all community members. To

¹⁶⁶ *ibid.*

¹⁶⁷ McMahon and McKnight (n 160) 57,60,69.

¹⁶⁸ Eva Maria Fjellheim, ‘Wind Energy on Trial in Saepmie: Epistemic Controversies and Strategic Ignorance in Norway’s Green Energy Transition’ (2023) 14 *Arctic Review on Law and Politics* 140, 156 <<https://doi.org/10.23865/arctic.v14.5586>>.

¹⁶⁹ *ibid* 142,153; Eva Maria Fjellheim, “‘You Can Kill Us with Dialogue:’ Critical Perspectives on Wind Energy Development in a Nordic-Saami Green Colonial Context’ (2023) 24 *Human Rights Review* 25, 30,35 <<https://doi.org/https://doi.org/10.1007/s12142-023-00678-4>>.

¹⁷⁰ United Nations High Commissioner for Refugees (UNHCR) (n 131) 28.

determine the most pressing focus matters, analytical and ordering methods can provide a useful tool for collective decision-making regarding the subject matter of documentation.¹⁷¹ Further, the established topics can be evaluated and ranked based on negotiated criteria.¹⁷² Allowing to document the interests and priorities of communities. This provides decision-making power to the communities on which topics to focus and therefore document, ensuring their significant involvement in the planning of documentation activities. Thus, it prevents the adoption of external agendas.

Chevalier and Buckles further outline practices and methodologies, in the sense of documentation as the gathering, analysis, and sharing of information.¹⁷³ They first introduce qualitative and narrative practices. These include qualitative interviews to gather detailed information about individual perspectives on pressing issues. Thereby, the setting of a qualitative interview is important for the quality of the findings, as such an interview is a mutual conversation, providing space for sensitive conversation.¹⁷⁴ Interviews are a well-established way of gathering information about alleged human rights violations, while the resulting oral accounts can also be important to supplement written information.¹⁷⁵ As interviews are mostly conducted individually, the community perspective can only be represented through multiple conversations. To reconstruct the broader situational context of a community and to understand it from particular perspectives, different kinds of narration offer an alternative. Narrative expression can vary between oral or written forms, for example, interviews, diaries, or storytelling,¹⁷⁶ and can therefore also be adapted to community settings.

The claim to create one's own narrative, determined by the unique perspective of the affected, is reflected in most community-based documentation methods. Including, for example, the documentation of health issues, in which visual documentation, such as photography, can help the affected communities to determine both the subject matter of the documentation and the criteria for assessments of circumstances.¹⁷⁷ Visual documentation offers various ways for all community members to engage in documentation processes. They include photography, drawings and other forms of art or other visual materials, such as graphics, maps, or calendars.

¹⁷¹ Chevalier and Buckles (n 4) 158.

¹⁷² *ibid.*

¹⁷³ *ibid* 181.

¹⁷⁴ *ibid* 182.

¹⁷⁵ Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring*, vol 7 (United Nations 2001) 109.

¹⁷⁶ Chevalier and Buckles (n 4) 182.

¹⁷⁷ Minkler and Wallerstein (n 142) 185–186.

¹⁷⁸ They can provide detailed information whilst not being limited by language or literacy. Including spatial information, for example, through maps.¹⁷⁹ Participatory mapping is a method used to record and visualise the geographical, social, and economic features of a community that can provide a comprehensive understanding of a community's issues. It involves the community members in the mapping process, ensuring the representation of their perspective and their ownership of geographical information.¹⁸⁰ Mapping allows communities to visualise their territories, to identify assets and important resources, conflicts, and cultural history or traditional knowledge. This can be realised by engaging with already existing material like maps, satellite or aerial images, but also the creation of new maps or other spatial information.¹⁸¹ The scale of mapping activities can vary depending on context and accessibility of resources.¹⁸² Community-based mapping should shift the focus from participation to a directive function of communities in the mapping process. Visual and spatial documentation, as well as qualitative and narrative approaches, represent easily accessible methods for communities and individuals to document processes and circumstances in the context of their own narrative. Adaptability to resources and specific documentation conditions make them particularly valuable to communities facing contexts of repression or poverty.

Videography is also a common form of visual documentation, but is mostly conducted in digital forms, as the storage of videos requires digital files. The use of digital documentation is growing in tandem with the use of digital evidence.¹⁸³ It is conducted in the form of digital images, audio recordings, digital communication, social media, or Metadata.¹⁸⁴ The evaluation of digitally documented information poses a technological complication, while accessibility to digital forms of documentation and information storage is often limited.¹⁸⁵ Nevertheless, videos and digital photographs can contribute to accountability as admissible evidence.¹⁸⁶ Furthermore, it captures unique perspectives of the documenters, which makes it valuable for narrative control.

It is important to note that the storage and administration of Information is an essential part of documentation, particularly in repressive contexts, but also regarding traditional knowledge. The concept of data sovereignty is foundational to a community-based approach to

¹⁷⁸ Chevalier and Buckles (n 4) 183.

¹⁷⁹ *ibid.*

¹⁸⁰ Claudia Lindner and others, 'The SmartLandMaps Approach for Participatory Land Rights Mapping' (2023) 12 Land 3 <<https://doi.org/10.3390/land12112043>> accessed 28 May 2026.

¹⁸¹ Chevalier and Buckles (n 4) 197–198.

¹⁸² *ibid.*

¹⁸³ D'Allessandra and others (n 140) 69.

¹⁸⁴ *ibid.*

¹⁸⁵ *ibid.*

¹⁸⁶ *ibid* 75–79.

documentation. It means that information gathered within a community belongs to that community, granting them collective ownership and the right to control how their knowledge is used.¹⁸⁷ In the context of traditional knowledge, the administration of information as knowledge is debated, according to Chevalier and Buckles. The positions either see traditional knowledge as public property or argue that it should be treated as intellectual property under protection to prevent misappropriation.¹⁸⁸ This entails that a community-based process of documentation should include the determination of administrative responsibility for information after its inquiry. Including the storage of information, regarding which the Handbook on Civil Society Documentation of Serious Human Rights Violations distinguishes analogue and digital forms. Analogue storage methods include mostly visual materials or documents, such as those mentioned above.¹⁸⁹ Digital storage in itself is a source of information, as its Metadata indicates details about the documentation process and documented information. In this sense, it provides transparency, but at the same time, it is changeable and can be misappropriated, as it possibly holds information about the creator.¹⁹⁰ The preservation and administration of information, therefore, play a crucial role in community-based approaches to documentation. How adequately this is implemented determines the extent to which communities have control over the process and ownership over the information they collect. This control is particularly crucial in the context of genuine advocacy, community self-determination and representation. Therefore, the following section outlines several principles of community-based documentation, in the context of which the previously established documentation methods can be analysed.

3.5. Principles

Documentation methods alone do not determine whether a documentation process is truly community-based. Their implementation must also be guided by a set of normative principles designed to protect documenters, ensure community ownership and control, self-determination and safeguard the integrity of both the documentation process and the information itself. Furthermore, the implementation of these principles is to be adapted to the circumstances in which the community finds itself, for example, the accessibility of equipment or particular

¹⁸⁷ Africa Indigenous Knowledge Research Network (AIKRN), 'Manual for Community-Led Participatory Action Research' (2023) 7–8 <<https://africaindigenousresearch.com/download/manual-for-community-led-participatory-action-research/>> accessed 10 May 2026.

¹⁸⁸ Chevalier and Buckles (n 4) 25.

¹⁸⁹ D'Allessandra and others (n 140) 60.

¹⁹⁰ *ibid* 72, 75.

safety risks. The principles guiding the processes are interdependent and are to be applied hierarchically together, not individually.

The first principle regards the prevention and mitigation of harm. It implies that any documentation effort must always ensure that no unintended physical or psychological harm is caused to documenters or to others, or that such harm is kept to a minimum. To this end, documentation activities should always be carried out in the best interests of the individuals or communities affected, especially of those who are providing the information.¹⁹¹ Additionally, intermediaries, the communities involved, and all other persons involved in the documentation process must also be protected.¹⁹² The principle also includes the protection of information from harm and furthermore has to be applied at any stage of documentation, therefore also in preservation and administration.¹⁹³ It entails contextual adaptation, for example, a trauma-informed approach, to engage with communities without re-traumatising or re-victimising them.¹⁹⁴ This imperative is highlighted as the ‘Do No Harm’ principle in human rights monitoring and documentation guides, also in the context of community-based documentation, and underpins all following principles.

Further supporting the prevention of harm, and ensuring self-determination, community-based documentation should only be conducted in the context of Free, Prior, Informed Consent (FPIC). Documentation work, especially but not exclusively with the involvement of indigenous communities, must under no circumstances proceed without the explicit, voluntary, and informed consent of the participants. This principle has to be applied with respect to the traditional decision-making structure of the community and its customary law.¹⁹⁵ For the indigenous context, it is enshrined in international law, and to ensure it is implemented accordingly, it could be recommended to formalise consent. Consent can be withdrawn at any

¹⁹¹ European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 7; D’Alessandra and others (n 140) 21–22; Office of the United Nations High Commissioner for Human Rights, ‘Manual on Human Rights Monitoring’ (n 135) 88.

¹⁹² Office of the High Commissioner for Human Rights (n 175).

¹⁹³ European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 7; D’Alessandra and others (n 140) 21.

¹⁹⁴ International Accountability Platform for Belarus (IAPB) (n 132) 10.

¹⁹⁵ World Intellectual Property Organization (n 156) 15,17.

time during the documentation process or afterwards, until the documented information is disseminated.¹⁹⁶

In the context of avoiding harm, documentation efforts should also follow the principle of confidentiality. This principle overlaps with the principle of FPIC, as it implies that no personal data may be disclosed without the consent of the person providing the information. Beyond this, confidentiality does not merely refer to the protection of the individual's privacy but also to the protection of the information provided and requires active contribution to confidentiality. This obligation applies to all parties involved in the documentation process.¹⁹⁷ In the case of indigenous peoples and the documentation of traditional knowledge, it should be noted that some traditional knowledge may not be disclosed or may be kept secret. This knowledge can be documented but should be kept confidential to avoid misappropriation.¹⁹⁸ The principle of confidentiality forms an operational requirement for both the principles of No Harm and FPIC, as the disclosure of sensitive information without consent can cause harm even in a well-intended documentation approach, and contradicts FPIC automatically.

While ensuring the implementation of these previously outlined principles, if aiming for accountability and broader legal protection, documentation should follow admissibility standards. Those include guidelines, such as objectivity, impartiality, independence, and precision in the documentation process. These ensure that the collection of information is thorough to serve as a reliable basis for future legal or corrective action.¹⁹⁹ While the function of evidence is not necessarily just accountability, comprehensive evidence supports truth-finding and can contribute to advocacy. and possibly awareness. Therefore, the documented information should not merely be of a conclusive nature but should allow the reasoning to lead to the conclusion being verified, particularly if information is disclosed orally.²⁰⁰ Following admissibility standards of international tribunals while documenting traditional knowledge constitutes an epistemological translation and is therefore particularly important to counter marginalisation and extinction of indigenous knowledge systems.

In the context of admissibility, not only the information gathering has to be conducted precisely and thoroughly, but in the phase of preservation and administration of information, it is also

¹⁹⁶ European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 8.

¹⁹⁷ International Accountability Platform for Belarus (IAPB) (n 132) 23.

¹⁹⁸ World Intellectual Property Organization (n 156) 17.

¹⁹⁹ Office of the United Nations High Commissioner for Human Rights, 'Manual on Human Rights Monitoring' (n 135) 91–92.

²⁰⁰ Hoare, Levy and Robinson (n 4) 61.

important to document the chain of custody. Thus, a detailed log must be kept, recording every person who has come into contact with the material, as well as every stage the material has gone through.²⁰¹ This applies to every piece of information individually, including physical evidence and digital information, regarding which it is important to catalogue the metadata of information accordingly, to avoid its corruption.²⁰² Furthermore, the secure storage of information and related data is equally essential. The documented information should be preserved in a way that prevents unauthorised access, theft, and intended or accidental destruction. This entails the encryption and offline storage of digital data, a separate storage system and security copies, confidentiality and limited access, and security systems in place.²⁰³ This ensures the integrity of the collected information and is furthermore essential to protect the persons and communities engaging in the documentation process. Safe and secure storage becomes even more important the more thoroughly documentation is conducted and the more detailed the collected information is, especially if it holds incriminating evidence or personal information.

Therefore, linked to community-ownership and security, further proceedings should additionally be planned for the time after the documentation process ends to ensure sustainability. The management of information and adequate preservation of information beyond the time of active documentation must be secured. The long-term storage of information still has to be safe and secure, and in the case of requiring evidence, access to data or potential witnesses has to be managed.²⁰⁴ Further, communities should be able to repeat documentation processes for monitoring purposes, which entails that information about ongoing accountability developments, and secondly, the established documentation methods have to be accessible to the communities after a concluded documentation process.²⁰⁵ This is essential for documentation efforts to be community-based, although it does not entail complete self-sufficiency. Rather, it implicates empowerment and capacity, and the strengthening of local resources.²⁰⁶

²⁰¹ European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 39.

²⁰² Office of the United Nations High Commissioner for Human Rights, 'Manual on Human Rights Monitoring' (n 135) 107; European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 29,39.

²⁰³ European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 40.

²⁰⁴ International Accountability Platform for Belarus (IAPB) (n 132) 31.

²⁰⁵ *ibid.*

²⁰⁶ United Nations High Commissioner for Refugees (UNHCR) (n 131) 4–5.

These principles distinguish the community-based documentation approach from conventional documentation concepts and apply to all stages of the documentation process. Moreover, they are all interconnectedly complementing self-determination which runs through all other principles of community-based documentation as an imperative. It dictates that the communities who are simultaneously the subjects of documentation and the documenters must retain ultimate authority over the process and are able to implement all principles. Scholarships about research and documentation in native communities state that in the legal context, this becomes particularly important, as intellectual property laws often grant ownership over information to the documenter, rather than to the community as knowledge holder. This means that either the communities themselves must document their knowledge, or agreements have to be made that commit to the full ownership by the affected community over the knowledge.²⁰⁷ Community ownership and control over the production of knowledge are furthermore considered essential for the cultural survival of indigenous peoples.²⁰⁸ Besides having the leading role in documentation communities need to have full ownership of the gathered information. This entails the community-led implementation of protocols for access and security of information, and contractual commitments to ownership and control of the community over documentation results, in a sense of copyright.²⁰⁹ This also allows the community to proceed with the gathered information only according to their interests. The possibility to withdraw consent constitutes an exercise of control at any moment during the documentation process and becomes specifically important in collaborative partnerships with external documenters and investigators.²¹⁰ It has to be noted that the community decision to give up control for accountability purposes or other objectives entails that the withdrawal of consent is no longer possible.

As stated, the principle of community ownership works in synergy with the principle of No Harm. They are interconnected with the other principles but are hierarchically foundational to them. This is why these principles must be implemented together. Thus, both only work if FPIC and sustainability are ensured and vice versa. Admissibility for accountability purposes can only be ensured if documentation is conducted with accuracy and precision, regarding both

²⁰⁷ World Intellectual Property Organization (n 156) 12; Hoare, Levy and Robinson (n 4) 62.

²⁰⁸ Hoare, Levy and Robinson (n 4) 45–46.

²⁰⁹ World Intellectual Property Organization (n 156) 17; Hoare, Levy and Robinson (n 4) 62.

²¹⁰ International Accountability Platform for Belarus (IAPB) (n 132) 7; European Union Agency for Criminal Justice Cooperation (Eurojust), EU Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (Genocide Network) and Office of the Prosecutor of the International Criminal Court (ICC) (n 136) 8.

information gathering and storage. Which in turn, entails the necessity for confidentiality and security of storage.

3.6. Conclusion

Community-based documentation constitutes a distinct approach to documenting human rights violations because it shifts authority over information and evidence production, information management, and advocacy towards affected communities while remaining capable of contributing to accountability efforts. It serves to generate evidence based on traditional knowledge and preserve information that might otherwise be lost. But unlike conventional approaches, it supports the advocacy efforts of the concerned communities by strengthening their self-determination. However, community-based documentation is not inherently effective. It faces limits, such as security risks, evidentiary barriers, institutional incapacity, and sustainability concerns. Particularly in repressive contexts, these pose significant challenges, which is why its success depends on adequate implementation. To this end, and to be truly community-based, the documentation methods have to be guided by an adaptable framework of principles that must be considered interdependent and therefore should be applied together. It includes the principles of No Harm, FPIC, confidentiality, admissibility, accuracy and precision, secure information management, sustainability, and community ownership and control. The principle of community ownership and control should be particularly emphasised. It entails that ultimately, community-based documentation is not only concerned with the collection of information but with determining who controls information throughout the whole documentation process. Community ownership over the production, administration, preservation, and use of information therefore emerges as the defining feature of the community-based documentation approach and as the condition upon which meaningful advocacy, accountability, and self-determination depend. This forms the conceptual framework against which the following chapters will assess the suitability of community-based documentation for recording human rights violations in repressive and indigenous contexts. Particular emphasis will be placed on the opportunities, challenges, and principles outlined here, with a view to adapting the documentation methods to the Harakbut context.

4. Community-based Documentation in International Indigenous Rights Jurisprudence

4.1. Introduction

The following chapter will analyse and compare four cases before the Inter-American Court of Human Rights, regarding their inclusion and use of evidence gathered in community-based documentation efforts. These cases show contextual resemblance to the Situation in Madre de Dios, faced by the Harakbut peoples, and serve as examples for the successful recognition and legal protection of indigenous rights in international law. The first case, *The Mayagna (Sumo) Awas Tingni v. Nicaragua*²¹¹, is considered a landmark case in indigenous rights law and the recognition of collective land rights. It concerns the unlawful granting of logging permits to extractive companies on indigenous territory in Nicaragua. The second case, *The Saramaka People v. Suriname*²¹², is also situated in an extractive context driven by logging and mining expansions and represents a decisive moment for the recognition of indigenous and tribal peoples' rights to self-determination and collective territorial rights, particularly the right to FPIC. In the third case, *The Kichwa Indigenous People of Sarayaku v. Ecuador*²¹³, the context is shaped not only by the extractive activities of an oil company but by intimidation of indigenous peoples and defenders, repression of advocacy, and militarisation of the territory. Here, the success of the struggle against encroachment of the territory and the violation of the Sarayaku people's indigenous rights is grounded particularly in community-based efforts of documentation and advocacy. In Addition to that, the case represents a milestone in the recognition of FPIC. The fourth case presented in this chapter is the case of *The Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v. Argentina*²¹⁴. The situational context differs from the other cases, and the situation in Madre de Dios. However, community-based documentation contributed to the evidence, decisive for the ruling, that set a benchmark for the recognition of the right to a healthy environment in connection with the right to take part in cultural life. This is particularly important for the legal protection of indigenous peoples and their territories, given the special relationship between them.

The analysis of these four cases will serve to examine how community-based documentation contributed to successful indigenous rights litigation. Evidence production in these cases

²¹¹ *Awas Tingni v. Nicaragua* (n 85).

²¹² *Saramaka v. Suriname* (n 85).

²¹³ *Case of the Kichwa Indigenous People of Sarayaku v Ecuador* [2012] Inter-American Court of Human Rights (IACtHR) Series C No. 245.

²¹⁴ *Lhaka Honhat v. Argentina* (n 92).

includes different methods, which demonstrate several functions of community-based documentation, such as documenting territorial relationships, translating traditional knowledge into legal evidence, empowerment and indigenous self-representation, and supporting indigenous jurisprudence, in an indigenous context similar to the context of the Harakbut in Madre de Dios.

4.2. Cases before the Inter-American Court of Human Rights

4.2.1. *Awas Tingni v. Nicaragua*

The case of *The Mayagna (Sumo) Awas Tingni v. Nicaragua*²¹⁵ represents the first time an international tribunal with legally binding authority recognised the collective land rights of indigenous peoples. According to Ted Macdonald, an anthropologist, witness in the case, and collaborative researcher together with the members of the Mayagna peoples documenting their relationship to their land, the dispute originated in 1992 when the Nicaraguan government granted logging concessions to multinational logging companies, such as MADENSA and later SOLCARSA, on the ancestral lands of the Mayagna peoples near the Awas Tingni community.²¹⁶ The court ruled in 2001 that Nicaragua failed to demarcate the Mayagna's lands and therefore violated the right to property enshrined in Article 21 of the American Convention on Human Rights.²¹⁷ Crucially, the court included in the scope of the term 'property', indigenous territories used for traditional practices according to indigenous 'customary law, values, customs and mores'²¹⁸.

The success of the case relied heavily on community-based documentation and participatory research, which bridged the gap between indigenous oral traditions and Western legal standards. For instance, on the documentation that was carried out by anthropologist Theodore Macdonald in collaboration with the Awas Tingni community. Community-based mapping served the creation of influential evidence for the case, as it allowed the community to visualise their extensive land use in a form recognisable to the court.²¹⁹ Macdonald provided advisory and technical assistance in the mapping process, but even before the community mapped their

²¹⁵ *Awas Tingni v. Nicaragua* (n 85).

²¹⁶ Ted Macdonald and Julie Wetterslev, 'Accompanying a Search for Self-Determination: Mayagna Awas Tingni and Indigenous Land Rights in Nicaragua' [2020] *ReVista: Harvard Review of Latin America* <<https://revista.drclas.harvard.edu/accompanying-a-search-for-self-determination/>> accessed 5 June 2026; Theodore Macdonald, 'Inter-American Court of Human Rights Rules in Favor of Nicaraguan Indians' (*Cultural Survival*, 15 April 2010) <<https://www.culturalsurvival.org/publications/cultural-survival-quarterly/inter-american-court-human-rights-rules-favor-nicaraguan>> accessed 5 June 2026; *Awas Tingni v. Nicaragua* (n 85) 2-4,19.

²¹⁷ *Awas Tingni v. Nicaragua* (n 1) para 153 (a),155,173 (1).

²¹⁸ *ibid* para 173 (3),164.

²¹⁹ *ibid* 21.

territory and marked important spatial information. During this collaboration, two mapping methodologies were conducted, using Geographic Information Systems (GIS) and Global Positioning Systems (GPS).²²⁰ In the GIS method, community members provided spatial information, which was then entered into a computer-generated map with Macdonald's assistance, creating an accurate map of the territory. The GPS-based approach required active mapping activity. With a portable GPS tracking device, the community members and Macdonald documented reference points throughout the territory and thus verified the previous spatial information, given by the community.²²¹ Furthermore, particularly engaged community members were trained in GPS use to conduct additional mapping on their own.²²² Macdonald describes that during the mapping activities, the community members provided detailed information about the significance of the sites for spiritual practices and subsistence, about historical accounts of land use and migration, and therefore of the ancestral claim to the territory.²²³ The information gathered was correlated with detailed official government maps, confirmed by the community's elders for admissibility purposes, and academically supplemented with archaeological and linguistic evidence.²²⁴ Thus, in these documentation efforts, knowledge was exclusively generated by the community members, while external interdisciplinary assistance helped to translate it into legally admissible formats or complemented it. By drawing on local and traditional knowledge, community-based maps can go beyond conventional maps and depict not only physical features but also social, cultural, and economic features in a spatial context.²²⁵ Such evidence may contradict a government's claim that the concerned land is empty, unused, or uninhabited by providing reliable confirmation of its indigenous identity and also refuting the argument of recent occupation.

Also, to establish the spiritual and physical connection of the Awas Tingni community to their territory as evidence, community testimonies played an essential role. This relationship was highlighted in testimonies by community members and leaders, describing the community's deep tradition and history, as well as their governance regarding land use, including their role in protecting the forest. Macdonald's testimony, amongst others, emphasises, besides subsistence, the religious and cultural significance of the territory. Identifying it not only as a

²²⁰ *Awas Tingni v. Nicaragua* (n 85).

²²¹ Macdonald and Wetterslev (n 216); *Awas Tingni v. Nicaragua* (n 85) 21.

²²² Macdonald and Wetterslev (n 216); *Awas Tingni v. Nicaragua* (n 85) 21.

²²³ Macdonald and Wetterslev (n 216).

²²⁴ *ibid.*

²²⁵ Anna Lucia Avila Carillo, 'Reclaiming Agency: Community Mapping and the Use of Technologies by Latin American Indigenous Peoples to Protect Their Lands' (*Land, Law and Justice*, 12 June 2024) <https://www.landlawandjustice.eu/reclaiming-agency-community-mapping-and-the-use-of-technologies-by-latin-american-indigenous-peoples-to-protect-their-lands/#_edn4> accessed 13 June 2026.

resource but as a respected sacred space, inhabited by spirits and ancestors.²²⁶ These two forms of information constituted an essential part of the decisive evidence for the court's decision and were mentioned by many of the expert testimonies as references. Whilst community-based mapping established the boundaries of the territory and provided an understanding of its characteristics, including the significance of its places, oral accounts and testimonies provided by Indigenous people served to illustrate the connection between the people and their territory. The recognition of the indigenous narrative as evidence for the violation and the recognition of their territorial rights is what made this case so pivotal for future jurisprudence.

4.2.2. *Saramaka v. Suriname*

Similarly, community-based documentation in the form of mapping, testimony of traditional occupation, tenure systems, and environmental and social impacts contributed to the success of the case, *The Saramaka People v. Suriname*²²⁷. This case serves as a foundational precedent for the recognition of tribal peoples as equivalent to indigenous peoples under international law, the recognition of their collective property rights, and the necessity of FPIC. The Saramaka are considered descendants of African slaves inhabiting regions in inner Suriname after their self-liberation, and forming autonomous communities.²²⁸ In the 1990s, Suriname granted logging and mining concessions to multinational corporations within traditional Saramaka territory without consultation.²²⁹ Suriname's domestic law categorised all non-titled land as state-owned, denying tribal and indigenous peoples their land rights. The court ruled in 2007 that the state of Suriname violated the rights to property, juridical personality, and judicial protection.²³⁰ These decisions are based on evidence gathered through interdisciplinary collaboration to document traditional knowledge.

To illustrate their territorial occupation and traditional use of their land and resources, the Saramaka engaged in community-based mapping, using aerial and satellite images to create precise maps. These maps served as the specifications that the court ultimately required the state to follow for official land titling.²³¹ The involvement of the Saramaka people in the mapping of their territory was essential, as the court ruled that this is also a prerequisite for the legal recognition of the territory, stating that recognition without physical demarcation and

²²⁶ *Awes Tingni v. Nicaragua* (n 85) 18–21.

²²⁷ *Saramaka v. Suriname* (n 85).

²²⁸ Richard Price, 'Saramaka People v Suriname: A Human Rights Victory and Its Messy Aftermath' (*Cultural Survival*, 30 July 2012) <<https://www.culturalsurvival.org/news/saramaka-people-v-suriname-human-rights-victory-and-its-messy-aftermath>> accessed 12 June 2026.

²²⁹ *ibid.*

²³⁰ *Saramaka v. Suriname* (n 9) para 1,214.

²³¹ *ibid* para 64 (f); Price (n 10).

delimitation by the Saramaka is illegitimate.²³² Additionally, expert testimonies drew on maps created by the community, mapping ‘hundreds of marks illustrating the location and variety of trees they use for different purposes’²³³. These maps linked environmental degradation to the destruction of Saramaka subsistence and culture, supported by witness testimonies. Therefore, they not only translated traditional knowledge into admissible evidence, but proved their possession of traditional knowledge as tribal people.

Like in the case of *Awes Tingni v. Nicaragua*, testimonies by the community members complemented evidence of the traditional use and occupation of their territory, but furthermore, of the development of previous legal efforts and even methodologies of documentation of their traditional knowledge.²³⁴ This was important for the recognition of their territory, and in particular, for their recognition as tribal or indigenous peoples, as it demonstrated their special relationship with their ancestral land, which is a requirement for the special protection afforded to tribal peoples under the indigenous rights framework.²³⁵ The recognition of juridical personality was supported by testimonies of community leaders, sharing the internal governance regarding collective land ownership and use, countering the state’s argument that the Saramaka’s land tenure system was not clear, which makes consultation unnecessary, as they have no collective identity and therefore are not exercising collective self-determination.²³⁶ In this context, it is clear that the engagement of Saramaka communities in the creation of evidence was essential for their success before the court and establishing their collective tribal identity. Thus, the case displays how important traditional knowledge can be as evidence, provided that such knowledge is adequately documented, with the genuine involvement of the affected communities.

4.2.3. *Sarayaku v. Ecuador*

In the context of extractive industries encroaching on indigenous territory, the *Kichwa Indigenous People of Sarayaku v. Ecuador*²³⁷ case serves as an example of the importance of indigenous engagement and leadership in the fight to protect indigenous rights, including in documentation efforts. In 1996, the Ecuadorian government granted an oil extraction concession to an Argentinian oil company on Sarayaku territory, without consulting or seeking

²³² *ibid* para 115.

²³³ *ibid* para 144.

²³⁴ *ibid* para 64 (b).

²³⁵ *ibid* para 78–84.

²³⁶ *ibid* para 100–101.

²³⁷ *Sarayaku v. Ecuador* (n 213).

the consent of the indigenous communities living there.²³⁸ The territory of the Sarayaku community covered around 65% of the area that had been allocated as an extraction zone, in which exploration activities by the company were conducted with military escorts, including deforestation and planting of explosives for seismic surveys, which were then left in the territory. Countering the indigenous resistance to the company's encroachment, the militarisation of the area led to incidents of violence, intimidation and harassment against members of the Sarayaku community and their supporters.²³⁹ After a decade-long struggle, the IACtHR ruled in favour of the Sarayaku Peoples in 2012. Stating that Ecuador had violated the rights to life, communal property, cultural identity, judicial protection, and the right to consultation. The court particularly emphasised the right to FPIC and thus established a milestone for indigenous rights in this regard.²⁴⁰

As also demonstrated in the cases *Awes Tingni v. Nicaragua* and *Saramaka v. Suriname*, the success relied on the community's ability to translate their lived experience and traditional knowledge into admissible evidence. Community members and spiritual and political leaders provided oral testimony of spiritual connection and traditional occupation of the territory, and demonstrated the profound spiritual consequences of the oil company's destruction and degradation of their land.²⁴¹ To protect their lands, the Sarayaku community established six provisional camps at the borders of their territory, documenting and preventing company encroachment. Among other things, they carried out photographic and videographic documentation to provide evidence of encroachment and militarisation by the company. Additionally, the community provided documents of self-assessment of harm linked to the oil company's activities within their territory, illustrating its impact on their cultural integrity.²⁴² Beyond the production of evidence, community-based documentation functioned as an advocacy tool and protective mechanism. Moreover, it served the internationalisation of the conflict. In this regard, the videographic documentation effort of one particular member of the community should be highlighted. The video material documented by Eriberto Gualinga served not only as evidence in court but also managed to draw international attention in the form of a documentary movie in which he documented the legal struggle, collaboration with lawyers and

²³⁸ *ibid* para 64; 'Confirming Rights: Inter-American Court Ruling Marks Key Victory for Sarayaku People in Ecuador' (*Cultural Survival*, 17 August 2012) <<https://www.culturalsurvival.org/publications/cultural-survival-quarterly/confirming-rights-inter-american-court-ruling-marks-key>>.

²³⁹ *Sarayaku v. Ecuador* (n 18) para 65,78,75,101,105,107ff.

²⁴⁰ *ibid* 341; 'Confirming Rights: Inter-American Court Ruling Marks Key Victory for Sarayaku People in Ecuador' (n 238).

²⁴¹ *Sarayaku v. Ecuador* (n 18) para 150-155,218-220.

²⁴² *ibid* para 105,191.

journalists, media appearances, and the journey to the Inter-American Court in Costa Rica. In collaboration with Amnesty International, this movie served community advocacy and raised a wide range of support.²⁴³ The combination of traditional oral knowledge, modern digital media, and academic legal collaboration enabled the Sarayaku to present a comprehensive case to the court and additionally to reclaim the right to define their own territory as ‘Kawsak Sacha’, which means as a living subject of rights and not as an object of exploitation.²⁴⁴

4.2.4. *Lhaka Honhat v. Argentina*

Ultimately, the case of *The Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*²⁴⁵ should be mentioned, although its context is slightly different from the extractive context of the prior cases. It concerns the struggle for the recognition and protection of the land of several indigenous communities. The indigenous communities asserted that the Argentinian state failed to grant them effective, undivided communal title to their territory, while allowing other settlements, illegal logging, and public works in the area without prior consultation.²⁴⁶ The decision by the IACtHR in 2020 declared for the first time that autonomous violations of the right to take part in cultural life in connection with the right to a healthy environment, adequate food and water, and cultural identity.²⁴⁷ This implies a shift in the burden of proof, as, for example, environmental degradation need not be linked to any individual or harmful effects on humans living in this environment to constitute a violation of this right.²⁴⁸

Similarly to the cases presented above, testimony by community leaders was crucial to establish the traditional occupation of the territory, proof of interference and encroachment within the territory. In addition, they provided historical accounts of land use to prove its significance to the indigenous communities.²⁴⁹ Community-led mapping of their territory became particularly

²⁴³ Leonidas Oikonomakis, ‘Protecting the Forest Beings That Protect Us: The Cosmo-Political Challenge Kawsak Sacha Poses to Ecuador’s Extraction-Based Development’ (2024) 43 Bulletin of Latin American Research 145 <<https://doi.org/10.1111/blar.13535>>; Amnesty International, ‘Sarayaku Indigenous People and Amnesty International Win Film Award’ (*Amnesty International*, 2 October 2012) <<https://www.amnesty.org/en/latest/news/2012/10/sarayaku-indigenous-people-and-amnesty-international-win-film-award/>> accessed 15 June 2026; *Children of the Jaguar* (Directed by Eriberto Gualinga, 2012) <<https://www.youtube.com/watch?v=Ma1QSmtuiLQ>> accessed 15 June 2026.

²⁴⁴ Oikonomakis (n 243).

²⁴⁵ *Lhaka Honhat v. Argentina* (n 92).

²⁴⁶ Maria Antonia Tigre, ‘Lhaka Honhat Association vs. Argentina: The Human Right to Environment in the Inter-American Court’ (*GNHRE (Global Network for Human Rights and the Environment)*) <<https://gnhre.org/?p=10827>> accessed 16 June 2026; *Lhaka Honhat v. Argentina* (n 26) para 23-25,36.

²⁴⁷ Tigre (n 27); *Lhaka Honhat v. Argentina* (n 26) para 370.

²⁴⁸ Tigre (n 246).

²⁴⁹ *Lhaka Honhat v. Argentina* (n 26) para 45,49,263-266; Laura Pensa, ‘Lhaka Honhat/Nuestra Tierra: A Long Road to Territorial Repossession’ [2023] *Dispossessions in the Americas* <<https://dia.upenn.edu/en/content/PensaL002/>> accessed 16 June 2026.

important as government initiatives failed, and to counter previous proposals for demarcation imposed by the state and to be able to determine the boundaries of the territory themselves. The resulting map served as the basis for all subsequent demarcation work.²⁵⁰ To create evidence of the encroachment within the territory and to document on-site visits by investigators, the community used videos as a form of documentation, which were later forwarded to and admitted by the court.²⁵¹ This was valuable, as it allowed the indigenous communities to present their own narrative and support the investigations with it. In this case, community-based documentation was significant to prove effective communal ownership to the end of establishing the ancestral territory, especially because the state disputed such ownership and imposed territorial definitions. However, unlike in the previous cases, the evidence documented by the communities contributed to establishing not only the territory itself, but the interconnectivity of its integrity to a healthy environment, the enjoyment of culture, and subsistence like food and water. This led to the court's recognition of autonomous environmental rights. Consequently, it can be argued that community-based documentation contributed to the development of indigenous rights, through its unique perspective.

4.3. Discussion

Various functions of community-based documentation are demonstrated by these cases. Across all, community-based documentation contributed to establishing evidence for territorial relationships, such as occupation and land use, or the traditional and spiritual connection to the ancestral territory. It served to translate indigenous knowledge systems into legally admissible evidence and, at the same time, supported indigenous self-representation and advocacy. Moreover, it contributed to the expansion of indigenous rights jurisprudence and, therefore, to increasing legal recognition of indigenous rights.

In all four cases, community-based mapping and territorial monitoring enabled the indigenous communities to demonstrate territorial relations that were not recognised in such form. Whether it was to the end of demarcating the territory, establishing collective identity, gaining collective land rights, or linking territorial integrity to cultural survival. For these purposes, the mapping method stands out particularly, for example, participatory mapping done by the Awas Tingni community or the mapping of traditional occupations, like in the case of the Saramaka People and the Lhaka Honhat Association. These efforts were essential to establish the indigenous concept of indigenous territory and territorial protection under indigenous rights law. Moreover,

²⁵⁰ *Lhaka Honhat v. Argentina* (n 26) para 65-68,79.

²⁵¹ *ibid* para 37,40.

the maps produced by these communities served as guidelines for territorial demarcation. Apart from the possibility of legal protection, this constitutes self-determination and territorial control, especially in extractive and repressive contexts. The Sarayaku particularly documented territorial intrusion and, to this end, established camps at their territorial borders. As well as serving as a means of documentation, this also had the function of actively protecting the borders against intrusion, whilst documentary material such as videos made a significant contribution to the Sarayaku's international advocacy efforts.

Furthermore, community-based documentation functioned as a mechanism of indigenous self-determination through several other strategies. In keeping with the key principles of community-based documentation, the communities concerned were not merely passive sources of information but actively collaborated on the documentation or led it. To this end, they participated in mapping, recording oral history, monitoring, and audiovisual documentation. This enabled them to shape the factual record of litigation with their own perspectives and challenge state narratives. For example, in the cases *Awas Tingni v. Nicaragua* and *Lhaka Honhat v. Argentina*, this was primarily achieved through the mapping process and the interpretation of the geographical data visible on the maps. The cases *Saramaka v. Suriname* and *Sarayaku v. Ecuador* are even stronger examples of this function. The Saramaka people's narrative control was essential to establishing their own identity as a tribal people, which the state had denied them, while the Sarayaku were able to frame the ongoing conflict from their perspective, thereby attracting international attention and support, for example through the videos of Eriberto Gualinga, or as visible in the documentary 'Children of the Jaguar' through media appearances.

Another significant function of community-based documentation that emerges throughout all cases is the translation of traditional knowledge into legal evidence. It constitutes an epistemological translation of indigenous knowledge systems into forms that satisfy judicial evidentiary requirements, and counters epistemic injustice in the legal systems against indigenous people and their knowledge. While aiming to counter Epistemicide as the systematic marginalisation and erasure of traditional and indigenous knowledge, Boaventura de Sousa Santos presents the concept of an 'Ecology of Knowledges'²⁵² as a means of placing indigenous knowledge systems on an equal footing with Western-influenced knowledge systems at a global level,²⁵³ and Fjellheim identifies opportunities to overcome this challenge within the Sami

²⁵² Boaventura de Sousa Santos, *Epistemologies of the South: Justice Against Epistemicide* (Routledge 2016) 71.

²⁵³ *ibid* 189ff.

context, such as a comprehensive, inclusive and indigenous-led approach to impact assessment and a strong implementation of the right to indigenous self-determination,²⁵⁴ which resembles characteristics of community-based approaches to documentation. They also refer in this context to indigenous territorial protection against extractive projects in South America.²⁵⁵ Inter-American jurisprudence proves the importance of an epistemological translation of knowledge in this context, to initiate structural change through jurisprudence and to counter injustice. The indigenous communities discussed possessed important knowledge in forms such as oral histories, knowledge of ancestral occupation, spiritual relations to the territory, customary governance systems, and traditional ecological knowledge that was translated through community-based documentation to constitute relevant evidence. Additionally, only they, as affected communities, can provide lived experiences of harm. For example, regarding the Awas Tingni case, community-based mapping transformed lived territorial knowledge into cartographic evidence admissible before the court. In the case of the Saramaka, oral traditional knowledge was documented and translated into evidence that the Saramaka constituted a distinct tribal people with customary forms of territorial governance and a special relationship to their land. In both cases, the communities managed to capture territorial spatial knowledge and spiritual and cultural knowledge in forms such as maps and community testimonies, while the Awas Tingni focused more on spatial knowledge as cartographic evidence and the Saramaka on customary practices to prove tenure systems, territorial relationships, and collective ownership. The Kichwa people of Sarayaku and the Lhaka Honhat communities documented lived experience and territorial encroachment in the context of and together with traditional knowledge about the land within their territory and the interconnection between its integrity, their well-being, and their culture. Here, the resulting evidence concerned harm and led to the recognition of legally enforceable claims such as FPIC or environmental protection in connection with cultural survival. As discussed in Chapter 3, Conventional documentation approaches would possibly have missed information contained in traditional knowledge or documented different things, which is why community-based documentation did not replace conventional approaches, but filled evidentiary gaps essential to the claims of the indigenous communities.

Lastly, and probably the most sustainable function, from a legal perspective, is the support of the expansion of indigenous jurisprudence. Community-based documentation significantly contributed to these landmark decisions, and therefore to increasingly complex legal

²⁵⁴ Fjellheim (n 168) 157,160; Fjellheim (n 169) 43.

²⁵⁵ Santos (n 252) 302; Fjellheim (n 169) 43.

recognition of indigenous rights. Besides supporting the case-specific claim, it shaped and developed the way the court interprets indigenous rights, from the recognition of collective territorial rights, over consultation rights and FPIC, to rights of cultural integrity linked to environmental protection.

4.4. Conclusion

In summary, community-based documentation played a fundamental role in establishing the evidence base in all four cases. It should be noted, however, that it was not the sole reason for the success of these cases. Other factors, such as lawyers, anthropologists, and other experts, NGOs, and access to the Inter-American legal system, were naturally also decisive. These cases demonstrate how community-based documentation served to produce significant supplementary or opposing evidence and that it was an essential component of successful litigation. With the help of mapping, witness statements, audiovisual evidence, and community monitoring, the indigenous peoples concerned were able to substantiate facts relating to the occupation of territories, traditional governance, environmental impacts, and cultural relationships. Without the documentation of these indigenous perspectives, it would have been difficult to prove these circumstances in court, especially in the context of epistemological injustice. Moreover, beyond merely translating knowledge and producing evidence, it enabled indigenous peoples to participate directly in, or even lead, the drafting of legal descriptions of their territories and the establishment of their rights. The communities were thus not merely the subject of legal disputes, but also active producers of knowledge, evidence, and narratives. By making these narratives visible, community-produced evidence supported the Court's recognition and broader interpretation of increasingly complex indigenous rights. Most importantly, the cases show that community-based documentation is a prerequisite for giving legal visibility to the lived realities of indigenous peoples and for integrating their perspectives into the non-indigenous legal system. Its significance therefore lies not only in supporting successful legal proceedings, but also in enabling indigenous peoples to help shape the factual and normative foundations of international case law on the rights of indigenous peoples.

5. Harakbut

5.1. Introduction

In the context of the mining expansion in Madre de Dios, the indigenous communities belonging to the Harakbut face violations of their indigenous and human rights. During the interviews conducted with spokespersons and leaders of the Harakbut, the necessity of adequate

and safe documentation to make these violations visible and contribute to broader advocacy and rights protection was highlighted. The Harakbut context, emerging from the interview findings combined with relevant literature, defines the documentation needs that community-based documentation should focus on to contribute to advocacy and evidence production to pursue accountability. The Harakbut context includes the local reality of territorial conflict, insecurity, environmental destruction, criminal actors, and institutional weakness, which community-based documentation must be adapted to. Its design should be driven not only by methodological considerations, but by the principles established in Chapter 3. The purpose of the following section is not to propose a generic documentation model but to examine how community-based documentation needs to be adapted to function within the specific conditions of the Harakbut's lived environment. By combining the empirical findings of this study with the insights from the case law analysed in Chapter 4 and the guidelines for community-based documentation developed in Chapter 3, this section outlines a context-specific framework for secure community-based documentation amongst the Harakbut. Furthermore, it assesses its potential contribution to advocacy of the Harakbut, the gathering of evidence, and their indigenous rights protection, to answer the research question on how community-based documentation can be adapted to the context of the Harakbut people in Madre de Dios, Peru, to document human rights violations associated with illegal gold mining under conditions of intimidation and weak implementation of international Indigenous rights law, and to what extent could such an adapted approach strengthen Indigenous advocacy, evidence generation and rights protection?

To answer this question, the previous empirical findings are supplemented and expanded with an interview conducted with the leader of a Harakbut community, focusing more on already existing documentation practices, community-based strategies, opportunities and challenges for documentation in the Harakbut context. The following chapter will first present the findings of this interview by outlining the repressive context experienced by the Harakbut, associated with the mining expansion, and examining their already conducted community-based documentation efforts. On this basis, documentation needs, opportunities, and challenges for community-based documentation will be established, which define the following adaptation of this documentation approach in the Harakbut context. Lastly, the Chapter will discuss this adapted documentation model regarding its contribution to Harakbut advocacy, evidence generation and rights protection.

5.2. The Harakbut Context

5.2.1. *Documentation in a Repressive Context of Intimidation and Restricted Advocacy*

As already established in Chapter 2, and as described by the first interviewee Sr H., the Harakbut experience a repressive environment characterised by intimidation and restrictions on their advocacy. The second interview, conducted with Sr. O, a leader of the Harakbut, reflects and supports this experience. This interview aims to further explore the repressive context in Madre de Dios and to examine the documentation needs, opportunities, and challenges for community-based documentation emerging in this context. In the following, the findings of the second interview will be presented and analysed, in particular regarding the structural nature, the lack of legal recognition and practical implementation of rights, the climate of fear and intimidation, criminalisation and legal harassment, and distrust of state institutions, which all contribute to the repressive environment.

One of the findings emerging from this interview is that repression is not experienced by the interviewee as isolated incidents, for example, of violence, but as the systematic interplay between illegal mining, state inaction, corruption, criminal actors, and intimidation. The interviewee, Sr. O, repeatedly portrays the occurring indigenous rights violations in a context where state institutions either fail to act or actively enable the mining expansion and criminal activities. He links these observations to corruption. The mining expansion and mercury trafficking persist because the authorities are corrupt and unable or unwilling to enforce regulations.²⁵⁶ This reinforces the findings in Chapter 2, stating that illegal gold mining in Madre de Dios operates within a context of weak governance and corruption, rather than simple regulatory failure. Regarding the regulatory framework of indigenous rights, Sr. O distinguishes between legal recognition and practical implementation, stating that legal frameworks for indigenous protection exist and are recognised by the state, but are ignored by the authorities, especially when economic interests are at stake.²⁵⁷ Further, he points out that the land titles granted to the Harakbut by the Peruvian government as an implementation of international indigenous rights cover ‘only the surface area, not the subsoil.’²⁵⁸ and that this distinction is how the government itself facilitates the conflict in Madre de Dios and the uncontrolled expansion of the mining industry.²⁵⁹ These findings demonstrate that the lack of practical and legal

²⁵⁶ Interview with Leader of the Harakbut, ‘Entrevista sobre la minería de oro en Madre de Dios y la documentación en un clima represivo de intimidación y restricciones a la defensa de los derechos.’ (5 June 2026) 3-4.

²⁵⁷ *ibid.*

²⁵⁸ *ibid* 11.

²⁵⁹ *ibid* 10–11.

implementation of rights protection further fuels the conflict in Madre de Dios. Adding to this context of weak protection, the interview findings provide a clear picture of the threats and fears associated with the mining expansion that have a significant impact on Harakbut advocacy. Community members are threatened or blackmailed when they report activities linked to mining. Other murder cases in Peru are intensifying the climate of fear, which is defined by physical risk combined with a lack of resources, such as internet access, that restricts advocacy.²⁶⁰ Intimidation is particularly directed at the vigilante groups that have been formed to monitor the territories.²⁶¹ Moreover, according to Sr O., intimidation and repression also happen on a legal level. Mining actors often file claims against indigenous leaders, especially in response to charges brought against them. This resembles a strategic use of legal mechanisms to discourage resistance or advocacy, and therefore documentation efforts. However, the interviewee also claims that legal power is working to both ends and also demands respect from the miners.²⁶² This is particularly important because authorities like the police are not trusted or perceived as a protection mechanism, but as accomplices. He states that ‘They don’t do anything when you report it, or sometimes they won’t even accept your report, and, well, the police themselves are the ones who might give you away’²⁶³, and that the police take sides with the perpetrators, providing them protection while encroaching into indigenous territory.²⁶⁴ This means that within this repressive environment, indigenous communities cannot turn to authorities or hand over crucial information supporting their struggle. On the contrary, they risk abuses by the authorities and need protection against legal intimidation. This, combined with intimidation and violence by criminal actors and miners, instils fear and restricts advocacy and rights protection efforts, such as documentation. Nevertheless, the Harakbut already conduct community-based documentation, among other protection strategies.

5.2.2. Community-based documentation by the Harakbut

The Interview reveals that the Harakbut already conduct community-based documentation. For example, concerning the documentation of their ancestral territory. The Harakbut communities are mapping their ancestral territory, including sacred sites and traditional occupation, as well as territorial encroachment and its destruction. Here, they are supported by professional staff from an indigenous organisation in cooperation with Harakbut technical advisors to create ‘a

²⁶⁰ ibid 6-7.

²⁶¹ ibid 10.

²⁶² ibid 8–9.

²⁶³ ibid 7 (author's translation).

²⁶⁴ ibid 10.

technical and legal dossier'²⁶⁵ for their territorial claim.²⁶⁶ By doing so, the Harakbut are already translating traditional knowledge into legal evidence through community-based mapping. Additionally, special gatherings and visits to the sacred sites serve to document evidence of rights violations that are otherwise ignored or repressed, and make them visible, for instance, the destruction of sacred sites and encroachment by miners.²⁶⁷ Sr O. states that this is particularly important to strengthen intergenerational knowledge transmission, because knowledge of these sacred sites will disappear with the passing of the elders. Thus, this form of community-based documentation not only serves a legal purpose but also cultural survival and the archiving of traditional knowledge. In this regard, he wishes for an expansion of documentation methods to include videos, photographs, and training in GPS-based mapping to further continue territorial documentation. According to him, documentation would not only create evidence and archive traditional knowledge, but also produce information that could be used as an advocacy tool, for example, to pressure the Peruvian government and raise awareness of their situation.²⁶⁸ While the younger generations were supposed to document information in keeping with the will of the community, challenges, such as the untrustworthiness of the authorities, led the Harakbut to rely on professional assistance supporting only the interests of the Harakbut.²⁶⁹ This demonstrates that the Harakbut pursue self-determination through community-based documentation approaches. This is further emphasised by the interviewee's description of community monitoring groups that monitor territorial integrity and respond to threats posed by illegal mining and land invasions. These groups, apart from protecting the territory, play an active role in detecting territorial intrusions and reporting them.²⁷⁰ Sr O. also mentions that the Harakbut communities are getting increasingly conscious about cultural preservation, to the end of cultural survival, and maintaining the indigenous identity. In this regard, community education efforts integrate traditional knowledge and the Harakbut language, as well as the teaching of territorial knowledge, which are seen as a condition for indigenous identity for the youth and also excites and interests them. Beyond that, being 'fluent in your mother tongue, and continuing to practise your traditional ways of fishing, hunting and other customs'²⁷¹ is important for indigenous identity in political and legal contexts.²⁷² This leads to the assumption that documentation of traditional knowledge already constitutes an

²⁶⁵ *ibid* 5.

²⁶⁶ *ibid* 5–6.

²⁶⁷ *ibid* 6.

²⁶⁸ *ibid*.

²⁶⁹ *ibid*.

²⁷⁰ *ibid* 10.

²⁷¹ *ibid* 13.

²⁷² *ibid* 13–15.

important practice for the Harakbut, as they recognise its value not only for cultural survival and their relationship to their territory, but for their identity and status as indigenous peoples.

The community-based documentation efforts by the Harakbut already resemble, in some respects, the previously discussed cases before the IACtHR. For example, evidence documentation strategies used in the cases of *Awás Tingni v. Nicaragua* and *Saramaka v. Suriname*, where community-based mapping transformed territorial traditional knowledge into legally admissible evidence to the end of recognition of their ancestral territory. Furthermore, similar to the case *Sarayaku v. Ecuador*, lived experience during monitoring activities serves the documentation of territorial encroachment and other rights violations, but also active rights protection. In addition to that, videos and photographs are considered advocacy tools and evidence in the sense of self-representation and narrative control. Corresponding to all cases discussed in Chapter 4, community-based documentation of indigenous traditional knowledge aims to support the protection of cultural integrity as much as legal rights. However, from the interview emerges that community-based documentation efforts by the Harakbut are complicated and limited by challenges that shape the repressive environment of intimidation and restricted advocacy. Nevertheless, community-based documentation also holds opportunities that may turn it into a strategy for navigating this environment and safely documenting violations in a sense of broader advocacy.

5.2.3. Documentation Needs

Concluding on the description of the repressive climate of intimidation, by the Harakbut leader Sr O., together with the findings emerging from Chapter 2 and the Interview with the Harakbut's technical advisor and spokesperson Sr H., it becomes clear that the context faced by the Harakbut is severely threatening indigenous survival and restricting indigenous advocacy. Furthermore, there is an imbalance between the documentation needs from the Harakbut's perspective and those as perceived by external actors. According to Sr O., external focus lies more on environmental degradation and protecting nature, without acknowledging that the Harakbut are part of said nature in a reciprocal relationship that is not only important for them but for a healthy environment as well.²⁷³ 'So, without us, the forest cannot exist, and without the forest, we cannot exist, and there is no balance'²⁷⁴. In this context, community-based documentation needs to address the focus matters of the Harakbut, which, according to the interviews, include the key indigenous rights and human rights violations established in Chapter 2, and the circumstances of repression, intimidation, and restricted advocacy. Before

²⁷³ ibid 4,15-16.

²⁷⁴ ibid 16.

documenting them, these subjects would have to be discussed, evaluated, prioritised, and confirmed in consultation with the affected Harakbut communities. Representing their communities, the interviewees list various issues that would need to be documented and made more visible. These are territorial invasions, environmental degradation, damage to health, destruction of culture, institutional weakness, and intimidation and violence. Although these topics are established in cooperation with two indigenous representatives, they do not constitute an exhaustive list, nor can it be assumed that they are all regarded as equally important by all Harakbut members. Nevertheless, for a comprehensive analysis and in respect to Harakbut governance, these topics are treated in the following as the provisional key topics of a possible community-based documentation approach by the Harakbut. The documentation needs emerging in this section are interconnected and should not be treated as separate documentation categories. Thus, documented information should include, amongst others, ancestral territorial occupation, spatial information, sacred and culturally significant sites, traditional land use, oral histories and other traditional knowledge, environmental changes and harm caused by mining, encroachment into indigenous territory, incidents of violence, disappearances and intimidation, signs of institutional weakness and corruption, health impacts, and testimonies of lived realities from community members. The potential of such information as evidence for successful legal claims is also reflected in the discussed indigenous rights jurisprudence. In the case of the Harakbut, as mentioned in Chapter 2, evidence of rights violation concerns, for example, the right to health, the right to water, the right to a healthy environment, the right to life and physical integrity, and indigenous rights, such as collective land rights and territorial rights, rights to FPIC, indigenous cultural rights, and the right to self-determination. However, the communities have to document the concerning information while facing serious restrictions on documentation efforts and advocacy, and risks to their safety. But they have significant foundational resources that represent good opportunities to conduct successful community-based documentation in such a harsh environment. Both challenges and opportunities that shape the adaptation of the concept of community-based documentation to the Harakbut context will be discussed in the following section.

5.2.4. Opportunities and challenges of CBD in the Harakbut context

The findings emerging from both interviews, especially from the second Interview, clarify that Community-based documentation presents both significant opportunities and substantial challenges to the implementation of community-based documentation in the Harakbut context. These are based on the environmental, political, social, and cultural characteristics described in Chapter 2, as well as on the definition and principles of community-based documentation from

Chapter 3, and the lessons from jurisprudence discussed in Chapter 4. While the repressive climate of intimidation and the weak implementation of indigenous rights create obstacles to documentation efforts, the interview simultaneously reveals several arguments that demonstrate the potential of community-based documentation for the Harakbut context.

One of the strongest opportunities identified in the interviews is the existence of extensive territorial and cultural traditional knowledge within the communities. Although this might seem obvious, it presents a major advantage for community-based documentation because the communities already possess information that external actors or investigators often struggle to obtain. Sr O. repeatedly emphasises the importance of the ancestral territory, sacred sites, and traditional knowledge passed down between generations.²⁷⁵ Thus, the opportunity in the Harakbut context is that community-based documentation can build on existing knowledge systems rather than replacing them. This was important in several of the cases discussed in Chapter 4 to create legally relevant evidence of traditional occupation, land use, special relationships with the territory, collective governance, and collective indigenous or tribal identity, for different indigenous rights claims, for example regarding the recognition of ancestral territory. The second important opportunity is the existence of community-based monitoring and knowledge transfer systems of the Harakbut. Territorial monitoring groups already observe and protect their territory and report to the Harakbut leaders to receive support from other communities. For the establishment of documentation practices, these structures provide local legitimacy to ensure community representation, practical monitoring experience, organisational capacity, and an ongoing presence at important territorial sites and borders. Additionally, the Harakbut increasingly include traditional knowledge and the Harakbut language into their education systems, supporting intergenerational knowledge transfer and strengthening indigenous and collective identity. This offers a foundation for systematic documentation of traditional knowledge. Consequently, community-based documentation approaches could also build upon existing practices rather than introducing entirely new mechanisms. These structures also demonstrate a collective identity and governance. Sr O. highlights collective forms of organisation and solidarity.²⁷⁶ Moreover, the Harakbut engage in collective decision-making events on advocacy strategies and goals,²⁷⁷ which constitutes another important structure in itself for community-based documentation approaches to build upon, especially because these naturally guarantee community ownership of the process and

²⁷⁵ *ibid* 5-6,14-15.

²⁷⁶ *ibid* 9.

²⁷⁷ *ibid* 4.

community representation. The capability of collective mobilisation and organisation is a particularly important resource because community-based documentation depends on participation and community control. Therefore, this is an opportunity that could support broad participation, complete representation of community interests, sustainability of documentation efforts, and, moreover, protection through collective action. For documentation to align with the Harakbut interests, the communities should consider it valuable to their advocacy efforts. Sr O. perceives it as politically and legally valuable and describes engagement by community members in various documentation activities, which suggests that they are viewed not merely as information gathering but also as a tool for advocacy and accountability. This understanding of documentation and the engagement with it is a significant resource for community-based documentation initiatives. Lastly, the interviewee indicates the existence of technical knowledge resources, such as cartography, GPS, and videography technology, particularly amongst the youth.²⁷⁸ These are potentially useful for methods and practices like community-based mapping, territorial monitoring, audiovisual and imagery documentation, and digital storage of data. Although the Harakbut already engage significantly with documentation and rights protection, displaying participation and community ownership, documentation efforts of rights violations are still limited by certain challenges, most of which are associated with the mining expansion, weak state protection, and their consequences.

The most significant challenge to successful community-based documentation emerging from the interview is intimidation. According to Sr O., the Harakbut face intimidation including blackmailing, death threats, and legal harassment. These are directly linked to community advocacy efforts and territorial protection activities, and affect documentation, for instance, because collecting evidence might expose community documenters to retaliation. Drawing on these findings and the descriptions of Chapter 2, it should be highlighted that security measures must become a central component of any community-based documentation strategy to overcome this challenge. Furthermore, information itself might become a source of vulnerability, which means that the management and storage of information also have to be safe and secure. This correlates with the second major issue, which concerns the relationship with state authorities, which also poses an additional security risk to the community documenters. The interviewee describes significant distrust towards the police and other state actors, as they side with the perpetrators or give away information. This represents a hurdle for the administration of documented information, as evidence cannot immediately be submitted to

²⁷⁸ *ibid* 5-6,8.

state institutions. Therefore, the Harakbut cannot rely solely on state accountability mechanisms, because this distrust is grounded in the weak implementation of indigenous rights and their protection, which creates a dilemma for documentation initiatives. Even admissible, high-quality evidence may not automatically entail change if institutions remain unwilling or incapable of acting. This resembles the implementation gap between international indigenous rights standards and local realities, established in Chapter 2. Therefore, as its accountability function is limited, the advocacy function of community-based documentation becomes even more important. In a similar context, the interviews link the mining expansion to corruption and criminal actors.²⁷⁹ For community-based documentation, this constitutes a complication because evidence may confront actors who possess economic and political influence and act outside the law. Consequently, documentation as an independent mechanism might be insufficient for advocacy purposes and needs the support of a broader advocacy network to contribute to change. Both leadership and traditional knowledge are concentrated among a relatively small number of individuals, such as elders, community leaders, and experienced community members. In this regard, community-based documentation in the Harakbut context faces a dual challenge, together with the scarcity of resources, that limits their capacity to distribute documentation responsibilities more broadly and develop a sustainable documentation system with access to a variety of documentation methods. The concentration of valuable knowledge and reliance on a few individuals for decision-making can create vulnerabilities and marginalise other community members or decrease participation. Additionally, the lack of resources poses another limitation. Sr O. states that material and technical resources that might be necessary for documentation are not or are only scarcely available to the communities. For example, financial resources, internet access, and means of transportation, as well as technical knowledge and training.²⁸⁰ Economic hardship is also a reason why parts of the community do not engage in monitoring or report violations, especially if it constitutes a risk of physical harm.²⁸¹ The lack of resources might make it difficult to train larger numbers of community documenters, acquire documentation and communication equipment, or preserve the documented information, transfer knowledge to future generations, and, most importantly, facilitate participation and compensate time spent on documentation practices in an unstable economic situation and an environment of fear and intimidation. This reinforces the concentration of documentation responsibilities on small groups, and demonstrates how these challenges are interconnected, as at the same time, these are precisely

²⁷⁹ *ibid* 4.

²⁸⁰ *ibid* 7, 11–12.

²⁸¹ *ibid* 10.

the community members who are most exposed to threats and intimidation. According to Sr O., community engagement in documentation can also be limited by internal division, for example due to discrimination against children of indigenous and non-indigenous parents, or the estrangement of such families from the community and its traditions, which results in a decrease in children receiving indigenous education and less transfer of traditional knowledge.²⁸²

The opportunities and challenges identified in this section suggest that documentation practices must be adapted to the political, cultural, institutional, and security contexts in which they are to be implemented, but also that they can build on and strengthen existing resources. Based on these findings, the following section sets out a context-specific adaptation of the framework for community-based documentation for the Harakbut in Madre de Dios.

5.3. Adaptation to the Harakbut Context

5.3.1. Principles

A first adaptation concerns the principle of community ownership and control, identified in Chapter 3. For the Harakbut, this means that community-based documentation should not be organised around documenting the most externally visible issues, for example, the topic of mercury pollution. Rather, thematic priorities of documentation should emerge from community-defined concerns. The jurisprudence discussed in Chapter 4 reinforces the importance of community ownership and control over the documentation. In all four cases, successful documentation was able to contribute significantly to decisive evidence while the indigenous communities defined what constituted relevant information to prove certain correlations. Documentation in these cases was not guided by legal categories imposed from outside, but by the indigenous understandings of territory, land use, cultural significance, interconnectivity, and the special relationship between them and their land. Furthermore, as previously established, the principle of community ownership and control should guide the entire documentation process, from planning, over the gathering of information, to the administration and management of it. Because institutional weakness and corruption, and therefore distrust towards state authorities and external interests, shape the context faced by the Harakbut, the choice of external allies and assisting researchers should be included under this community control.

This is equally important for the security of documenters and valuable evidence. Institutional weakness and corruption are part of the broader repressive climate of intimidation and restricted advocacy, in which the Harakbut face serious security risks. The findings of Chapter 2 and the

²⁸² Interview with Leader of the Harakbut (n 1).

interview findings suggest that in Madre de Dios, security must become an organising principle for community-based documentation. According to the interviewees, intimidation, death threats, disappearances, and retaliation can have a chilling effect on any documentation efforts or advocacy in general.²⁸³ Therefore, it must be assumed that a major challenge is not collecting evidence or information but doing so without exposing community documenters to harm. Thus, in the Harakbut context, all documentation efforts must be guided by the No Harm imperative. Here, this means that documentation responsibilities should be collectively shared rather than concentrated on individuals. Sharing of documented information should be under community control to avoid misappropriation. This information should be anonymised where appropriate and where this does not interfere with evidence conformity. Furthermore, sensitive information has to be securely stored. To ensure these guidelines can be followed, a risk assessment should be conducted before the documentation process and regarding the storage and sharing of information. In conclusion, community-based documentation by the Harakbut in Madre de Dios should, in all phases, aim for the protection of documenters equally to the collection of evidence. To this end, the principle of No Harm implements the adoption of the operational principles of confidentiality and security of information, as both are important to protect sensitive information that could expose community members to risks.

To further ensure community ownership, participation, and sustainability, a community-based documentation approach should build upon existing documentation strategies and monitoring practices. These structures are a valuable resource that the Harakbut communities already possess and that perform many functions associated with documentation. Sr O. describes community patrols in which territorial incursions and corruption of the local police are observed. Furthermore, community visits to important sacred and cultural sites and community gatherings are organised. These could not only serve to document information about environmental destruction and traditional knowledge, but also to communicate information and such knowledge internally. In addition, as mentioned above, this demonstrates the community's capacity to organise and mobilise collective responses. A community-based documentation approach can strengthen and systemise these existing practices for the purpose of collecting evidence, which means that they are not replaced by external systems, and the approach can be fully controlled by the community. Additionally, this ensures accessibility and sustainability, as the knowledge required for implementation and continuation is already in place. A similar approach is reflected in the case of *Sarayaku v. Ecuador*, in which documentation evolved from

²⁸³ *ibid* 10.

existing practices of territorial governance and monitoring, and resources and skills already available within the community, for example, technical knowledge about audiovisual documentation. In this regard, the interview indicates that technical knowledge about filming and photography, as well as GPS use and mapping, exists in the Harakbut community, which is also a valuable resource for documenting, for example, lived experiences, environmental harm, territorial encroachment, and health concerns, but also suggests that this knowledge can be taught and passed on to other community members internally.

The principle of FPIC complements and ensures implementation of the principles of community-ownership and No Harm. This principle becomes particularly important during the documentation process and the distribution of information. Sr O. indicates that documenters may collect highly sensitive information, including accounts of threats and violence, traditional knowledge, territorial information, and information concerning illegal mining activities. At the same time, he expresses a desire for broader community participation, for example, by the youth, in documentation activities.²⁸⁴ Participants should be able to control whether they contribute information, how they participate in documentation, how that information is used, and whether it may be shared within or beyond the community. This is particularly important when this information concerns sacred places or traditional knowledge, which could be misappropriated, or regarding information that could expose participants to risks. In this context, and to ensure this principle is applied throughout all phases of documentation, FPIC should be understood as a continuous process, rather than as a one-time consultation. This would also ensure that documentation remains community-driven during the process, while safeguarding individual integrity.

For community-based documentation, to produce legally admissible evidence and information that can reliably support advocacy efforts, the adoption of admissibility standards is essential. The cases discussed in Chapter 4 demonstrate this importance. Community-based documentation successfully supported the legal claims of this jurisprudence because it translated information into systematic, legally admissible evidence. It has to be emphasised that indigenous knowledge systems should not be replaced or changed but translated epistemologically by community-based documentation to apply to external use in non-indigenous-shaped systems. For example, before courts or for an international audience. The accurate documentation of territorial invasions, for instance, should therefore cover related information such as time, location, involved persons, and the impacts of an incident, while the

²⁸⁴ *ibid* 6–8.

variety of evidence sources supports the thoroughness of documentation. This is strongly reflected in Chapter 4, in which all cases benefited from complementary evidence from maps, oral testimonies, and visual sources like images and videos. In the Harakbut context, the adoption of operational admissibility principles is foundational to successful community-based documentation, as both interviewees express interests in different documentation purposes, like making legal complaints, pressuring the government, and protecting their collective rights. Naturally, evidence for these purposes can be considered sensitive information, as it often entails consequences for the perpetrator and, due to its accuracy and thoroughness, holds details about the documenter and other community members. Therefore, in the context of the mining industry's economic interests at stake, and of risks posed by criminal organisations, for instance, retaliation, it is important to store gathered information securely and restrict access in compliance with community control.

5.3.2. Methods

In the following, documentation methods are selected in accordance with the specific documentation needs and opportunities arising from the Harakbut context. The interviews show that documentation carried out by monitoring groups, community leaders, and through audiovisual recordings is already part of the Harakbut's advocacy efforts and self-governance. At the same time, however, they reveal significant constraints relating to security, institutional mistrust and limited resources. Consequently, this community-based documentation model should not aim to maximise the volume of documentation, but rather to adapt and combine methods in such a way that they provide reliable evidence whilst ensuring that the process is safe, community-controlled and aligned with the Harakbut's priorities.

Depending on internal resources and external assistance, the documentation methods have to be adapted according to their accessibility. During the interviews, the claim to the recognition of their ancestral territory, in the context of territorial intrusion by gold miners and other external actors, is highlighted several times. These can be considered the source of most of the other issues faced by the Harakbut. Thus, documenting territorial rights violations and the mining expansion into indigenous lands is arguably the most important documentation need. According to Sr O., Harakbut territorial governance systems are already in place, while some community members have knowledge about mapping techniques and GPS. Moreover, the previously mentioned monitoring patrols and visits to sacred sites provide the framework for mapping activities and a relatively safe way for evidence collection, as these monitoring patrols are conducted in groups to increase security. Consequently, community-based mapping appears particularly well-suited for the Harakbut context. Drawing on the cases of *Awes Tingni* and

Saramaka, community-based mapping could document the Harakbuts' ancestral territory, including sacred and other important sites and traditional land use. In addition, it can serve to document mining and other incursions, territorial overlap with mining concessions, new illegal mining camps, illegal access routes, and environmental degradation such as river contamination or deforestation. These observations can be recorded through incident reports, photographs, and videos in connection with GPS-referenced maps. Although these maps and the concerning information must be validated by elders and territorial knowledge holders, a broader participation by the community in these mapping activities would constitute increased security, transmission of knowledge, community representation, and, besides evidence production, active territorial protection and advocacy, as suggested in the findings of the interview combined with lessons of the *Sarayaku* case. By applying the operational principles discussed above, existing monitoring systems can facilitate community-based documentation such as mapping, which, in turn, would enhance not only the evidential value but also territorial protection through the systematic gathering of information. However, some of the applicable methodologies are not as feasible as others. While the production of images or videos and GPS reference points is not a challenge anymore, thanks to the widespread adoption of technologies such as smartphones, the necessary energy and internet access are scarce and expensive.²⁸⁵ The community-based mapping and the documentation of related information must therefore be carried out in a way that conserves resources. The produced digital data should ideally be stored offline for security purposes, which in turn requires dedicated equipment. Storing and cataloguing data on an individual device would also run counter to the principle of community control and possibly also to that of secure storage.

The interviews demonstrate that intimidation and other restrictions on advocacy can themselves state one of the principal violations experienced by the Harakbut. Here qualitative Interviews and confidential testimonies, and safe audiovisual documentation become particularly appropriate. As established in Chapter 3, interviews and testimonies as methods are capable of documenting lived experiences and patterns of abuse that are often absent from official records and can only be captured through the perspective of the affected or civil society investigators. Regarding the Harakbut, threats, extortion, institutional distrust, or fear of reporting and retaliation constitute such patterns. The nature of these topics entails that testimonies can only be collected following community approval and continuous FPIC, with options for anonymity and remaining under community control. Collective testimonies or focus-group discussions

²⁸⁵ *ibid* 7.

may further reduce individual exposure to risk by distributing responsibility among participants, which supports the implementation of the No harm principle. Audiovisual documentation itself is possible under similar circumstances for the Harakbut. Sr O. explicitly highlights the usefulness of audiovisual documentation.²⁸⁶ Orienting on the *Sarayaku* case, such documentation could serve multiple purposes simultaneously. If conducted according to admissibility standards, it serves evidence generation, public awareness, and international advocacy, self-determination through narrative control, and the preservation of traditional knowledge. This may be particularly valuable in the Harakbut context, where state institutions are perceived as unresponsive and indigenous advocacy is restricted due to economic and political interests, criminal actors, and corruption. Both oral testimonies and audiovisual documentation hold opportunities to counter state and gold industry narratives with the indigenous community perspective and narrative control over the information. Additionally, the broad scope of audiovisual documentation methods, including videos, photographs, and audio recordings, is capable of documenting a variety of information, such as environmental degradation and harm, health impacts, cultural practices, territory encroachment, mining expansion, and specific forms of intimidation and violence, as well as the identity of perpetrators. Especially because of this potential, information documented with these methods should be treated as highly sensitive and, therefore, should be collected safely and stored securely. The metadata automatically documented with audiovisual methods further adds to its sensitivity but also to its potential as evidence, which should therefore also be considered concerning distribution.

Documenting cultural and territorial relationships in the form of traditional knowledge is particularly relevant to the Harakbut and their interests, as it can serve functions beyond evidence production and advocacy. In the indigenous rights jurisprudence discussed in Chapter 4, oral testimonies and oral histories proved particularly valuable to support territorial claims, when systematically documented, proving the special indigenous relationship to the land, rather than mere occupation. In these cases, oral histories supplemented material such as maps with information on traditional knowledge and lived experiences, proving the cultural, religious, and subsistence importance of the territory. According to the interviewees, one of whom is working to preserve traditional medicinal knowledge within the community,²⁸⁷ the Harakbut often pass on their knowledge orally,²⁸⁸ which supports the need for systematic documentation of oral

²⁸⁶ *ibid* 6.

²⁸⁷ Interview with Spokesperson and Advisor of the Harakbut (n 16).

²⁸⁸ Interview with Leader of the Harakbut (n 1); Interview with Spokesperson and Advisor of the Harakbut (n 16); Interview with Spokesperson and Advisor of the Harakbut (n 13).

histories if the evidentiary function of it is desired to pursue legal claims. However, regardless of this, community-based documentation of oral histories can preserve and transmit traditional knowledge within the communities themselves, as the interviews also indicate that traditional knowledge holders are dwindling, but awareness of the importance of such knowledge is increasing within the communities. Emerging from the interviews, such efforts, including visits to sacred sites, educational inclusion of traditional knowledge, and intergenerational participation in documentation, may contribute to cultural survival. This dual function is particularly valuable for the Harakbut.

It has to be noted that the Harakbut include seven communities, located in different areas of Madre de Dios. This suggests that, while all of the established issues resulting from the gold mining expansion and lack of state protection are likely to affect all communities, some of them are more affected by territorial encroachment or environmental degradation than others, due to their geographical proximity to the mining operations. Sr. O also mentions such cases, and that in the occasion, the leaders of other communities organise to come to their aid. Furthermore, the Harakbut engage in collective decision-making regarding advocacy strategies and agendas in dedicated events. Both are valuable organisational structures for documentation methods, in particular for planning documentation. However, there can be division and conflicts of interest within the community, for example due to family estrangement or economic needs. For these reasons, to ensure community representation and as a documentation method itself, community priority ranking and other participatory decision methods are important for documentation planning. This ensures that the Harakbut can collectively identify the most urgent rights violations, the most threatened community territories, priority monitoring areas, specific places requiring documentation, and can conduct a comprehensive risk assessment. Also, it protects self-determination and governance from external agendas, which is particularly important, given the climate of distrust and corruption that surrounds them. The latter further requires community-controlled archives and information storage, governed by clear collectively established protocols regarding access, preservation, external dissemination, and use, implementing the principles of No Harm, community-ownership, data security and sovereignty, FPIC, and confidentiality.

The last documentation need concerns the documentation of health impacts resulting from mercury pollution, infectious diseases linked to the mining expansion, and environmental degradation resulting in subsistence destruction. Community-based documentation can document community testimonies of the Harakbut regarding mercury poisoning and suspected exposure, as well as increased vulnerability through additional factors associated with the gold

mining expansion and weak state protection, or barriers to healthcare access. Similarly, it can document observations of changes in drinking water quality, fish availability, and consumption, and perceived increase in illnesses through a combination of methods like testimonies, mapping, and photographs. However, producing scientific medical evidence such as water or blood surveys, as mentioned in one of the interviews, exceeds the scope of community-based documentation because they require collaboration with medical experts and other stakeholders, like laboratories and external researchers. Nevertheless, health impacts emerge as one of the most pressing issues from reports and the interviews conducted for this thesis. Therefore, documenting records of health impacts associated with the gold mining expansion is essential, and where possible, they can be complemented by environmental or medical experts, particularly if indigenous advocacy or litigation requires it.

The preceding analysis has shown that the applicability of community-based documentation in the context of the Harakbut depends not only on the selection of suitable documentation methods, but also on their adaptation to specific documentation needs, and to the possibilities and limitations arising from the local context. It can be observed that some documentation needs require various combinations of methods, adapted in different ways to the respective situation and the available resources. By integrating the principles of community-based documentation, this chapter has developed an adapted preliminary model for the Harakbut, which brings together context-specific priorities for documentation, guiding principles and appropriate methods to form an integrated framework centred on the self-determination of indigenous peoples, community ownership and the safe collection of evidence. The remaining question concerns the effectiveness of this model and is therefore of a more evaluative nature. The following section discusses the extent to which this conceptually adapted model can realistically contribute to advocating for the interests of the Harakbut, gathering evidence and protecting indigenous rights under the conditions of illegal gold mining, intimidation and the weak implementation of international law on the protection of indigenous rights.

5.4. Evaluation of Community-based Documentation in the Harakbut Context

The case law examined in Chapter 4 shows that evidence gathered by the communities themselves can play a decisive role in legal disputes and advocacy relating to, and in support of, the rights of indigenous peoples. The adapted documentation model proposed for the Harakbut also holds considerable potential in this regard. Community-based documentation can provide credible, admissible evidence of the rights violations to which the Harakbut are subjected in connection with illegal gold mining. The findings suggest that it can produce

evidence regarding territorial ancestral occupation and land use, illegal mining incursions, intimidation of indigenous rights defenders, and protection failures of state institutions. In Addition, it can provide evidence of environmental degradation associated with the gold mining expansion and the health impacts that are resulting from it. Successful indigenous rights cases do not rely on one form of evidence, but combine evidentiary sources such as maps, oral histories, testimonies, environmental observations, photographs, videos, traditional knowledge, and expert evidence. The adapted community-based documentation model resembles these evidentiary approaches. However, although community-based documentation can create strong primary evidence for several rights violations, it is limited in some regards, for example, toxicological evidence or forensic environmental assessments, which it cannot independently produce. Rather, it can contribute complementary evidence to scientific expertise or create an evidentiary foundation for further investigation.

Restricted advocacy for various reasons emerges as one of the defining characteristics in Madre de Dios and the Harakbut context. The Interviewees repeatedly emphasise intimidation and a lack of state protection in this regard. Therefore, community-based documentation is not only valuable because it produces evidence, but because it creates advocacy capacity for the Harakbut. It does so by gathering material that can be distributed to increase the visibility of rights violations, by strengthening the credibility of indigenous claims with evidence, supporting legal claims before national and international institutions, facilitating meaningful collaborations with external organisations, and producing material suitable for public campaigns and international advocacy. To the end of sustainable rights protection and positive change, it cannot replace political mobilisation, nor legal enforcement, but it can strengthen advocacy in pursuing these goals by providing well-documented, community-generated evidence.

In the sense of true advocacy, outsiders must not define indigenous interests. The interviewees repeatedly emphasise that the documentation should be carried out by the Harakbut themselves and that younger members of the community should be trained to take on this task.²⁸⁹ Rather than relying on external parties, Sr O. stresses how important it is to strengthen the community's capacity to produce the documentation from within the community. The importance of the community's ownership of documentation is not merely normative in nature, but in the context of the Harakbut, it becomes a practical strategy for strengthening long-term advocacy and self-determination in the face of intimidation, weak state protection, and limited legal recognition.

²⁸⁹ Interview with Leader of the Harakbut (n 1) 8.

As community-based documentation is conceptualised in Chapter 3, especially regarding community ownership and control, and following the example of Kichwa people of Sarayaku, it can arguably support the Harakbut in exercising self-determination. For example, it enables them to determine which violations matter, what constitutes evidence, how territory is defined, and which advocacy priorities should be pursued.

Beyond advocacy and litigation, community-based documentation contributes to direct rights protection as a tool for territorial governance and indigenous resilience. By documenting their territory, monitoring territorial incursions, strengthening local capacities, and preserving traditional knowledge, for the Harakbut, community-based documentation practices can be a part of sovereignty and self-determination themselves. For example, as described in one of the interviews, monitoring and reporting serve as protection mechanisms where other protective systems lack or fail.²⁹⁰ Community-based documentation, strengthening already existing monitoring systems, can therefore help the Harakbut to protect their territory and their rights on an ongoing basis.

Resulting from the findings of the previous chapters, it also became clear that community-based documentation faces serious limitations and constraints, that have to be mentioned in this evaluation. Although it can contribute to increasing visibility on structural issues, it cannot overcome systemic problems that shape the context in Madre de Dios significantly. Community-based documentation by the Harakbut is not tackling root causes of corruption or dissolving organised criminal networks in Peru. Furthermore, successful litigation and recognition of rights and territory do not automatically entail strong implementation of resulting provisions or indigenous rights in general, particularly if political will is missing. Context-specific limitations like financial and other resources, or the continuing security risks, are still likely to remain. Therefore, community-based documentation cannot be seen as a substitute for state protection. It constitutes a complementary, empowering strategy that strengthens indigenous advocacy, Harakbut advocacy, while remaining dependent on broader legal and political support.

The preceding analysis suggests that community-based documentation adapted to the Harakbut context can simultaneously address the rights violations identified in Chapter 2 and the restrictions on indigenous peoples' advocacy emerging from the interviews. At the same time, it offers the opportunity to build on the community's existing capacities. To this end, it has to become an exercise of self-determination itself. In contrast to externally driven documentation

²⁹⁰ *ibid* 10–11.

initiatives, the adapted community-based documentation model strengthens the Harakbut's self-determination by enabling communities to set documentation priorities, control information and determine advocacy strategies. The combination of various methods, such as community-based mapping, community monitoring, oral traditions, audiovisual documentation and the systematic collection of testimonies, bears a strong resemblance to those forms and combinations of evidence that have proved decisive in Inter-American indigenous jurisprudence. While community-based documentation has considerable potential to strengthen evidence production and advocacy, its capabilities extend beyond these previously assumed functions to include territorial governance and self-determination, which are likely to contribute most directly to positive change. However, its contribution to sustainable legal protection and to ending the conflict with the gold mining industry and its human rights violations should be understood as complementary rather than sufficient, as documentation alone cannot overcome structural obstacles such as economic drivers, political will, corruption, criminality and the inadequate implementation of indigenous rights.

5.5. Conclusion

This chapter has synthesised the contextual findings from Chapter 2, the conceptual framework for community-based documentation from Chapter 3, the lessons from indigenous rights jurisprudence examined in Chapter 4, and the interview findings to develop an adapted model of community-based documentation for the Harakbut context. This model was analysed regarding its potential for positive change for the Harakbut in the context of the mining expansion, and for advocacy and evidence production. The analysis suggests that community-based documentation can be adapted particularly well to the Harakbut context because it responds directly to the documentation needs resulting from the consequences associated with gold mining in Madre de Dios. To do so, it can build on existing community capacities, including territorial monitoring, technical skillsets, collective governance, and traditional knowledge. If adapted to local contextual conditions and according to the principles identified in this thesis, community-based documentation can strengthen evidence generation, advocacy, indigenous self-determination, and active territorial protection despite significant constraints for the Harakbut's engagement with it. At the same time, the analysis demonstrates that community-based documentation cannot substitute for effective implementation of indigenous rights or state protection. Its contribution is the strengthening of indigenous agency and self-determination within a broader system that, for foundational change, depends on legal and political reform. However, community-based documentation could help drive this reform forward. The following chapter will conclude this thesis and consider the implications of these

findings for the Harakbut, community-based documentation, indigenous rights protection, scholarship, and future research.

6. Conclusion: A Conceptual Approach beyond Evidence Production

This thesis has shown that community-based documentation can be adapted to the Harakbut context by prioritising their self-determination, the communities' ownership of the process, and safe documentation practices tailored to the realities associated with the mining expansion. Whilst such an adapted approach cannot replace state protection in a repressive context characterised by intimidation and the inadequate implementation of indigenous rights, it can strengthen the advocacy of the indigenous population, the collection of evidence, territorial self-governance and the sustainable protection of rights.

The analysis of the context faced by the Harakbut in Madre de Dios demonstrates that it is not primarily shaped by gaps in the formal legal framework, but by a persistent failure to implement and enforce rights protection. Relevant international and domestic law recognises many of the rights threatened by the mining expansion, including territorial rights, self-determination, FPIC, environmental protection, health, water, and cultural rights. However, structural challenges like corruption, criminal intimidation, weak institutional capacity, and state absence prevent them from being effectively protected, while seriously restricting indigenous advocacy. This creates conditions in which a community-based documentation approach can be effective as a strategy to overcome this crisis.

Further, the thesis demonstrates how community-based documentation differs from conventional documentation approaches by redistributing authority over knowledge production and management to the affected communities. It is defined by a framework centred on community ownership, FPIC, evidentiary criteria, and the No Harm principle. No documentation method automatically fits the community-based approach, but rather all eligible methods must be adapted to these principles and to local realities. Therefore, community-based documentation is not a generic model, but an adaptable approach characterised by the particular context and documentation needs.

The comparative analysis of indigenous rights jurisprudence, combined with findings of the adaptation of the community-based documentation model to the Harakbut reality, suggests that successful documentation approaches can effectively serve various functions. Moreover, the adaptation to indigenous governance structures, local challenges, existing community capacities, and community priorities regarding focus matters requires placing community

ownership and control, and security central to the approach, while building upon local resources and structures, traditional knowledge systems, and broad participation. Finally, it emerged that community-based documentation has significant potential for the Harakbut to strengthen their advocacy, generate evidence, and exercise self-determination and territorial governance. At the same time, its possibilities should not be overstated, as alone, it cannot overcome the structural drivers of the mining expansion, corruption, and criminal violence, nor can it prevent insufficient protection and implementation of rights. Consequently, it is a fundamental complementary strategy that enhances indigenous advocacy while being contributory to effective protection but dependent on broader legal, political, and institutional support in this regard. Concluding, community-based documentation is not merely a technical process of recording human rights violations, but, when guided by its principles and context-specific adaptations, can become a practical exercise of indigenous self-determination, through which the Harakbut can preserve knowledge and assert their rights in contexts where legal protection remains insufficient.

With these findings, the thesis develops a conceptual framework for community-based documentation in indigenous and extractive contexts and demonstrates how community-generated evidence contributes to indigenous rights litigation and the development of indigenous rights. It adapts and evaluates this framework to the current context and crisis of the Harakbut, to illustrate how documentation models must respond to conditions of restricted advocacy, security risks, and weak governmental protection while relying on community investigators and local governance structures.

Based on the conversations and communication with the Harakbut, in personal meetings and the interviews conducted during the research for this thesis, the author aimed to develop a new synthesis of separate research areas, with a view to offering the Harakbut the best possible support through this work. The developed analytical framework can therefore be developed further by the indigenous communities concerned. Although this framework is based on context-specific adaptation, it provides a broader structured approach for analysing how documentation efforts can be adapted in indigenous and extractive contexts. The approach shows that for effective indigenous rights protection, mechanisms beyond legal recognition and conventional research are necessary to enable the communities to exercise self-determination, and to document and communicate violations.

In this context, a next step could be the implementation of this approach led by the Harakbut to evaluate it collaboratively. Additionally, comparative studies with other indigenous peoples in

an extractive context could be useful to understand similarities and further develop adaptation guidelines. Moreover, it would be interesting to explore the potential of community-based documentation in other settings of insecurity, for example, regarding digital surveillance or authoritarian regimes, but also other indigenous contexts. As encroachment into and abuse of indigenous territories continue to increase all over the world, further research on how community-based documentation approaches can strengthen indigenous communities' capacity to act is necessary.

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Appendix

Spokesperson and Advisor of the Harakbut: Entrevista sobre las consecuencias de la minería de oro en Madre de Dios y en las comunidades de los Harakbut, session one.

Miro Veramendi • 00:00

Oh, wow. Eso todo es nuevo para mí también. Es muy complicado. Listo. Bueno, yo te envié también ese documento de las preguntas, ¿no?

Sr. H • 00:14

Sí.

Miro Veramendi • 00:15

Disculpame que no he practicado mucho el español aquí en Finlandia. Aquí sí que me va a costar un poco.

Sr. H • 00:28

No, no hay problema.

Miro Veramendi • 00:31

¿Quieres empezar? ¿Estás listo?

Sr. H • 00:33

Sí, sí.

Miro Veramendi • 00:35

Dale. Primero, ¿podría presentarse, por favor, y decir el nombre y de quién habla? Como de su nación, de su familia, privado.

Sr. H • 00:41

Perfecto. Gracias, Miro. Mi nombre es H en español, que me han bautizado los Dominicanos H. Mi nombre verdadero es A. Y es el nombre Harakbut. Yo soy de pueblo Harakbut y estoy en función, ejerciendo, como parte de asesoría técnica a la nación Harakbut. Y la nación Harakbut desde el año 2017 se constituyó. Ya ha ido consolidando, ahora ya están, se ha abordado ya los temas, temáticas, que es lo que va a emprender durante el proceso de la consolidación de la organización. Así, yo radico en Madre de Dios, Perú. Mi comunidad se llama San José de Carenes. Está ubicado en el distrito Madre de Dios, provincia de Manu, departamento de Madre de Dios.

Miro Veramendi • 02:05

Qué bien, muchas gracias. Ahora que estamos hablando, obviamente, de todo el tema del mercurio y la minería ilegal, yo voy a hacer una tesis sobre eso, más específicamente sobre las posibilidades que ustedes tienen, aparte del sistema de derechos humanos. Porque yo estudio

derechos humanos, pero sé que todo ese sistema de derechos no funciona muy bien. Es importante, claro, pero es algo que han hecho la gente de Estados Unidos, de Europa, y no tiene mucho que ver con la realidad que viven ahí. Así que quería preguntar cuáles son los puntos de contacto de la Nación Harakbut, o de tu comunidad, San José, con la industria minería ilegal de oro en la región.

Sr. H • 03:15

Miro, justamente parte de mi comunidad como Nación Harakbut, que están perteneciendo a la Nación, son 12 comunidades. De 12 comunidades tenemos, se dedican a la minería seis. Y el resto está situado donde se ha constituido el estado peruano de áreas naturales protegidas. Y no hay minería por ese lado. Y hemos hecho, esto, un diagnóstico bien exhaustivo, participativo, cuáles son las tendencias, por qué las comunidades han apostado a destruir sus propios territorios, a contaminar. Y entonces hay una información técnica que son 22 ríos que están contaminados. Y hay información técnica también científica que 450 mil toneladas se arrojan mercurio directo al río. Y esos peces son consumidos por las comunidades que se habitan por ese lugar, porque son Harakbut que mayormente se alimentan de los pescados. Y frente a este tema, lo que se ha hecho es un diagnóstico y hay este impacto fuerte en consumo de los peces que están contaminados. Y los niños que nacen hoy en día nacen con defectos. Lo que nunca hemos tenido, lo que nunca hemos visto, las enfermedades. Y nacen con defectos, trastornos mentales, perdón, ciegos, sordos. Entonces eso ya está apareciendo. Eso es consecuencia de la contaminación que está fuerte impactando en las comunidades. Y son parte lamentable que las comunidades también, al ver que su territorio como están destruyendo por los concesionarios, que el Estado ha otorgado al territorio indígena sin permiso, sin consulta. Entonces los mineros con poder económico han atacado territorio indígena. Y las comunidades en primer momento, cuando fue niño, mis tíos, mis abuelos lucharon fuerte, enfrentando con armamentos, desalojando, pero eso no ha funcionado. No tuvieron respaldo por las autoridades. Más bien las autoridades hoy en día son parte de esa corrupción de la minería ilegal. Porque si lo denuncias un comunero, hoy en día tienen temor bastante. Los jefes de las comunidades no pueden denunciar la minería ilegal. Si denuncian a la policía, la policía da información a la banda criminal y son amenazados. Hasta ese extremo está llegando eso. Y como decía, al ver eso, las comunidades también se han metido a la minería. Y el resultado de todo eso es lo que decía Miro, la importancia de esa investigación que está haciendo va a sumar, porque la nación Harakbut va a empezar a pelear, ya está en la agenda, de que el estado peruano haga análisis del cuerpo humano de Harakbut para ver el grado de contaminación, porque están naciendo los niños deformes. Y para ver el grado de contaminación y medir estándares internacionales, con eso va a ser arma para pelear. Tu investigación va a ser una forma de presión, porque va a presionar de diferentes lados. Porque al estado mismo no le conviene hacer el estudio. Han hecho algunas universidades, han hecho algunas ONG, pero esos argumentos no sirven para emprender una denuncia, una demanda al estado peruano. Tiene que venir oficial del Ministerio de Salud, que se haga el examen del cuerpo humano.

Eso es Miro, así estamos agendando nosotros como nación. Y esperemos ir sumando, porque lo que sí falta es que un cooperante financie eso, porque eso va a demandar muy fuerte la presión internacional, nacional mismo, si encontramos el grado de impacto de contaminación del cuerpo que tengamos los Harakbut. No solamente Arakbot, en general. Y eso va a obligar a las políticas

públicas del estado peruano a dar la cancelación de concesiones en el territorio indígena. Y esas son luchas que queremos emprender y solamente está en estrategia. Falta aterrizar lo que es con productos, con financiamiento que requiere para hacer agilizar más que todo al Ministerio de Salud, lo que pueda emprender eso, ese trabajo.

Miro Veramendi • 09:11

Entonces dices que esa examinación es como su estrategia principal en el momento, en esa lucha?

Sr. H • 09:22

Sí, Miro, lo que queremos coger son dos cosas. Uno, el estándar internacional, si sobrepasa, ya nos ayuda a recubrir demanda internacional. Claro. Y que nos permite actuar en acciones legales, demandar al estado peruano para que proceda la cancelación. Tenemos como antecedentes en la comunidad de Tres Islas, en zona minera, demandaron la cancelación de concesiones mineras y se están logrando.

Miro Veramendi • 10:09

Y cómo, porque has dicho que hay un problema de corrupción en el gobierno y que ya había unos estudios de universidades, pero que esos argumentos no funcionaban. Así que cómo ves tú el rol del gobierno ahí, porque si van a ir con un estudio de nuevo, cómo van a lograr que el gobierno no diga "ah, no nos importa"?

Sr. H • 10:37

Claro. Y qué dice el gobierno para demandar, ya han hecho algunas opciones que pongan la información de algunas ONGs o algunas asociaciones o algunas universidades que han hecho. Las universidades tienen prestigio, pero no es oficial. Entonces lo que se quiere lograr es con presión, con lobby, que el Ministerio de Salud admita hacer esos trabajos de estudio, de examinación.

Miro Veramendi • 11:17

Para que venga la examinación del gobierno, para llamar al gobierno. Ah, ya entiendo. ¿Podrías un poco decir las consecuencias directas que sienten ustedes vivir cada día con esa contaminación de mercurio, pero también con la minería siendo presente todo el tiempo ahí en su territorio?

Sr. H • 11:51

Sí, y más que todo es triste, ¿no? Cómo ver el panorama de su territorio se destruye día a día con grandes maquinarias, su territorio. Entonces yo me retiré de Miro hace cuatro años de mi comunidad. Justamente mis hijos ya estaban creciendo. No quería que mis hijos también sean parte de la destrucción de su propio territorio. Y eso, ¿no? Es decir, conflictos permanentes con mineros. Y es lo que vivimos, es lo que están viviendo. Y toda esta consecuencia, lo que acarrea es mayormente el tema de salud, ¿no? Y el tema de violencia, los bandas criminales, que diario ya conviven con la violencia porque son asaltados, cobran cupos y todo eso, ¿no? Entonces por eso decía en un momento que los presidentes ya tienen temor a denunciar a la policía porque la

corrupción está amarrada con esta mafia de mineros ilegales. Y no tener agua limpia, ¿no? Las comunidades, y agua contaminada. Pero con eso están conviviendo. Y esa es la tristeza, ¿no? Entonces, y el impacto ya no tener lugares donde mitallar, donde pescar, porque ya la están destruyendo todos los, donde los animales se habitan. Los aguajales destruyen, los aguajales han encontrado la mayor parte del oro que tienen. Y todo eso, ¿no? Entonces ahora está generando una dependencia de las comunidades del mercado externo. Porque ya no hay, o sea, ya no hay los que comían; vivían de caza y pesca, ya se han ahuyentado de su territorio. Y después, aunque nunca ha aceptado que las comunidades nativas digan, los políticos, están en extrema pobreza. No, no estamos porque tenemos propio territorio, tenemos farmacia, tenemos nuestro propio mercado. Pero ahora ya no. Eso se ha volcado hace 15 años atrás. Porque lo han, están destruyendo nuestro hábitat, nuestro mercado, nuestro territorio, peces contaminados. Y ya nos obligan a consumir del mercado externo. Y también hay este, que atrae, ¿no? La consecuencia, la prostitución, las enfermedades de transmisión sexuales. Hay un estudio que ha hecho del Ministerio de Salud y les han sacado sangre para examinar con otros cuentos, ¿no? Porque si no, no iban a aceptar. Y es para probar si están con sida, ¿no? Con DH. Y ya salió el resultado. Es así, es un impacto fuerte, ¿no? Así están, Miro, los impactos que ha causado la contaminación.

Miro Veramendi • 15:34

Increíble. También es un problema, ¿no? Que si el agua está contaminada, tampoco se puede hacer crecer nada sin contaminar de nuevo, porque el mercurio se queda en diferentes formas para siempre, ¿no? Creo que es prácticamente indestruible.

Sr. H • 15:53

Sí. Un rato voy a ver la batería, no sé qué está pasando. Ah, la apagué. Un rato.

Miro Veramendi • 16:08

Sí, no te preocupes.

(Pausa)

Sr. H • 16:17

No tengo energía donde yo vivo entonces tengo un motorcito que está haciendo bulla lo apague a ver este sigamos este miro si no podemos continuar mañana no hay problema

Miro Veramendi • 17:10

Claro

Sr. H • 17:14

toda la noche lo cargo ahora y como milagro que estaba así ya no trabajaba en oficina lo tenía y había estado descargado

Miro Veramendi • 17:31

No te preocupes vamos a ver qué tan lejos le llegamos bueno una pregunta que para mí es muy importante que estaba pensando mucho en es que si colaboren con otros comunidades afuera

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de la nación Harakbut que viven también en el área por ejemplo o en Bolivia a dónde va el río crece y con el río también se va al mercurio si hay una colaboración con otros pueblos indígenas?

Sr. H • 18:03

Mira, ahorita, y este, como no hay, no hay estudio oficial y no hay, no genera ese impacto, no, que la minería no hace nada, es un cuento, es un cuento, este, que la contaminación, la gente no cree, es ignorante. Entonces, si tenemos ese resultado, imagínate no solamente otros y otros indígenas, sino cómo va a haber una reacción fuerte como esa actividad minera, los propios mineros que estamos autoaniquilando nosotros mismos al consumir el agua, porque ellos también toman el agua del río y lo que contamina a ellos mismos, y entonces, y otras comunidades, y van a ir sumando a eso.

Miro Veramendi • 18:56

Y ustedes participan en una forma de minería también por ejemplo he leído que en Colombia en Choclo hay pueblos que también participan como hacen minería pero de una forma muy tradicional

Sr. H • 19:12

si hacen minería en tradicionales de lo que decía cinco comunidades si no me equivoco, ya están dedicando la minería y siempre el oro ha existido desde la época del inca cuando le agarraron a Tawalpa presos los españoles y a los incas le dijeron que tenía que entregar el oro hasta una altura de su mano y entonces los Inkas llegaron al pueblo Harakbut al grupo de Arasaeri y Huachiperi y ellos llegaron y solicitaron a ellos que les apoyara a decir dónde se encontraba el oro porque los Inkas no sabían en el bosque dónde se encontraba el oro entonces los llevaron y ahí este o sea para decir como antecedentes que siempre conocían el oro no los Harakbut, no de manera comercial y este eso inca lo ayudaron pero de una vez cuando supieron los españoles dónde se encontraba el oro al tanto a los que ayudaban a los Harakbut a los incas los alquilaron, no era liberar a Tawalpa sino era saber dónde se encontraba el oro y de una vez hecho eso ya hicieron el estudio donde había mayor oro era en la Amazonía entonces este y como decir este ese oro ya conocían tenían para los aretes para el nariz pero ahora se ha convertido para un recurso comercial y si dedican este estilo artesanal y así están las comunidades también metidas en la minería.

Miro Veramendi • 21:09

¿Y este estilo artesanal es sin mercurio o es con el mercurio también?

Sr. H • 21:20

Es con el mercurio también, porque es única; o sea, lo que se conoce es la única forma. Todavía no han traído la tecnología, y eso no. Pero tampoco las comunidades hacen manejo. La idea es que la ley IPA indica que tienen que hacer manejo, pero no lo hacen ni los mineros ni nadie, todos arrojan arriba.

Miro Veramendi • 21:48

He leído de esa operación que había, ay, hola, qué tal, qué bonita. ¿Había una Operación Mercurio, no? No sé exactamente en 2019.

Sr. H • 22:18

En la operación mercurio le han llamado en Perú la interdicción, para hacer la interdicción y también ha fracasado porque la corrupción mismo y se terminó ese presupuesto quedó o sea no se ha combatido la minería ilegal.

Miro Veramendi • 22:37

Entiendo, así que también he leído que después de esa operación, en los mismos lugares donde hicieron la operación ya llegó de nuevo la minería y casi no.

Sr. H • 22:56

Con más fuerza.

Miro Veramendi • 22:57

Con más fuerza?!

Miro Veramendi • 23:00

Hola, ¿qué tal? ¿Cómo te llamas?

Sr. H • 23:23

Srta. O.

Miro Veramendi • 23:29

Srta. O, un gusto. Srta. O. Yo me llamo Miro. ¿Tú conoces un poco de derechos humanos y derechos internacionales, por ejemplo, la Declaración de los Derechos Indígenas?

Sr. H • 23:50

Sí, Miro. Lo que estamos haciendo como constitución de la nación, como gobierno autónomo, lo estamos haciendo para recuperar la gobernanza territorial indígena. Justamente la parte de derechos humanos es ejercer el legítimo derecho de los pueblos indígenas, que está en la Declaración de los Derechos Indígenas y en el Convenio 169. Eso es lo que justamente encaja: su autogobierno, la ley que tiene a nivel internacional.

Miro Veramendi • 24:35

Claro. ¿Y ustedes han logrado eso, la gobernanza independiente?

Sr. H • 24:46

Mira, los wampis, en Amazonas, ya lo tienen claro y ellos mismos hacen el patrullaje. El patrullaje lo llaman vigilancia, tanto en la tierra y en el río. Entonces, y eso es de la gobernanza autónoma, con sus propias normas internas. En Nación Harakbut está en proceso, o sea, para articular eso, la gobernanza territorial autónoma, estamos en busca de financiamientos para elaborar lo que es la constitución política de Nación Harakbut. ¿Qué implica eso? Son las

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normas internas que van a consolidar la gobernanza, porque desde el territorio indígena, desde las reuniones de asambleas comunales, tenemos que concientizar y aprobar el ejercicio de la autonomía indígena con base en eso.

Miro Veramendi • 25:58

Muy interesante. Entonces están en camino haciendo eso, lo cual está muy bien. ¿Crees que eso va a cambiar la situación?

Sr. H • 26:15

Va a cambiar principalmente en el control territorial. Sí. O sea, ahorita, yo le diré esto a un favor, ahorita no tenemos total respaldo en el control territorial. ¿Por qué eso? Porque justamente lo que decían las autoridades, tanto los fiscales, la policía, están sometidos a la corrupción. Y un concesionario, una comunidad lo quiere desalojar, lo decomisan y salen más bien favorecidos los mineros, denunciando a los beneficiados, los comuneros. ¿Qué se quiere hacer con eso? Se quiere hacer con la constitución interna, con la constitución interna, ejercer el derecho que la propia, por error, en el Perú, reconoce la forma de organizar internamente las comunidades. Sí. ... en la comunidad. O sea... ... agarramos si... Esperamos. ... recién... Ahora sí, perfecto. ... decía justamente, vamos a tener, no con la constitución, sino ejerciendo los de los pueblos, si vamos a poder aplicar, sancionar a los infractores. Y eso han logrado, miro, conozco una nación andina, Ozongate, ya en Perú, en Cusco. Hemos visitado a ellos y tienen el poder, el control territorial, ellos, autónomos, sin policía, sin fiscal. Ahí no entran ni delincuentes, ni lo propio con concesión que hay que otorgar al Estado peruano. Sin autorización no pueden operar. Si ellos no quieren, no hay ninguna condición que opere en la zona. Sí, lo sé. Eso es lo que... ... Solo porque eso es lo que tengo que hacer.

Miro Veramendi • 28:56

Halo... Halo, ahora... Ya, ahora te escucho otra vez. Creo que hay un pequeño problema con la conexión. Esperamos un ratito tal vez. [AUDIO_EN_BLANCO]

Spokesperson and Advisor of the Harakbut: Entrevista sobre las consecuencias de la minería de oro en Madre de Dios y en las comunidades de los Harakbut, session two.

Miro Veramendi • 00:02

Bueno, ayer, ¿de qué hemos hablado cuando se acabó la batería?

Sr H. • 00:15

Yo ni me acuerdo.

Miro Veramendi • 00:19

Yo tampoco, creo que era algo de los derechos humanos y la Constitución.

Sr H. • 00:29

Sí, pues tú me preguntabas si teníamos conocimiento de los derechos humanos internacionales.

Miro Veramendi • 00:38

Sí, sí, claro.

Sr H. • 00:43

Sí, yo decía, de repente, la palabra no era tan adecuada para encajar, sino vincula, como se llama esa ley, que están dados con mucha lucha a nivel internacional y se logró. Y es justamente, miro, eso tiene relación con lo que los gobiernos han firmado también, parte de la declaración, han reconocido. Y entonces la fuerza que tenemos, el arma, digamos, para encaminar o empoderar lo que es el derecho de la autodeterminación como autónomo, gobernanza con autonomía territorial. Como usted decía, los Wampis ya están ejerciendo la vigilancia concreta contra los mineros ilegales; están enfrentando y tienen el control por río y por tierra.

Miro Veramendi • 01:58

¿Dónde está el Ausangate? ¿Me dijiste?

Sr H. • 02:03

Sí, tienen su propio ejército y así, ¿no? Eso es a lo que la gobernanza territorial aspira, llegar a consolidar la gobernanza y el control territorial.

Miro Veramendi • 02:19

Sí. Pero es solo la gobernanza autónoma en el contexto del Estado de Perú, no un estado propio, ¿no?

Sr H. • 02:36

No necesariamente, porque estamos hablando del Estado, el gobierno mismo Peruano da la autonomía a las comunidades, forma de organizarse y forma de, ¿cómo se llama? Control. Eso es lo que estamos agarrando desde esa ley y con la declaración de la Nación Unida que es concreta, ¿no? Es más concreta, más precisa. Entonces, no es otro estado, sino que le estamos

dando a conocer al estado, ayudando, al contrario, a la política del estado de frenar la criminalización, frenar la invasión de tierras. Eso responde, ¿no? De una u otra manera, apoyar a la política, que no haya más contaminación, que no haya más depredación. Y entonces, desde nuestro territorio, somos autónomos y nos reconoce también jurisdiccional. O sea, dentro del territorio de las comunidades pueden ejercer su autonomía. Fuera ya no, sino acoge a la ley peruana.

Miro Veramendi • 04:02

Entiendo. Para eso sería muy importante saber cómo reconocer exactamente dónde está el territorio ancestral, ¿no?

Sr H. • 04:13

Claro, sí. Eso es lo que ya hemos trabajado nosotros. Te decía ayer, hemos trabajado la cartografía ancestral, obviamente, como base de los estudios que han hecho antropólogos. Y también la memoria de nuestros abuelos, que hemos hecho la construcción participativa con ellos mismos. Y supera los 3 millones de hectáreas de territorio de Harakbut. Y lo que es la diferencia al reconocer, o sea, al reconocer personalidad jurídica en comunidades nativas que han funcionado como pueblo. Hasta ahorita, 12 comunidades llegan en su totalidad al territorio que el Estado ha reconocido. 299.000 hectáreas no llegan ni a la tercera parte del territorio que corresponde a Harakbut.

Miro Veramendi • 05:16

Sí, porque el entendimiento de la gente que hace así los derechos, las leyes, es muy diferente a cómo entienden ustedes su territorio, ¿no? No se puede entender el territorio así con leyes, porque es una conexión mucho más profunda con la tierra que solo la ley o solo unas líneas en un mapa.

Sr H. • 05:59

Sí, así es. Claro, el Estado. Difícilmente los académicos van a entender por qué el territorio es parte de la conexión de la existencia del pueblo Harakbut, o de diferentes pueblos que están; ahí están los sitios sagrados. Y como ayer decía, ahí es donde nos han heredado los abuelos, nuestros viejos, ¿no? Entonces, esa es la lucha que estamos emprendiendo, Miro, como nación, que el Estado reconozca como personería jurídica de nación, ¿no? Y como estamos proyectando desde a nivel nacional del movimiento indígena que se llama AIDASET, la Asociación Interétnica de Desarrollo de la Selva Peruana, desde ahí, este, atrasada estrategia, hasta el año 2030, ya hemos constituido unos 50 naciones a nivel de la Amazonía, para que haya consistencia y fuerza para demandar la autonomía de los pueblos, ¿no?

Miro Veramendi • 07:18

¿Con la tierra ancestral, crees que ha cambiado la conexión con la tierra, con la situación de la minería, o sigue siendo fuerte y lo mismo que siempre?

Sr H. • 07:36

Ha cambiado bastante, Miro. Ya nuestros pueblos, los sabios, de una u otra manera han sido sometidos, ¿no? En esta vivencia de impacto que tienen nuestros viejos. Te hago una diferencia, Miro. Yo, entre tres compañeros, nos hemos dedicado al rescate de la medicina Harakbut. Y hemos profundizado, hemos hecho una conexión espiritual con nuestros ancestros, para que nos den el poder de sanación a nuestro pueblo. Eso es lo que estamos haciendo. Y yo conozco mucho a los sabios que han sido muy poderosos, fuertes en las curaciones, y como también han muerto, ¿no? Y ahí los veo a los sabios, no están resistiendo con la disciplina para mantener la conexión con el territorio de la espiritualidad. Quiero decir que muchos han recurrido al trago, al alcohol, y ahí pierden la conexión. Yo, Miro, desde que recurrí a la medicina hace veinte años, no tomo. Es disciplina, lealtad. Y por eso mantengo un fuerte vínculo entre tres personas para sostener la gobernanza del pueblo Arakmbut. Y eso es, entonces, si nosotros tuviéramos conexión con varias comunidades, sería fácil aplicar la autonomía y ejercer autocontrol de los pueblos. Entonces, de otra manera se corrompió eso. Pero estamos en camino de eso.

Miro Veramendi • 10:13

Qué bien. Ayer hablamos de esa estrategia de denunciar y del estudio de la sangre del pueblo, de la nación árabe, de la gente. Aparte de eso, ¿puedes pensar en otras estrategias? ¿Cómo luchan en contra de todas las violaciones de derechos humanos que vienen con la minería?

Sr H. • 10:51

Sí. Mira, nosotros ya hemos hecho una acción de amparo que hemos recurrido a la Comisión Interamericana de Derechos Humanos. ¿Cómo estamos actuando? Estamos queriendo que la vida de los Opos, de los presidentes de las comunidades, no cueste el riesgo y el Estado intervenga. Porque estamos demostrando al Estado peruano que pareciera que el informe, la corrupción que tanto tiene la policía, la fiscalía, hacen un informe como si no existiera problema, que no existiera la violación, que no existiera de todo, ¿no? Alcohólistas, la prostitución y todo lo que acarrea la corrupción de minería ilegal. Entonces, ahí estamos demandando una acción a favor de los jefes de las comunidades, porque los jefes de las comunidades, esto es impresionante, miro, en la organización de Madre de Dios desde FENAMAD está silenciado el tema de minería. O sea, los líderes, representantes de la organización indígena de alto nivel que son de FENAMAD están en silencio. Ahorita ya llevamos siete años que no toca estrategia de minería.

Miro Veramendi • 12:32

Es increíble, ¿no? Porque ese es el tema más importante.

Sr H. • 12:43

Y eso, ¿a qué se debe? Justamente nosotros lo que te estábamos comentando es lograr esta acción de amparo, que el Estado atienda a escuchar a los pueblos indígenas y se frene eso, ¿no? Nuestros jefes de las comunidades, como el jefe de FENAMAD, todo ese nivel de movimiento indígena, están encañonados con revólver por las bandas criminales, si hablas en contra de la minería, corres riesgo a tu familia o a tu vida. Así está este caso. Este caso lo estábamos viendo en la Comisión de Armas y Derechos Humanos. Y otra estrategia es MIRO, este, Han buscado las minerías ilegales para llegar a corromper dentro del movimiento indígena en Madrid. Llega

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a dos periodos, han sacado al presidente de la Comisión, financiado por la minería ilegal. Entonces,

[Pausa]

Miro Veramendi • 14:31

Espera un momento, se fue la conexión otra vez.

[Silencio]

Miro Veramendi • 15:49

¿Me escuchas? Ahora sí

Sr H. • 16:06

Se está moviendo a diferentes lados, por falta de señal se corta Sí, mira, eso es lo que decía, como ya hemos visto la... como se llama, como hemos visto en las organizaciones indígenas como están incorruptiendo para que lleguen a favor de la minería ilegal en las comunidades y lo que están haciendo es, en concreto, los pueblos Harakbut, elegir a sus autoridades por consenso Sí Ahí ya no se presta campañas ni por estilo como se hacen para representantes de gobierno, ¿no?

Miro Veramendi • 16:59

Sí

Sr H. • 17:02

Eso nos da esperanza de que nuestros presidentes de las naciones van, están tomando agenda lo que no toman, lo que encendían

Miro Veramendi • 17:16

Es horrible que la... la industria del oro es tan poderosa que llega así con tanta fuerza que puede usar bandas criminales en su agenda, en su...

Sr H. • 17:39

Sí, nosotros como líderes que vemos, nos sentimos impotentes, ¿no?

Miro Veramendi • 17:46

Sí

Sr H. • 17:48

Pero estamos ya tocando agenda a través de las naciones

Miro Veramendi • 17:57

En ese sentido, ¿ves algo positivo que la nación Harakbut ha logrado en los últimos años?

Sr H. • 18:14

Sí, hemos logrado primero que el Estado peruano desde el año 1969, con el gobierno de Velasco Alvarado, reaccionó pueblos Entonces después de 50 años que hemos resistido y la formación de las naciones ha dado un mensaje clave que autodeterminación como pueblo es lo que nos destruyó el Estado Ejercer nuestra autonomía Sí Y eso nos permitió abrazarnos entre nosotros, de tanto tiempo nos han dividido como pueblos, como hermanos Y también que los jóvenes que están al tanto de negociar sus territorios con los petroleros, con los madereros Ha sido un mensaje clave que eso falta aterrizar en la constitución de la nación Harakbut Estamos trabajando fuerte Si una comunidad negocia con una petrolera, no puede negociar No puede negociar una sola comunidad, un solo presidente Porque es el territorio que corresponde a los Harakbut. A todos los abuelos les pertenece. Y eso es la pelea fuerte que estamos emprendiendo

Miro Veramendi • 20:10

Sí, eso es una cosa muy buena. A ver el futuro, ¿cómo tú ves el futuro de la nación Harakbut? En el momento

Sr H. • 20:24

Yo aspiro, yo sueño con las visiones que tenemos, la nación Harakbut, ejerciendo su legítimo derecho a la autonomía y a la gobernanza territorial en todos los aspectos, en parte económica, que tenemos en nuestro propio análisis; el gobierno planteó, desde otro punto de vista, y de parte de la educación y la medicina propias. Y la educación fuerte, tocar el tema cultural, revivir nuevamente, eso está en la agenda, como te digo, para encaminar eso, para la visión para el futuro, es lo que se quiere ver consolidado, en parte cultural del pueblo Harakbut y gobernanza territorial autónoma.

Miro Veramendi • 21:31

Muchas gracias por todo. Y yo he terminado con mis preguntas. Me has dado muchísimo, que era muy, muy interesante. Y también tengo que pensar mucho en eso ahora. También ayer en la noche he estado pensando todo el tiempo. ¿Hay algo que quieres decir tú? ¿Qué a ti te gustaría que yo investigara en la tesis? ¿Algo que quieres decir a la gente que lee la tesis?

Sr H. • 22:23

Sí, es importante Miro que como un investigador externo Nos ayude a visualizar en el contexto político del movimiento indígena de Madre de Dios Estamos siendo secuestrados por la minería ilegal Y los dirigentes obedecen a eso, no pueden hacer nada Y también sería bueno visualizar lo que está haciendo el tema de Mercurio Que se tiene que realizarse análisis de la sangre del pueblo Harakbut Porque están naciendo con deformes nuevas enfermedades Con lo que estamos conviviendo con Mercurio Y bueno, como un investigador que mucha gente va a leer Sería bueno también la gobernanza autónoma de las naciones Y una alternativa para mantener el equilibrio de la naturaleza, lo que es el pulmón del mundo Porque van a ejercer el control territorial autónomo desde su territorio Y eso se requiere para eso consolidarlo A través de cooperación, lo que se requiere en el trabajo.

Miro Veramendi • 24:10

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Voy a integrar eso, por cierto, para que mi tesis beneficie lo máximo que pueda a la Nación Harakbut.

Sr H. • 24:20

Sí, mira, va a estar muy bien. Desde hoy te agradecemos en nombre de la Nación Harakbut.

Miro Veramendi • 24:32

No hay que hacer eso, me han llevado a ese tema, me interesa mucho, me toca también Creo que es muy importante No solo lo más importante para las naciones indígenas Pero también hemos perdido el camino correcto en el mundo, creo Y la manera de vivir de muchas naciones, muchos pueblos indígenas Nos ayudaría a reencontrar ese camino, creo yo Es una conexión con la naturaleza, también entre la gente que hemos perdido Y que causa muchos problemas, guerras, destrucción de la naturaleza Todo lo que hay ahora en el mundo Así que debería ser un tema para cada uno en el mundo y no solo para ustedes Muchas gracias, Sr. H

Sr H. • 25:50

Ya, pues mira, ha sido un gusto conocernos

Miro Veramendi • 25:54

Sí, también Espero que nos conocemos en persona también cuando llego yo a Puerto Maldonado Voy a visitar a Sr. F. Todavía no sé cuándo, pero espero que lo voy a visitar muy pronto Tal vez en medio año o en un año, porque es muy caro todo el viaje, obviamente Pero sí, espero que allí nos podamos encontrar tal vez Y me gustaría también mostrarles todo lo que he investigado y encontrado con mi trabajo Y si podemos establecer más colaboración para proyectos en el futuro

Sr H. • 26:48

Perfecto, ya miro, muy bien

Miro Veramendi • 26:52

Te voy a enviar también, obviamente, mi tesis con todas las partes también que has contado tú, para que veas cómo es

Miro Veramendi • 27:06

En julio, más o menos

Sr H. • 27:08

Ya, está bien

Miro Veramendi • 27:11

Muchas gracias Saludos para tu familia Gracias Te voy a enviar un mensaje de cómo voy andando con la tesis y vamos a vernos

Sr H. • 27:27

Ya, pues, ya miro muy bien, igual a ti, muchas gracias, muchas gracias,

Miro Veramendi • 27:34

Gracias, chao.

Sr H. • 27:37

Chao

[Silencio]

Leader of the Harakbut: Entrevista sobre la minería de oro en Madre de Dios y la documentación en un clima represivo de intimidación y restricciones a la defensa de los derechos.

00:00 ; Sr O.

Nuestra nación, porque estamos siendo muy vulnerados por nuestros derechos por parte del gobierno. He sido también, junto con la directiva de la zona de la Tumul, siempre participando en un fortalecimiento organizativo territorial que ha propiciado, ha impulsado la FENAMAD en coordinación con la Nación Harakbut.

00:36 ; Miro Veramendi

Perfecto. Como estamos hablando del tema de la minería, en general, ¿cómo afectan las actividades de la extracción de oro a usted y su comunidad?

00:55 ; Sr O.

Bueno, miro, le diría de que, brevemente, nuestro pueblo siempre ha trabajado y seguimos trabajando en actividades económicas diversas. Dentro de ellas también están la minería y liga, pero siempre trabajaban de una manera artesanal. Y ahora han venido otros métodos de trabajo, más mecanizados. Y los problemas que estamos teniendo todavía son superposición de actividades mineras dentro o cerca a las comunidades nativas de Harakbut, que tienen su recurso como es este, el oro. Entonces, está habiendo contaminación de los ríos, que eso no sirve para lo que es pesca y consumo.

Y también estamos teniendo últimamente la migración de algunos de la sierra, pero bueno, que están bastante en su territorio ancestral. No solamente en la minería, también en otras actividades ilícitas. Y esa es la preocupación mía.

02:35 ; Miro Veramendi

Entiendo. ¿Las operaciones están cerca del territorio nativo o también adentro de los territorios?

02:53 ; Sr O.

Está dentro también. Está dentro. Y con todo lo que el gobierno da en dispositivos legales para que un externo de la comunidad pueda hacer su denuncia minera, esto ha ocasionado un caos en las comunidades. No ha habido enfrentamientos, así incluso.

03:22 ; Miro Veramendi

Y es horrible, ¿no?, porque las comunidades dependen mucho de los ríos, como dices, de la pesca, pero también del agua, ¿no?

03:32 ; Sr O.

Sí, esa es la preocupación. La gente se ha hecho análisis. Una ONGs, pero en sí no se hizo con la Nación Harakbut, eso es lo que pensamos en el futuro. Pero ha habido evidencia de que sí hay comuneros que tienen dentro de su organismo mercurio, y eso es una preocupación bastante fuerte.

04:12 ; Miro Veramendi

Claro, claro. Primero, ese tema de la salud con el mercurio en la sangre, dices que ese proyecto no era con el pueblo Harakbut, sino con solo comuneros que viven en el área.

04:34 ; Sr O.

Es con el pueblo Harakbut, sí. Pero mira, verás que hay comuneros que migran de otros grupos étnicos, los mismos Harakbut. Por ejemplo, mi comunidad no tiene minería, pero migran porque tienen familia y un pariente tiene otras comunidades mineras, que tienen minería. Entonces, como digo, se han encontrado indicios de que sí están contaminados su organismo, de los Harakbut.

05:10 ; Miro Veramendi

Claro.

05:13 ; Sr O.

Y es la preocupación esto. No hay algún mecanismo o un cuidado de parte de los mismos comuneros para combatir esta contaminación, que es muy mortal para la actualidad y para el futuro.

05:31 ; Miro Veramendi

Claro, claro. Especialmente con la envenenamiento de los niños y las mujeres embarazadas.

05:42 ; Sr O.

Sí, sí.

05:43 ; Miro Veramendi

En la entrevista con don Sr H. salió mucho ese tema del clima represivo y que también ese tema todo del mercurio está silenciado casi, ¿no? De las autoridades, pero también de organizaciones representantes. ¿Cómo está afectando esa situación, ese clima? ¿Cómo usted experiencia ese clima de intimidación, restricción?

06:23 ; Sr O.

Mira, dentro de nuestro plan, plan de autogobierno territorial de Nación Harakbut, se hizo, bueno, algunas apreciaciones, ¿no? Por ejemplo, de esa contaminación, como hablamos, o sea, con el mercurio. Y llegaba a la conclusión en este evento del CINE de que exigir al gobierno de que haya algún control sobre el ingreso de mercurio, pero no hay ningún control por parte del gobierno. Creo que hay mucho, ¿qué diría?, tráfico de este mercurio, ¿no? Y formalmente que emiten por Bolivia, Brasil. Y entonces, no hay ningún control, como digo, y eso es un peligro, una amenaza para nosotros. No nos tienen en consideración a veces nuestras quejas en eventos así que podamos hacer, no, este, notar al gobierno o las autoridades competentes.

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07:49 ; Miro Veramendi

Entonces, dices que las organizaciones criminales son tan poderosas que están en la minería que las autoridades no pueden hacer nada, o es más que, como no quieren, no hay...

08:11 ; Sr O.

No hay esa voluntad política porque acá hay mucho, predomina acá lo que es la corrupción. Las autoridades de turno que están simplemente se hacen, comprarse, digamos, ¿no? Esa palabra que acá lo definimos. O sea, son muy brutos, diría. Como predomina la corrupción, pues, no reciben por debajo algún dinero, entonces ya no los hacen pasar por mercurio, por debajo. Y esas [...], pues, de normal, ni siquiera lo toman como ilegal, sino ya no hay control, como digo.

09:08 ; Miro Veramendi

Entiendo, entiendo. Y entonces los derechos de los pueblos indígenas internacionales, como aparte de la Comisión Interamericana y la Declaración y el Convenio 169, no están implementados muy bien, ¿no? A parte del gobierno.

09:39 ; Sr O.

No, no. Lo ignoran, eso. Si no les conviene, pues no aplican. Simplemente nos ignoran. Y creo que no le toma mucho interés los convenios internacionales, en este caso el convenio 169 del OIT. ¿No? Sabemos de que tiene el rango, ¿no?, como la constitución del Perú. Pero ellos, pues, simplemente no lo aplican. ¿No? Porque ahí están los poderosos económicamente, los transnacionales. Y nuestra petición, nuestra queja, entonces no nos hacen caso, siguen vulnerando nuestros derechos colectivos. Y peor, ¿no?, nuestra salud, pues, no los importa para las autoridades. Nunca han manifestado públicamente que a una autoridad que diga hay una contaminación de mercurio al pueblo árabe, no apuesta a que sea el dinero.

11:01 ; Miro Veramendi

En vista de eso, ¿cómo las autoridades no hacen mucho para ustedes, su comunidad, para en general la nación Harakbut, que son las estrategias principales en esa lucha?

11:23 ; Sr O.

Mira, siempre hemos estado en coordinación con INRENA, con nuestros representantes del AIDSESEC, una organización nacional que nos representa, y la ICOICA, ¿no? Entonces, a este nivel internacional, creo que ellos en eventos internacionales, ellos siempre han hecho su manifestación.

Y, bueno, creo que no le toman mucho en consideración, solamente creo que le toman en consideración mucho interés en lo que es la contaminación del medio ambiente, la degradación de los bosques, sin considerar nuestro territorio integral.

12:17 ; Miro Veramendi

Claro.

12:19 ; Sr O.

Nos consideran como seres humanos nuestros derechos, como seres humanos. Como digo, seguimos siendo vulnerados en este siglo XXI, y es una pena, ¿no? Porque creo que eso es, o así lo tomo yo, como una discriminación hacia nuestro pueblo indígena.

12:45 ; Miro Veramendi

Sí, definitivamente. También, como yo creo que la perspectiva de naturaleza del territorio para los pueblos indígenas es muy diferente que para el mundo, digamos, de Europa, Estados Unidos, occidental, ¿sí?

13:13 ; Sr O.

Sí, pues.

13:18 ; Miro Veramendi

Y es parte de la comunidad más, así que parte del pueblo. Es loco que ellos separan esos dos temas, ¿no? Qué raro. Bueno, como estrategia yo analizo métodos de documentación. Sería fotografía, video, entrevistas, mapeo del territorio. Pero muchas más cosas que podemos hacer en teoría, documentación escritora, cualquier cosa. ¿Usted puede pensar en alguna práctica de documentación? ¿O ya han llevado a cabo alguna práctica de documentación?

14:17 ; Sr O.

Mira, con el apoyo de la FENAMAD nosotros dentro de nuestro plano de gobierno, territorio de la comunidad, Harakbut. Una manera de hacernos respetar nuestro territorio ancestral y hacernos reconocer nuestro territorio ancestral, estamos documentando con el apoyo de alumnos profesionales. Y Sr J. y Sr H. están ahí como técnicos Harakbut. Queremos que el gobierno nos reconozca nuestro territorio ancestral. Y dentro de los trabajos que hicimos era, primeramente, de reconocimiento de nuestro territorio ancestral, llegar a los sitios sagrados que teníamos y eso que nos sirva de una manera como un expediente técnico y jurídico para que sea eso en el futuro.

Al mismo tiempo se ha hecho lo que es el censo a Harakbut, pero haciendo ese trabajo de reconocimiento de sitios sagrados, como en La Manna, un sitio de peregrinaje, hemos dado cuenta de que han sido, que este día, un poquito alterado el área. Creo que ahí en el Pozo han botado dinamita de lo que era un sitio sagrado para nosotros, un poquito que lo han, que te puede decir, lo han vulnerado, porque ahí está nuestra madre de la selva y creo que ahí ni siquiera INRENA es capaz de decirnos que es lo que se tiene que hacer en el futuro, porque como INRENA es parte del gobierno, entonces creo que cuando hacemos alguna queja, cuando hay incursión de mineros ilegales a la zona. Simplemente no nos toman interés.

Entonces, yo creo que esta documentación que se está haciendo, o en el futuro quisiera que se siga haciendo más viajes con participación de jóvenes, de varones, mujeres, mientras que estén los mayores, digo, los pioneros que vivían ahí y ya se están yendo ya a la mayoría, nos quedan pocos elementos viejos que nos puedan guiar a conocer esos sitios sagrados más lo que falta. Entonces, como también sería bueno, un taller de capacitación en manejo de GPS, un, como decía, documental con evidencia, fotografías, videos, documentales, pequeños

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documentales. No solamente sirve eso para nuestro material, como archivo, sino también, como digo, sirve para hacer algunas denuncias, a presionar más al gobierno para que nos reconozca que verdaderamente acá hay sitios sagrados, que están siendo violados por los mineros ilegales, a los que son agradables para nosotros.

18:46 ; Miro Veramendi

Sí, eso pienso también, especialmente si esas maneras de documentación están hechas de los miembros de las comunidades ellos mismos, porque ellos saben dónde se quedan los sitios sagrados, dónde hay violaciones del territorio.

Y creo que un problema en la investigación de hoy en día es que siempre viene gente extranjera, también un poco como yo, y quiere investigar su cosa muy especial, lo que ellos piensan, y no viene del pueblo Harakbut, por ejemplo.

Si nos imaginamos que la comunidad ella misma hace la documentación, usted ve unas dificultades que pueden enfrentar como documenteros, por ejemplo, ¿porque es peligroso hacer documentación de la minería ilegal? no sé...

20:18 ; Sr O.

Sí, tenemos, Miro, te diría, la FENAMAD estaba formando jóvenes que eran comunicadores y a la vez no hacer pequeños reportajes, que eran pequeños videos, pero eso no es suficiente, entonces pensamos que los jóvenes puedan hacer los materiales que queremos con el apoyo de profesionales que se sumarían a nuestra lucha. Vemos como tu, personas, amigos, que se preocupan por nosotros y no las autoridades. Más bien son ellos que propician el caos social, el caos ambiental, el caos de salud. Entonces, acá cuando hay denuncias por parte de los comuneros, acá simplemente te amenazan, te quieren extorsionar, y eso es un poco... da miedo, es un peligro, varios comuneros han sido amenazados de muerte, y esperemos que no suceda como en otras partes del Perú, que a los dirigentes los han salvajemente matado por defender su territorio. No quisiéramos que pase en el futuro a alguien de los dirigentes, nuestros paisanos, o de las comunidades, porque ellos están expuestos a cualquier crimen que puedan ocasionar. Vemos acá que hay sicarios, las dominan bastante lo que es la mafia del oro, y acá fácilmente pueden desaparecer.

Acá tienen sus medios de comunicación como el internet, en cambio las comunidades no tienen muchos recursos, entonces estamos limitados a tener, por ejemplo, el wifi. Puedes tenerlo tú un rato, pero ¿quién mantiene 300 soles o 250 las recargadas? Entonces, al menos nosotros carecemos de recursos, y como digo, no trabajamos así discriminadamente como lo hacen los colonos. Degradan los bosques, contaminan, compran autoridades, las policías no hacen nada cuando denuncias, o a veces no te quieren recibir la denuncia, y bueno, los mismos policías son los que te pueden delatar a quien le estás denunciando a los invasores.

24:15 ; Miro Veramendi

Entonces, ¿cómo piensas tú, para activistas o acciones de activismo, de documentación, participar en esa lucha en general, ¿cómo se puede hacer eso para que sea seguro, para que no estés amanecido, no estés en peligro de tu vida? ¿Hay una manera cómo hacerlo sin eso, o dices no, siempre...?

24:59 ; *Sr O.*

Yo creo que haciendo alianzas con las organizaciones indígenas, con amigos, que también se unen a esta lucha.

[Pausa]

25:37 ; *Sr O.*

¿Qué era? Me corto.

25:38 ; *Miro Veramendi*

No pasa nada.

25:39 ; *Sr O.*

No es tan buena la señal acá.

25:45 ; *Miro Veramendi*

Sí, entiendo.

25:47 ; *Sr O.*

Y entonces, creo que los amigos que siempre, por ejemplo, a FENAMAD han apoyado cuando nosotros solicitamos la reserva Amarakaeri, por ejemplo, en su territorio ancestral. Solamente nos han dado el área con categoría de reserva comunal, la Amakaeri. Yo creo que cuando tú, como pueblo, te unes con un solo propósito, luchas voluntariamente, y los mismos técnicos, jóvenes que sean técnicos, que sepan manejar su cartografía, manejo de GPS, yo creo que tenemos que estar preparando nuestros mismos recursos humanos. Hay jóvenes que han estudiado su carrera técnica y ellos, con el apoyo de ellos, más los aliados, yo creo que algo se puede hacer.

Nosotros recién estamos empezando. Si viene por acá alguna denuncia por parte de los externos, de los colonos, entonces a veces no puedes hacer nada, tienes que llamar a la FENAMAD para que te pueda asistir un abogado. Y entonces, si la Nación Harakbut estuviera bien fortalecida, eso es lo que se quiere, estamos en proceso de fortalecimiento, entonces yo creo que siempre la Nación Harakbut tendría que contar con un abogado, en parte legal, para que pueda llevar el caso. Y así, cuando hay algún asistente o asiste a parte legal a una organización, siempre hay un temor, o sea, que te miran ya con un poquito de, ¿qué te puedo decir?, como autoridad, de que tienes peso legal, lógico que te pueden amenazar, pero confrontar legalmente, tú lo puedes hacer, o ahí te meces a ventaja, de que tengas parte legal, personal, de ley.

28:40 ; *Miro Veramendi*

Sí, entonces eso sería una manera de proteger a la gente en la lucha, en el activismo, en todo lo que hace. Y, pero, me parece también difícil, ¿no?, si las autoridades no están tan presentes,

y todavía protegerse de esa manera legal, hay un problema, ¿no? ¿O esos abogados, a dónde van?

29:34 ; Sr O.

Mira, los abogados, cuando hay casos de denuncia, algún dirigente que haya aceptado una denuncia, y como son poderosos económicamente, contratan a algunos abogados de ellos, a veces te hacen la contra, como persona natural, no como representante de la comunidad, sino como persona, a veces lo hacen como jefe, representante de la comunidad, te denuncian, te intimidan. Entonces, si el abogado va a tus autoridades, en este caso, el Poder Judicial, con un escrito, yo creo que siempre te tienen un temor, se intimidan un poquito.

30:40 ; Miro Veramendi

Bueno, ahora sí entiendo, si el peligro viene ya de una manera legal, ¿no?, porque ellos denuncian a ustedes, claro, ahora hace sentido.

30:54 ; Sr O.

Sí.

30:56 ; Miro Veramendi

Aparte de eso, aparte de protegerse con abogados, si, digamos, documentamos con fotografía, con mapeo, ¿cómo se podría hacer eso y protegerse entre la comunidad sin el apoyo de abogados? ¿Puedes pensar en algo, tal vez, sobre cómo proteger también la información que colectamos?

31:33 ; Sr O.

Ya, te cuento un poquito. Hay una comunidad de la Nación Harakbut, en la base de la Nación Harakbut, Boca Inambari. Ellos han tenido bastantes asaltos y han tenido denuncias por parte de los mineros. Solamente el comunero, el dirigente de la comunidad, lo que ha hecho es denunciarlo. Pero, como te digo, a ti te quieren revertir la denuncia, más bien a ti te denuncian porque tú estás usurpando su área, el que ha denunciado esa área, esa actividad minera. Pero está dentro de una comunidad nativa. ¿Qué tienes que hacer tú? Tienes que luchar, hacer prevalecer tus derechos, porque nosotros, la comunidad, tenemos autonomía, pero esa autonomía no nos respetan.

Entonces, ¿qué han hecho los de Boca Inambari, una comunidad Harakbut? Ellos han contratado con sus recursos de seguridad. ¿Qué más en particular? Entonces, no ha funcionado tan bien tampoco. Porque ellos también, como digo, se corrompen acá; fácilmente se corrompen.

Y, no sé, yo no veo la forma, no sé, no te puedo decir, pero yo creo que es compromiso, conciencia de cada comunero, qué es lo que queremos, cómo nos protegemos. Creo que solamente es juntarnos como nacional. Hemos ahondado un poquito en el cine último, en la luna del año pasado, de que, habiendo otras comunidades más pequeñas que tienen 30 o 40 familias, entonces los jefes de las comunidades irían a apoyar a la comunidad afectada. Sería también una estrategia.

33:59 ; *Miro Veramendi*

Qué bueno. Perfecto, gracias. Bueno, a mí me gustaría preguntar, ahora que hemos hablado mucho de mis preguntas, ¿hay algo que quiera contar usted, que es importante para usted decir en ese tema de minería de oro, de clima de temor, de miedo, no sé, cualquier cosa?

34:38 ; *Sr O.*

Mira, en las comunidades hay grupos de vigilantes que se han formado, ellos son los que monitorean los territorios, los territorios titulados, hay que entender. Ellos son los que, junto con los directivos, han tenido bastantes amenazas.

Pero a la vez, cuando se habla de hacer un monitoreo a tu territorio, es extenso en algunas comunidades. Entonces, por la misma necesidad de trabajo, por lo que están ocupados también, a veces no todos van a afrontar los problemas que están suscitando dentro de su territorio. Entonces, son intimidados algunos vigilantes comunitarios por parte de los mineros, que contratan matones, son malandros, salidos de la cárcel o perseguidos por la justicia.

Y es el bravo, ¿no? Ya mataron años atrás acá a un joven de San José. No solamente es eso, en la actividad minera, también hay otras actividades ilícitas, que cuando puedes de repente encontrarlas en flagrante, solamente te pueden tirar de soplón, y te pueden matar, así de simple. Entonces, por eso en algunas reuniones se pone de acuerdo en salir a tal fecha para un patrullaje, o donde se suscita la invasión, van varones, mujeres. Cuando vas en comunidad a organizar, creas un poquito de miedo a los invasores. Se ha ido muchas veces este miedo. Muchas veces, cuando el invasor sabe que va a venir la gente, a los comuneros, a querer que les alojaran, ¿qué hacen? Contratan policías y la policía sale a favor del invasor.

38:08 ; *Miro Veramendi*

¿En serio?

38:12 ; *Sr O.*

Sí, eso ha pasado en varias comunidades.

38:16 ; *Miro Veramendi*

Y entonces la policía protege al invasor y no a la comunidad.

38:23 ; *Sr O.*

No. No. Te deberían proteger aquí porque tú estás en todo tu derecho a salvaguardar tu territorio. La Constitución Política del Perú dice que nosotros somos autónomos en nuestra organización y en la administración de los recursos naturales.

38:56 ; *Miro Veramendi*

Sí, del territorio.

38:59 ; *Sr O.*

NO TODO LO QUE ES ORO BRILLA

Pero ¿qué nos da el aval un título de propiedad? Solamente la superficie, no el subsuelo. Cuando se habla de subsuelo, ya nosotros no somos nada, ya no somos propietarios. Ahí está el temor, ahí crea caos el gobierno.

39:19 ; Miro Veramendi

Claro que no. Entiendo. Sí, he leído eso también en la constitución, que dan control, pero no dan...

39:35 ; Sr O.

Autonomía.

39:38 ; Miro Veramendi

Pero entonces, organizarse y protegerse como comunidad juntita, como un grupo, ¿dices que eso funciona mejor?

40:00 ; Sr O.

Podría ser, eso es lo que se ha quedado como acuerdo de la Nación Harakbut. Pero ahorita no tenemos recursos para seguir juntándonos. Y de lo que hablamos, por ejemplo, de lo que planificamos, si hay un problema en una comunidad, ir, como digo, los representantes de las comunidades a esa comunidad afectada, por la extensa área o por la geografía, no se puede. El desplazamiento de una comunidad es muy caro. Esa es la parte un poquito negativa de eso, ¿no? Que no lo consultamos.

40:44 ; Miro Veramendi

¿Qué recursos se necesitarían? ¿Recursos económicos, dices?

40:53 ; Sr O.

Económicos. Económicos, como yo también preparaba sobre ellos.

40:58 ; Miro Veramendi

Entiendo. Gracias por compartir cosas así tan fuertes conmigo.

41:12 ; Sr O.

No, amigo, no. Estamos para contar qué hace de verdad la realidad que estamos apuntando. Creo que ahora en estas elecciones, el 7, el domingo, van a ser elecciones. Sabemos que la señora Keiko Fujimori es una de las candidatas que siempre apoya a las transnacionales. Ellos son los que financian su campaña política. Y, bueno, no creo que gane, pero con el fraude parece que puede ser posible que gane.

41:52 ; Miro Veramendi

Eso sería la... Es la hija, ¿no?

41:59 ; Sr O.

Sí, es la hija de Fujimori. Compró todos los medios de comunicación, autoridades. Ahora el Poder Judicial está en manos de sus partidos políticos. Y, bueno, como digo, no nos respetan nuestros derechos a vivir sanamente con aguas limpias.

Tampoco nos reconocen nuestra, qué diría, nuestra práctica ancestral para curar, por ejemplo, la salud de su pueblo.

43:01 ; Miro Veramendi

¿Cómo estás hablando de las elecciones, ¿Hay un político que apoya en su agenda los derechos indígenas?

43:16 ; Sr O.

Más o menos, hablo un poquito respecto a los derechos territoriales, hablo un poquito, no mucho, pero hablo del respeto a la educación intercultural.

43:32 ; Miro Veramendi

Entonces, no mucho, pero a lo menos esto.

43:43 ; Sr O.

Y de eso también se habló, amigo, de que, por ejemplo, una de las, qué diría, una de las ventajas es también que cuando tú eres una comunidad nativa que domina su lengua materna, que sigue haciendo sus prácticas tradicionales en pesca, en caza, en otras costumbres, te respetan a lo menos.

44:22 ; Miro Veramendi

Y a los que no hacen, no respetan porque dicen que ya no son indígenas o...

44:34 ; Sr O.

No son indígenas, ahá, y admiren que se está perdiendo nuestra lengua materna en algunas comunidades porque nuestros hijos se están cazando con los, iría, con los colonos. Y muchos colonos no son, qué diría, no les gusta que sus hijos dominen la lengua materna. A algunas parejas les prohíben y las sacan afuera; no las tienen en la escuela de la comunidad.

45:13 ; Miro Veramendi

Entonces eso crea una división un poco también.

45:20 ; Sr O.

Exactamente, hay división y discriminación entre niños, ¿no? Dices que tu padre es nativo, que mi papá está, tal, en todo. Eso crea discriminación también, división a veces.

45:37 ; Miro Heramendi

Entonces hay dos vistas en las generaciones del futuro, unos que tienen recursos técnicos, por ejemplo, podrían apoyar y otros que no se interesan porque hay esa división.

45:59 ; Sr O.

Exactamente.

46:01 ; Miro Veramendi

¿Cómo tú ves el futuro de la nación árabe respecto de eso, pero también en general, si la situación sigue igual o qué se necesitaría para un futuro positivo, digamos?

46:21 ; Sr O.

Yo creo que con los eventos, con los cines que estamos haciendo, hay muchas disidencias en algunas cosas en común. Como por ejemplo, te mencioné ya de que seguir practicando nuestras costumbres, seguir teniendo la educación intercultural bilingüe. En la mayoría de las comunidades hay elementos jóvenes árabes que han salido como docentes. Entonces les están enseñando la lengua materna y a la vez lo que es el castellano o el español, no? Porque antes solamente había profesores monolingües, ahora hay profesores bilingües. Entonces más o menos la gente, las comunidades ya son un poco conscientes de que no es bueno perder nuestra cultura, nuestras costumbres.

47:49 ; Miro Veramendi

Y todo está muy interconectado, la lengua, la naturaleza, el territorio y la cultura.

47:56 ; Sr O.

Sí, exactamente. Eso es lo que les hemos recomendado en los cines: que los jóvenes, para identificarse como indígenas, primero hay que conocer nuestro territorio. Entonces acá el peligro es que hay mucha presión económica, entonces tienen que trabajar en minería. Pero con estas leyes que ha dado el gobierno, de que vengan los invasores, por miedo a que el invasor saque todos los recursos, ¿qué tienes que hacer? Tienes que trabajar. ¿Qué diría? De una manera agitada, porque antes no se trabajaba así. Se trabajaba para comprar tu arroz, tu azúcar, útiles escolares para tus hijos, para la salud. ¿Por qué? Porque estás dentro de tu casa, tienes tus recursos naturales. En cambio, el invasor viene a sacar sus recursos, a extraer los recursos naturales. Así, discriminadamente, contaminando, degradando los bosques, la flora. Ahora no hay animales en las comunidades, se han distanciado. Entonces es un peligro, la verdad.

Esperemos que en algún momento alguna autoridad diga que se tiene que respetar el territorio de las comunidades.

49:54 ; Miro Veramendi

Sí, esperamos que no tomen mucho más de lo que necesitan. Bueno, con los jóvenes, si usted conoce a alguien de los jóvenes que se están enfocando en ese tema, no sé si hay alguien, me encantaría hablar con esa persona también. Para mí sería muy interesante saber cómo la gente de mi edad ve ese tema.

50:44 ; Sr O.

Estamos queriendo involucrar a los mismos docentes para que nos puedan inculcar lo que es importante del territorio. No hay ya material didáctico, aunque a todos les gusta, pero de alguna manera sí hay material didáctico. No, yo creo que va a haber o hay jóvenes que a veces

no te das cuenta de que es la que está interesada en conocer más el territorio. Y tu lado y el territorio ancestral Harakbut.

Como digo, varios jóvenes han acompañado y, la verdad, les ha encantado, les ha transmitido entre jóvenes la importancia del territorio. Siempre te conectas con la naturaleza cuando estás ahí en el hábitat de tus ancestros. Es lindo pasar una noche en la playa contando mitos, historias, sitios de guerra donde se iba. Maravilloso!

52:28 ; Miro Veramendi

Sí, es importante también. Qué buena manera de concluir. Bueno, hemos hablado de muchas cosas muy interesantes, muchas gracias. La última pregunta sería, en mi trabajo, en mi tesis, ¿qué le gustaría que resaltara o que investigara más para beneficiar lo máximo a la Nación Harakbut?

53:18 ; Sr O.

Primeramente, te diría que tu tesis enfoque un poquito en la importancia que tenemos los seres humanos. No solamente, como decía el SERNAP o el gobierno, cuida la flora y la fauna. Por eso se crean el Parque Nacional Manú, la Reserva Amarakaeri, etc.

Que nos vea a nosotros como pueblo ancestral, que haya vidas de seres humanos como las de cualquier otra persona natural. Que tenemos derecho a la vida, a la salud, que tome mucha importancia nuestra cultura. Que tenemos sitios sagrados, que todo puede compartir con la humanidad. Muchos amigos han venido y quieren conocer nuestros saberes ancestrales. Y que los jóvenes que tenemos, pues queremos que ellos sean portavoces y defensores.

Y que lo que nosotros ahorita no tenemos, el respeto a nuestros derechos, al menos lo consigan. Dios sabe cuándo, pero al menos luchando, yo creo que lo van a conseguir con la unión. Y como indígenas siempre hemos vivido en armonía con el bosque. Entonces, nosotros sin el bosque y el bosque sin nosotros no hay equilibrio. Al menos otros años hemos cuidado, hemos vivido en armonía y quisiéramos vivir. Y nuestros hijos, nuestros nietos sigan viviendo así, en armonía con la naturaleza. Y la sociedad civil, los seres humanos del mundo que también piensen que no solamente es una fauna en nuestro territorio ancestral, sino que somos nosotros, nos arrancamos conjuntamente con nuestra naturaleza, con nuestros bosques. Si nosotros no estamos, el bosque morirá contaminado, depredado.

Entonces yo quisiera que un poquito resaltes que nosotros también somos importantes en este mundo con naturaleza. Y brindar, como digo, a la sociedad, a los seres humanos del mundo, sin nuestros bosques, pues no hay aire limpio.

Y yo creo que es un asunto en el que el gobierno nos ayuda de alguna manera, en el que nosotros cuidamos el planeta. Si nosotros volvemos de la selva, pues nuestros bosques van a ser exterminados, contaminados.

58:09 ; Miro Veramendi

Sí, como es el pulmón del mundo, es importante. Y creo que es un asunto muy importante para entender para todos los demás, no solo los pueblos indígenas, sino hemos perdido la manera de vivir con nuestro planeta.

NO TODO LO QUE ES ORO BRILLA

Y creo que la vida indígena nos podría mostrar muchísimas cosas para entender eso, pero en el momento vamos en la dirección equivocada, creo.

58:53 ; Sr O.

Sí.

58:55 ; Miro Veramendi

Muchas gracias, Sr O.. Yo voy a integrar todas esas cosas en mi tesis. Bueno, yo voy a presentar esa tesis en septiembre con una organización que se llama el Campus de Derechos Humanos del Mundo. A ver si gana atención.

Y de todas maneras espero que puedo venir a Puerto Maldonado después de eso. Claro que tengo que trabajar primero porque los vuelos son muy caros, pero...

59:58 ; Sr O.

Sí, bueno.

01:00:00 ; Miro Veramendi

Pero sí, espero que pueda hacer eso muy pronto y espero que tal vez nos podamos encontrar en persona, ¿sabes?

01:00:11 ; Sr O.

Está bien, en algún momento. De igual manera, Miro...

Bien, gracias por tu preocupación.

Me has dado la oportunidad de un poquito compartir mi pequeña experiencia, mi vivir en la selva, mi comunidad. Es lindo que aliados, amigos como tú, se preocupen por nosotros. Eso nos da fortaleza, eso nos da... Nos fortalecemos más para seguir luchando y transmitiendo nuestros saberes a partir...

Porque esto ha sido de generar también a nuestro mundo conocimientos que siempre hemos compartido con los amigos aliados, con otras culturas, con toda sociedad. Siempre queda puerta abierta para todos los amigos que quieran unirse a nuestra lucha lo que es el derecho a la vida, el derecho al territorio entero.

Gracias, Miro, una vez más.

01:01:38 ; Miro Veramendi

Gracias a usted.

01:01:41 ; Sr O.

Gracias a usted y para la próxima, Miro.

Estamos en comunicación.

01:01:50 ; Miro Veramendi

Y claro que cuando termine mi trabajo le voy a enviar una versión en español y en inglés para ver cómo salió.

01:02:00 ; Sr O.

Está bien.

01:02:02 ; Miro Veramendi

Le deseo todo lo bueno. Sigue compartiendo, porque las cosas que dice usted son cosas muy importantes y creo que mucha gente se va a interesar en ese tema si logramos compartirlo de una manera buena.

01:02:30 ; Sr O.

Una vez más, gracias, entonces. Mañana viajo otra vez. Finalmente he venido acá por Wi-Fi, no tengo otro medio. Entonces lo único es eso, compartir con los amigos.

01:02:52 ; Miro Veramendi

Muchas gracias por eso.

01:02:54 ; Sr O.

Ok, gracias, un placer.

01:02:57 ; Miro Veramendi

Un placer, Sr O., y nos escuchamos.

01:03:01 ; Sr O.

Ya, amigo. Ya, chao.

01:03:06

(Pausa)

01:03:30

[AUDIO_EN_BLANCO]