

Property, Community and the Making of an Agricultural Frontier of the Peruvian Amazon



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Abstract

This thesis examines how property, community, and deforestation are co-constituted to configure an agricultural frontier in the Peruvian Amazon characterised by inter-legality. It uses a case study of migrant small-scale farmers in a district in North-eastern Peru who illegally settled forestlands, areas formally under state ownership but with low effective control. The thesis is based on analysis of qualitative data derived from 42 interviews with farmers, and current and former government officials, and on legal analysis of Peruvian agricultural land and forest law. The thesis shows that farmers rely on non-state norms to enact private property in Peru's forestlands, performing physical practices, such as demarcating boundaries and cultivating parts of the new plot of land. My thesis shows that as new communities begin to form, farmers elect village leaders who, in turn, provide the legal service of making land contracts and certificates to farmers. Farmers consider these local land documents as legitimate and legally valid, which help farmers further consolidate their private property claims, and provides them with a strong sense of tenure security that makes them apathetic towards official property titles, and even reluctant in some cases. The thesis argues that property and community co-constitute, and that the legitimacy of property is dynamic, transiting from an initial reliance on physical practices to a more abstract representation in documents. The thesis also shows that farmers and government officials

actively navigate the non-state norms of property and Peru's agricultural land and forest laws in a complex interplay. The thesis contributes to the socio-legal scholarship on property by providing an in-depth account of how contemporary local arrangements of private property in tropical forests are directly related to the creation of community and the transformation of the environment into an agricultural frontier.

*To my father, Guillermo, who would have been proud,
and to my son, Camilo, who is.*

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Glossary of key terms in Spanish¹

<i>Alcalde delegado</i>	Spanish for ‘delegated mayor.’ An <i>alcalde delegado</i> is a <i>sui generis</i> municipal authority that some small towns in Peru can have once they reach a sizable population. <i>Alcaldes delegados</i> are elected in their towns, manage a small amount of the district’s budget and exercise some limited municipal competencies.
<i>Amparar la tierra</i>	Spanish for ‘to safeguard the land’ but not in the sense to do environmental conservation but rather to actively possess the land or hold it. It is a practice in Soritor, and throughout the Peruvian Amazon, whereby <i>colonos</i> that go to the primary forest to enact property, ‘stay around’ in the area, demonstrating possession of the land.
<i>Centro poblado or caserío</i>	<i>Centro poblado</i> (Spanish for ‘populated centre’) or <i>caserío</i> (Spanish for a small grouping of houses) are used in the context of rural Peru to mean ‘village’.
<i>Chacra</i>	Peruvian Spanish (likely from Quechua origin) for a cultivated piece of land.
<i>Ciudadano/ana</i>	Spanish for ‘citizen’. In the context of the villages of Soritor, and likely throughout rural Peru, it often means the head of the family who lives in the village and who is listed in the community’s <i>padrón de ciudadanos</i> (citizens’ roll).
<i>Coger tierra</i>	Spanish for ‘to take land’ (or taking land). Practice in Soritor, and throughout the Peruvian Amazon, whereby <i>colonos</i> that go to the primary forest to enact property, engage in various physical acts on the land, such as marking trees and making boundary trails.
<i>Colindantes</i>	Spanish for adjacent neighbours, who share a <i>lindero</i> .
<i>Colonos/as</i>	Spanish for ‘colonists,’ a common term given to people who live in the agrarian frontiers of the Peruvian Amazon, most of whom are migrants, or their

¹ For ease of reading, the explanations of these terms can be found frequently again throughout the text. Other less important Spanish terms used only occasionally are explained in the chapters and in footnotes as they appear in the text.

descendants, who usually came from the Peruvian highlands (the Andean regions). Contrast this term with the *indígenas* or *nativos* (indigenous peoples or natives), that refer to the indigenous peoples of the Peruvian Amazon, most of whom hold lands under formally recognised collective property rights recognised by Peru's Constitution.

Compraventa

Also known as *compra y venta*, is Spanish for 'buy and sell'. It is the local land document used to transact land in Soritor and other regions in rural Peru. In Soritor *compraventas* are made by *tenientes* and the peace judge (and sometimes even by the *presidentes*). As explained more in detail in the thesis (see Chapter 6), these important documents serve also to prove landownership.

Constancia de posesión

Spanish for 'certificate of possession'. It is another land document used in Soritor (and throughout rural Peru). It is made by village leaders and the peace judge, and by governmental authorities, such as the agricultural offices of the regional governments. Another version of this certificate is the *constancia de productor agrario* (certificate of agricultural producer), an official document created to acknowledge farmers and agriculture, but not landownership. These documents can have different objectives as further discussed in Chapter 6.

Escritura

Spanish for 'deed'. It is the formal name of the documents made by the notaries public, and the peace judges when they exercise notary public functions (although each carry different legal consequences). This is the formal name of the *compraventa* documents that are made by the peace judge (see Chapter 6 for a thorough discussion on this topic).

Faena comunal

Spanish for community work. The *faena comunal* is a traditional system in rural Peru whereby people are regularly expected to put in some of their time and effort in collective actions that benefit the community, such as to build or make repairs to a local road, or to clean the school.

Hacienda

Spanish for large agricultural estates. In Peru, there used to be *haciendas* in many parts of the highlands and the coastal region, which were broken down and given to peasants during the agrarian reforms of the 1960s and

1970s (as part of a larger movement of land redistribution in Latin America that used the slogan *la tierra es de quien la trabaja*, ‘the land belongs to those who work it’). *Haciendas* largely do not exist anymore in Peru (and basically none existed previously or since in the Peruvian Amazon).

<i>Lindero</i>	Spanish for ‘boundary,’ or a property line.
<i>Mejora</i>	Spanish for ‘improvement’. In the context of agricultural land, it is a term used to describe the investment done to the land in terms of crops cultivated, or some type of building that has been built.
<i>Montaña</i>	Spanish for ‘mountain,’ but used in reference to the primary forest by rural people in the Peruvian Amazon. This meaning was common throughout Spanish Latin America in the past, and it is still used in some places, like the rural areas of the Peruvian Amazon. It was also used in official legal language in Peru up until a century ago, approximately, later falling out of use and being replaced by <i>selva</i> (jungle).
<i>Palo</i>	Spanish for ‘stick,’ used colloquially in reference to ‘tree’ in rural Peru.
<i>Presidente</i>	Short for <i>presidente de la junta vecinal</i> (president of the neighbourhood board). It is one of the village leaders and was previously known as <i>agente municipal</i> (municipal agent). The <i>presidente</i> is in charge of coordinating most village affairs. See Chapter 6 for a longer explanation of the role of <i>presidentes</i> .
<i>Pueblo</i>	Spanish for ‘people’ (in the sense of those belonging to the same community), as well as for ‘village’ or ‘town’. Depending on the context, <i>pueblo</i> can be used to allude to either of those two related meanings.
<i>Purma</i>	Colloquial term in the rural Peruvian Amazon for a secondary forest that naturally regenerates in an agricultural plot. It is usually not left to fully regrow, due to it being returned to agricultural production after some period where the land has been left to rest.
<i>Ronda campesina</i>	Peasant patrol in the rural communities. A <i>ronda</i> , for short, is a traditional institution throughout rural Peru

that is in charge of different security-related activities. It can help enforce some disciplinary actions within rural communities. Currently, many villages in Soritor do not have active *rondas*, but they were sporadically brought up during the interviews with farmers. *Rondas* also have *presidentes* who lead them, which are not to be confused with the *presidentes de la junta vecinal*.

Selva Alta / Baja

Spanish for ‘High altitude jungle’ or ‘Low altitude jungle.’ Common designations for two different ecological zones in the Peruvian Amazon: *selva alta* closer to the Andean highlands, and *selva baja* farther from the Andes, in the low-lying parts of the Amazon.

Solar

A plot of land used for housing usually in an urban area, like a city or town, or even in the centre of a large village.

Tambo

A raised platform with a roof made of leaves, common in the Peruvian Amazon. It is a type of small hut that can be used to provide basic shelter or as a resting place.

Teniente

Short for *teniente gobernador* (lieutenant governor). It is the other village leader. *Tenientes* are supposed to be formal representatives of the central government in every village but, in practice, they perform the role of another representative of their communities, supporting the *presidentes* and, more importantly for this thesis, making local land documents, such as *compraventas*. *Tenientes* are formally overseen by sub-prefects, proper officials who receive a salary from the government. See Chapter 6 for a longer explanation of the role of *tenientes*.

Trabajar la tierra

Spanish for ‘to work the land’ (or working the land). A practice in Soritor, and throughout the Peruvian Amazon, whereby *colonos* that go to the primary forest to enact property, are expected to do agriculture by converting parts of their *montañas* into *chacras*.

Trámites or gestiones

To do *trámites* or *gestiones* means to submit some application or petition, usually under some official procedure, to a governmental authority, and following up with them throughout the administrative procedure. It involves various acts, such as filing paperwork, having meetings with officials, going to their offices to enquire about updates, or submitting additional documentation.

Table of primary legal sources

Case

Caso Ley de Simplificación de Procedimientos y Promoción de la Inversión, (Tribunal Constitucional del Perú 2020).

International law

Convention on Biological Diversity (1992).

Paris Agreement to the United Nations Framework Convention on Climate Change (2015).

Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010, J (2023).

Legislation and regulations of Peru

Código Civil, Decreto Legislativo N° 295 (1984).

Código Penal, Decreto Legislativo N° 635 (1991).

Código Procesal Civil, Decreto Legislativo 768 (1992).

Constitución Política del Perú, (1993).

Ley de Áreas Naturales Protegidas, Ley N° 26834 (1997).

Ley de Bases de la Descentralización, Ley N° 27783 (2002).

Ley de Comunidades Nativas y de Desarrollo Agrario de la Selva y Ceja de Selva, Decreto Ley N° 22175 (1978).

Ley de Comunidades Nativas y de Promoción Agropecuaria de Regiones de Selva y Ceja de Selva, Decreto Ley N° 20653 (1974).

Ley de Justicia de Paz Ley N° 29824 (2012).

Ley de Ordenamiento Territorial y de Creación del Sistema Nacional de Ordenamiento Territorial (SINADOT), (2025).

Ley de Recursos Hídricos, (2009).

Ley de Saneamiento Físico Legal y de Formalización de Predios Rurales a Cargo de los Gobiernos Regionales, Ley N° 31145 (2021).

Ley de Simplificación de Procedimientos y Promoción de la Inversión, Ley N° 30230 (2014).

Ley del Sistema Nacional de Evaluación de Impacto Ambiental, Law N° 27446 (2001).

Ley Forestal y de Fauna Silvestre, Ley N° 27308 (2000).

Ley Forestal y de Fauna Silvestre, Ley N° 29763 (2011).

Ley General de Tierras de Montaña, Ley N° 1220 (1909).

Ley General del Sistema Nacional de Bienes Estatales, (2007).

Ley Orgánica de Gobiernos Regionales, Ley N° 27867 (2002).

Ley Orgánica de Municipalidades, Ley N° 27972 (2003).

Ley Orgánica de Terrenos de Montaña, Ley del 21 de diciembre de 1898 (1898).

Ley Orgánica para el Aprovechamiento Sostenible de los Recursos Naturales, Ley N° 26821 (1997).

Ley que Modifica la Ley 29763 Ley Forestal y de Fauna Silvestre y Aprueba Disposiciones Complementarias Orientadas a Promover la Zonificación Forestal Ley N° 31973 (2024).

Lineamientos para el Otorgamiento de Constancias de Posesión con Fines de Formalización de Predios Rústicos, Resolución Ministerial N° 0029-2020-MINAGRI (2020).

Lineamientos² para la Compensación de Multas por Infracción a la Legislación Forestal y de Fauna Silvestre, Resolución de Dirección Ejecutiva N.° D0000268-2022-MIDAGRI-SERFOR-DE (2022).

Reglamento de Clasificación de Tierras por su Capacidad de Uso Mayor, Decreto Supremo N° 017-2009-AG (2009).

Reglamento de Clasificación de Tierras por su Capacidad de Uso Mayor, Decreto Supremo N° 005-2022-MIDAGRI (2022).

Reglamento de Infracciones y Sanciones en Materia Forestal y de Fauna Silvestre, Decreto Supremo N° 007-2021-MIDAGRI (2021).

Reglamento de la Ley General del Sistema Nacional de Bienes Estatales, (2008).

Reglamento de la Ley N° 31145 Ley de Saneamiento Físico Legal y Formalización de Predios Rurales a cargo de los Gobiernos Regionales, Decreto Supremo N° 014-2022-MIDAGRI (2022).

Reglamento de Organización y Funciones de las Autoridades Políticas, Decreto Supremo N° 004-2007-IN (2007).

Reglamento de Zonificación Económica y Ecológica (ZEE), Decreto Supremo N° 087-2004-PCM (2004).

Reglamento para la aplicación de la Zonificación Ecológica y Económica - ZEE del departamento de San Martín, Decreto Regional N° 002-2009-GRSM-PGR (2009).

Reglamento para la Delimitación y Mantenimiento de Fajas Marginales (2016).

Reglamento para la Gestión Forestal, Decreto Supremo N° 018-2015-MINAGRI (2015).

Texto Único³ de Procedimientos Administrativos del Gobierno Regional de San Martín, Ordenanza Regional N° 008-2023-GRSM/CR (2023).

Texto Único Ordenado de la Ley de Procedimiento Administrativo General, Decreto Supremo N° 004-2019-JUS (2019).

Texto Único Ordenado de la Ley de Tributación Municipal, Decreto Supremo N° 156-2004-EF (2004).

Texto Único Ordenado de la Ley del Impuesto a la Renta, Decreto Supremo N° 179-2004-EF (2004).

Texto Único Ordenado de la Ley General de Minería, Decreto Supremo N° 014-92-EM (1992).

Texto Único Ordenado de la Ley Orgánica del Poder Judicial, Decreto Supremo N° 017-1993-JUS (1993).

² *Lineamientos* (guidelines) are a tertiary source of law.

³ *Texto Único* (Unified Text) are officially consolidated versions of a law or regulation.

Other foreign primary legal sources

Código Procesal Civil de Costa Rica, Ley N° 9342 (2016).

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Preface

When I was working in forest policy in Peru I used to think of law as a largely immutable thing that the state created and everyone either complied with or not. The deforestation actively changing the landscape in the agricultural frontiers of the Peruvian Amazon was mostly about non-compliance. This presented a policy problem that seemed not to need much more analysis as it was clearly a case of illegality and the tools for solving it were already known: ‘capacity-building’ to teach people about the law, giving government agencies more resources to enforce their command-and-control rules, or re-designing the law to incorporate incentives to limit deforestation.

On one occasion, as part of my work in a not-for-profit organisation, I participated in a capacity-building workshop for *castañeros* (Brazil nut gatherers) who had concession rights in a protected area in South-eastern Peru. After explaining that the park regulations prohibited *castañeros* from cutting down any type of trees, even to make their own shelters during gathering season, an elderly *castañera* stood up to speak. She scolded us, saying that their reality was different than what the law said, and that, in any case, ‘the law doesn’t eat, we do,’ and because ‘the law wasn’t written in stone’ we could change it.

It would have been easy to dismiss her claim with a straightforward administrative law lecture: we didn't make the regulations, the agency in charge did using prescribed procedures that stemmed from competencies assigned by the Peruvian Congress through law. But several years after this exchange I have not been able to let her words go. Her claim warranted a more profound introspection: it opened my eyes to seeing other ways in which the law and non-state norms were used, understood, and applied in practice, effectively highlighting my own ignorance about the people that inhabited the forest.

That exchange, alongside many similar ones throughout the years with farmers and indigenous peoples living in the Peruvian Amazon, made me realise that law is far from an immutable fact. Apart from changing through formal law-making processes, it can get reinterpreted, strategically used, or largely ignored in the farms and the forest. People don't (just) comply with or break the law, they navigate it, adding their own collective social norms, under different value systems, to the legal assemblage that informs their decisions. And it is within this 'messier' normative process that the landscape changes.

This realisation slowly grew into a frustrating feeling that continuing doing environmental policy using the framework I learned in Law School was a hopeless endeavour if I didn't critically look at how law operated on the ground through the lens of those who were targeted by it. How law works in this frontier space in the context of low government control became a puzzle

that I urgently had to devote my attention to. This doctoral thesis is an effort to solve a part of this puzzle.

1. INTRODUCTION

1.1. Connecting deforestation and property

This thesis takes aim at what is arguably Peru's most important socio-environmental problem today: tropical deforestation driven by small-scale agriculture. Deforestation is a major source of CO₂ emissions worldwide, accounting for up to 20% of the total (Watson & Schalatek, 2020). On average, more than 100,000 hectares of the Amazon are deforested in Peru annually (Geobosques, 2025). Deforestation contributes to almost half of Peru's CO₂ emissions, and it is the main driver of biodiversity loss (Ministry of the Environment of Peru 2016). In 2023, Peru ranked fourth globally in primary forest loss, behind Indonesia, Bolivia, the Democratic Republic of Congo and Brazil (Global Forest Watch, 2023).

Various interlinked factors drive tropical deforestation worldwide. They can be divided into two: proximate or direct causes and underlying or indirect causes. The former are the immediate actions that directly impact the forest, while the latter are the larger or overarching socio-economic processes behind those direct causes (Geist & Lambin, 2002). Around the tropical forests of the world, agricultural expansion is the leading direct cause of deforestation by far (96%), driven by underlying factors such as population density or international market prices for agricultural commodities, as well as by corruption or property

rights arrangements that are associated with specific domestic institutional and legal contexts (Geist & Lambin, 2002).

In Peru, almost half a million poor small and medium-scale farmers are directly linked to deforestation as part of a dynamic of migration from the Andean regions to the Amazon (Che Piu & Menton, 2014; Ministry of the Environment of Peru 2016; Robiglio et al., 2015). According to Peru's National Forests and Climate Change Strategy, more than half of Peru's forest loss between 2001-2013 is attributed to agricultural expansion, most of which small plots of 5 hectares or less in lands without formal titles (Ministry of the Environment of Peru 2016, p. 159). Agricultural cultivation of this small scale is a 'more dominant driver' of deforestation in Peru than in other countries in South America where pasture expansion is more prevalent (De Sy et al., 2015, p. 7). Other direct drivers of deforestation in Peru that are of secondary importance are illegal or informal extractive activities, such as gold mining, and the expansion of infrastructure for transportation and for formal extractive industries (Ministry of the Environment of Peru 2016).

Ravikumar et al. (2017) caution to avoid a simple narrative that blames poor Peruvian small-scale farmers for widespread deforestation without accounting for the underlying causes that drive them to the forest. Small-scale agriculture that is directly linked to deforestation does not just 'happen'. As Peru's National Forests and Climate Change Strategy (Ministry of the

Environment of Peru 2016) puts it, 'it's the summation of forces associated with each cause or factor which results in a determined deforestation rate in a specific space' (p. 70). One underlying force is demographic, the increase of population living in the Amazon due to migration as part of a push/pull process driven by poverty in the highlands (Che Piu & Menton, 2014). Other economic factors are also key underlying causes of deforestation in Peru: subsidies and favourable tax policies for agriculture, and the promotion of investments in road infrastructure also created the conditions for new small-scale agricultural settlements in the Amazon (Che Piu & Menton, 2014). Importantly, all these processes are dynamic, which means the profile of forces that drive deforestation can change over time (Ravikumar et al., 2017).

The ways in which small-scale farmers directly impact the forests seem to be also related to the type of land tenure systems they have, in particular private property. The empirical evidence is inconclusive on the effect that private property of small-scale farmers has on tropical deforestation (Busch & Ferretti-Gallon, 2023). However, in line with global deforestation studies (Geist & Lambin, 2002), the Peruvian government considers related factors such as 'forest governance', 'land tenure' and the 'legal framework for land titling' as underlying causes of deforestation (Ministry of the Environment of Peru 2016), which others refer to as 'legal drivers' that have to do with 'unclear laws and

the legal system for land-use and exploitation rights' (Che Piu & Menton, 2014, p. 10).

These direct and indirect causes of deforestation are not produced in a vacuum, but within a larger historical political and policy context where the central government, first under the Spanish colonial regime and then through the Peruvian state, has been promoting the occupation of the Amazon. As Shanee and Shanee (2016) point out, a historical context helps inform current settling processes of the Peruvian forest frontiers. In colonial times, occupation of the Amazon was done by establishing exploration and evangelization bases targeting the indigenous inhabitants, with minimal direct environmental impact (albeit huge social costs to the indigenous population) (Che Piu & Menton, 2014). After that, the rubber boom in the late XIX century left behind a series of towns, which then expanded to become major cities, setting the stage for further occupation (Che Piu & Menton, 2014). New transportation infrastructure in the first half of the XX century attracted spontaneous occupation of the Amazon by farmers, followed by directed colonisation projects promoted by policies and laws of different governments, such as in the Huallaga region (Eastern Peru) under President Belaúnde, linked to the construction of the new *Carretera Marginal de la Selva* (Marginal Road of the Jungle) in the 1960s (Sax, 2020; Schuurman, 1979). For most of this history, the policies of the Peruvian central government have encouraged the expansion of

the agricultural frontier in the Amazon, but this has been mitigated in later decades by new laws that began to incorporate environmental considerations into forest policies while also constraining farmers' access to formal land tenure rights, as Chapter 4 explains.

1.2. Research objective and scope

This research explores how property norms work on the ground in the agricultural frontiers of the Peruvian Amazon. The main objective is to explain how private property and deforestation are interrelated by identifying and analysing the state laws and non-state norms (i.e., social norms, local rules and local practices of private law) that small-scale, migrant farmers engage with to enact, use, and transact property in the Peruvian Amazon.

Importantly, the state laws and non-state norms about property concerning indigenous peoples from the Peruvian Amazon fall outside the scope of this research, as indigenous peoples are not present in my field site and their legal, social, and political context would require a separate and dedicated analysis. Indigenous peoples have inhabited Amazonia for thousands of years and have been subjected to historical struggles of colonisation and dispossession, some of which persist today. Officially known as *comunidades nativas* (native communities), the Constitution grants them special collective ownership rights to their lands (Constitución Política del Perú, 1993, Article 89),

however, in practice, they continue to face significant barriers to effectively accessing and securing these collective land rights. A study that considers indigenous people's lands in the Peruvian Amazon would require a different set of research questions and methodological approaches, and a different study area since the causes and rates of deforestation in those lands, the nature of their collective property rights, their historical struggle, and their use of customary law present a different context than that of the migrant small-scale farmers that form the subject of the case study for this thesis.

I focused my attention on one specific area to attain my research objectives. I conducted a case study in a north-eastern district of the Peruvian Amazon called Soritor, inside the province of Moyobamba, department of San Martín. This area has many of the characteristics related to the direct and indirect causes of deforestation related to small-scale agriculture explained in the previous section. Chapter 3 includes a full description of my field site and the reasons for choosing it as a case study.

To understand the legal framework for forests and property in the context of my research, I collected and conducted doctrinal analysis of the statutes and regulations under Peruvian law, as well as some foreign legal instruments that were relevant for the topic. I also gathered and analysed primary data through 42 semi-structured interviews with farmers and village leaders, and current and former government officials. In addition, I took notes

on informal conversations with 19 other informants, who provided complementary qualitative data for the analysis. These informants gave me background information on different aspects of my research, including on the administrative procedures for land titling and forest rights, the scope and status of two government projects for land titling and a carbon project aimed at small-scale farmers, as well as names and contact information of potential interviewees. I also attended 3 public events related to the topic of my research where I took notes that I also analysed, these were: a workshop for peace judges of the San Martin Region in the city of Moyobamba, a forum on the implementation of the European Union Deforestation Regulation (EUDR) (2023) in Lima, and an event on the new agroforestry concessions land tenure system in the city of Soritor. As with most case studies, this approach enables an in-depth exploration but has limitations in its potential to directly generalise all the results and insights to other contexts of the Peruvian Amazon or of other tropical countries; those trade-offs are accounted for. The methods for gathering and analysing data, as well as the limitations of the case study approach, are discussed in detail in Chapter 3.

1.3. Research questions

Although a broad connection between property and tropical deforestation has been observed in the literature, it remains unclear how state law and non-state norms surrounding private property are implicated in the deforestation and

transformation of the forest into an agricultural frontier in the Peruvian Amazon driven by small-scale agriculture. This is the main question that this thesis addresses. More specifically, this thesis is concerned with the following three sub-questions:

- A. How do farmers enact and use private property in forested areas that are formally owned by the Peruvian state? What state laws or non-state norms do they use, and how?
- B. How are the state laws related to property understood and implemented in practice in these agricultural frontiers? How do these laws interact with farmers' non-state norms related to private property?
- C. How do state laws and non-state norms related to property co-constitute private property, rural communities and a deforested landscape?

1.4. Research significance

This research fills a key gap in the legal, socio-legal and tropical forest governance scholarships on property, which have not studied in depth how private property state laws and non-state norms operate and interact to configure the agricultural frontiers of tropical forests, like in the Peruvian Amazon. As discussed in Chapter 2, the critical review of this literature has developed important concepts and empirical findings that provide a good basis to better understand the relationship between private property and

deforestation in agricultural frontiers of tropical forests, highlighting, for example, the complex interplay of property state laws and non-state norms, state-led landownership formalisation projects, and broader institutional factors, such as enforcement and provision of credit, in influencing land use decisions and environmental outcomes in agricultural frontiers. However, important gaps remain. They stem from socio-legal studies overlooking rural property dynamics in the Global South, as well as an absence of qualitative empirical research in environmental studies that can improve our understanding of property in the context of tropical deforestation. This thesis fills these gaps through a grounded socio-legal analysis of how the property practices of migrant small-scale farmers in the Peruvian Amazon intersect with deforestation.

A socio-legal analysis of the interdependence of private property, community and deforestation is not only a novel and needed academic enterprise, but it can also provide timely insights that are relevant for environmental policy. As countries with large tropical forests like Peru rush to curb deforestation as part of their climate and biodiversity commitments under international treaties like the Paris Agreement (2015a) and the Convention on Biological Diversity (1992), they may be tending towards enacting and enforcing command-and-control government-centred regulation, what Esty (2017) has termed the ‘20th century approach to environmental protection’. This type of

state-led regulatory framework based on public law risks limited effects in a context like Peru that has been characterised as suffering from weak overall forest governance (Glave & Borasino, 2019). Understanding how farmers actually engage with private property in these frontier spaces can create opportunities to approach environmental policy from a different legal angle, one that considers the social norms, local rules, and local practices of private law related to property. This can lead to better policies to curb deforestation that acknowledge and leverage the flexibility and relational features of the non-state property arrangements on the ground in these frontier spaces.

1.5. Organisation of the thesis

The thesis is organised in nine chapters. After a Preface that introduced my motivation to conduct this research, Chapter 1 provides background information on the problem of deforestation and its relationship with private property, and the research questions that the thesis addresses. This chapter includes a brief introduction to the methodology used, and the significance of the research, which are further discussed in Chapter 3 and Chapter 2, respectively. This chapter ends with an explanation of how the thesis is organised.

Chapter 2 is a critical review of conceptions of property in the context of natural resources in frontier spaces in the legal and socio-legal scholarship, as

well as of the empirical findings about the relationship between property and deforestation in the literature from environmental studies. The legal and socio-legal literature reviewed underscores the spatial and relational features of property in contexts of inter-legality, which together form a conceptual framework for analysing my data. The analysis of my data also builds on the existing empirical knowledge from environmental studies on tropical deforestation that have studied the link between property and deforestation, by integrating it with a socio-legal perspective and challenging some of its findings. The chapter discusses in depth some important methodological, thematic, and geographic gaps that remain in both bodies of scholarship and explains how my thesis helps to fill them. This critical review shows why a socio-legal perspective is well-suited to fill these gaps in order to move forward in our understanding of the relationship between private property and tropical deforestation, especially in the agricultural frontiers of the Peruvian Amazon.

Chapter 3 discusses the methodology of this research. It explains and justifies the design of my empirical research using a case study and qualitative methods to obtain and analyse primary data. I describe Soritor, my field site, a district in the north-eastern Peruvian Amazon populated by small-scale farmers, and the reasons for selecting it. Next, the chapter explains the methods I used to collect the data and the data analysis techniques: gathering relevant statutes, regulations and other legal documents for doctrinal analysis to

understand the official legal framework; and conducting semi-structured interviews for qualitative data analysis to understand how the law is applied in practice, as well as the social norms, local rules and local practices of private law used in my field site. The chapter also explains the selection criteria for my interviews, and how they were conducted, including ethical considerations and recording methods. The chapter includes a positionality statement that discusses how my background as a Peruvian national from a relatively privileged socio-economic background, as well as with formal training in law and a professional experience in environmental policy, may have influenced this research project, and the steps I took to account for them. The chapter ends with a discussion of the limitations of the methodology used in this case study.

Chapters 4 to 8 present the analysis of my data. Chapter 4 discusses the cumbersome legal framework governing forest and agricultural land in the Peruvian Amazon that underpin the state's efforts to order the territory, and the challenges it faces in practice. It explains the division between private property rights for agricultural land and administrative use rights for forestlands that are under public property. The decisions about agricultural land titling and the granting of use rights in forests are, in part, guided by Peru's land classification system and zoning instruments implemented by regional governments, under national laws and regulations. However, national authorities such as Peru's Ministry of Agricultural Development and Irrigation (MIDAGRI) and

subnational governments, such as the regional government of San Martín face many institutional challenges, including poor interagency coordination, lack of resources, and weak enforcement, which result in legal frameworks being thinly applied in frontier areas like Soritor. It is in this context that farmers turn to social norms, local rules and local legal practices of private law to enact, transact and use private property in forestlands.

Chapter 5 explains how, despite being against Peruvian agricultural land and forest law, migrant farmers enact private property in forestlands, a phenomenon closely related to the formation of communities and the deforestation of the Amazon. These farmers, who migrate from the Andean regions of Peru in search of more and better land, have a social norm that recognises landownership rights to farmers who take and reach ‘free’ forests first, which I call the ‘Amazon Settler’ social norm. They use three practices to claim private property in these frontiers under this social norm: taking the land and demarcating it (*coger tierra*), maintaining a presence (*amparar la tierra*), and beginning to cultivate small sections of the new plots (*trabajar la tierra*). Underlying this process and the usage of the plots is an individualistic ethos of ownership and production espoused by farmers. I refer to this as the ‘Autonomous Farmer’ social norm. The chapter explains how the enactment of property by the first farmers leads eventually to the formation of communities that engage in collective actions, with support from the government, that

further serve to legitimate and maintain the claims of the new private property owners. This co-constitutive process also involves a normative, spatial and relational transformation, from 'free,' lush forests to a landscape of private properties and the formation of an agricultural frontier of the Peruvian Amazon.

Chapter 6 discusses how the newly created communities help consolidate private property through land documents made by village leaders using local practices of private law, providing more evidence of a strong co-constitutive process of property and community. These land documents, which would look invalid in the eyes of a doctrinal lawyer, are trusted by the farmers in the communities who regard them as legitimate and legally valid, as well as by outsiders, including officials of the Peruvian state. These local land documents also mark a transition of the legitimacy of landownership, from the physical practices of the Amazon Settler social norm to enact property in the first stages of occupation, to the reliance on documents, signalling a dynamic conceptualisation of property. Throughout this process, government officials bend some of the legal rules and farmers navigate them alongside their social norms, and local practices of private law, demonstrating the inter-legality of this frontier space.

Chapter 7 discusses farmers' perceptions of the state's canonical instrument of property law, the official property titles, showing its largely minor

importance in farmers' daily lives. Although farmers recognise that it would be good to have them, their importance is marginal in practice because their local land documents, produced by farmers social norms and local practices of private law, give them a sense of high tenure security. Tenure security is manifested in farmers' relational conception of property, whereby 'everyone knows who the owners are', and in their perceptions of low internal or external risks to losing their lands. Also key is the fact that they invest in their lands without much consideration as to whether the land has an official property title or not, and that they have relative ease of access to formal credit without the need of official property titles. In some cases, farmers were also reluctant to acquire official property titles and the new agroforestry concessions, because of fears of taxes or heightened environmental supervision, which triggered some avoidance tactics.

Chapter 8 explains why, despite the fact that there is an expectation that farmers will use their properties for agricultural production by clearing the forest, there are some instances when they keep it standing. Farmers in Soritor restrain themselves from cutting down the forest inside their properties in three situations: in application of a social norm for water protection, when they, or acquaintances are exposed to government enforcement of environmental protection laws, in particular to control of illegal logging, and when outlier farmers autonomously decide they want to conserve their forests in pursuit of

an environmental goal, such as to protect biodiversity, or because they no longer need to practice agriculture. The examples of farmers navigating their environmental social norms and local rules to protect water and the state's environmental laws to control illegal logging also demonstrate the inter-legality of this agricultural frontier of the Peruvian Amazon. Both sets of norms are unevenly respected by farmers. But farmers show a deep respect to the outlier farmers who willingly do not deforest inside their properties, because even though it goes against the practice of *trabajar la tierra*, it conforms with the overarching Autonomous Farmer social norm that underlies landownership in Soritor.

Finally, Chapter 9 concludes. It summarises the research findings laid out in the previous chapters, foregrounding two main arguments: (1) the co-constitutive nature of private property, community and deforestation, and (2) the inter-legality of the agricultural frontiers of the Peruvian Amazon. In Soritor, migrant farmers use the Amazon Settler social norm and its practices to enact private property, which leads to the formation of communities that, in turn, provide legitimacy to the private property claims of farmers through land documents using local practices of private law, a dynamic process that configures the agricultural frontiers of the Peruvian Amazon. This is a process characterised by inter-legality, where government officials demonstrate flexibility to accommodate rigid state legal rules to the challenges of

implementing state policies in frontier spaces, and where farmers navigate, reinterpret, and sometimes reject the law in different ways to try to make them fit with their non-state norms on property based on the overarching Autonomous Farmer social norm. The chapter explains how the thesis contributes to fill a gap in legal and socio-legal studies on private property, as well as in environmental studies on tropical deforestation. I conclude discussing the avenues for further socio-legal and interdisciplinary research, and the potential uses of my research findings for environmental policy in the Peruvian Amazon.

2. PRIVATE PROPERTY IN TROPICAL FORESTS: A CRITICAL LITERATURE REVIEW

2.1. Introduction

This chapter presents a critical literature review of private property in legal and socio-legal studies broadly considered, as well as in environmental studies on tropical deforestation. The review takes account of the most relevant themes, theoretical ideas and empirical findings of this literature that inform the discussions of this thesis about how private property is enacted, understood, and regulated in forest frontiers like the Peruvian Amazon. Legal and socio-legal scholarship offers valuable insights for understanding property in frontier contexts, including its environmental role; the relational, spatial and temporal dimensions of property; local property arrangements; people's attitudes towards property; and the functioning of state-led development efforts through land formalisation. The deforestation literature shows that while land tenure issues, such as unclear property rights or lack of titles, are considered indirect drivers of deforestation, the relationship between private property and forest loss is complex, context-dependent, and shaped by state institutions, legal rules, and local property arrangements. This chapter argues that important gaps remain in both scholarship bodies, highlighting the need to further study private property in contemporary rural frontiers in developing countries with

civil law traditions, such as the Peruvian Amazon, using a socio-legal qualitative empirical approach more amenable to unveil the practices of property and its environmental impact on the ground.

The chapter is divided into four sections. Section 2.1. introduces the objective of the critical literature review and the organization of the chapter. Section 2.2. presents a review of the legal and socio-legal literature that highlights major concepts of property, which are useful for understanding how it works in forest frontiers: its environmental function, its spatial and relational features, its particularities in the context of non-state norms and inter-legality, and its role in law and development. Section 2.3. reviews the literature in environmental studies that has analysed tropical forest governance and deforestation and their relationship with private property, highlighting three emerging themes: the environmental effects of land tenure security, the role of state policies and institutions, and the particularities of post-colonial and frontier contexts characterised by inter-legality. Section 2.4. discusses the opportunities for building on this existing conceptual and empirical knowledge in the scholarship reviewed, and for contributing to filling its gaps. Section 2.5. concludes by summarising the critical literature review.

2.2. Private property in frontier contexts: a critical review of the legal and socio-legal literature

Private property is a key working concept in this thesis, one which most people grasp intuitively, but whose scholarly discussions in law can take several academic volumes. As a functioning ‘umbrella term’ (Lange, 2017), ownership of land and natural resources is likely to be found ranging on a spectrum of possibilities throughout the world rather than in a binary of public and private ownership (Cole, 2015; Fisher et al., 2013; Schlager & Ostrom, 1992). Further, critical legal scholars and legal pluralists have also highlighted the importance of acknowledging different non-western, indigenous and decolonial ideas on ownership rights in land (Bhandar, 2015), some of which may place more relevance on behaviour (how rightsholders are expected to use the property), than on location (where they are geographically, in exclusion to others) (Rose, 2010, pp. 31-32).

This thesis deals with a somewhat prototypical private property arrangement, akin to a fee simple in the common law,¹ that is locally enacted in a frontier space, and that is in tension with Peruvian agricultural land and forest

¹ See subsection 4.2.1., for a complete explanation of private property in Peruvian law, and a comparison with a fee simple in the common law.

law.² In this context, people’s attitudes towards the law, as well as the social norms and local practices of private law are particularly important. Thus, rather than focusing on doctrinal discussions, the focus of this thesis is on the ‘practice’ of property, and specifically property in land³ used for small-scale agriculture⁴. The following subsections provide a conceptual basis for this analysis, reviewing the ideas about property discussed in the relevant legal and socio-legal scholarships broadly conceived—including property law⁵, environmental law, legal anthropology, legal geography, law and economics, and law and development—that are complemented by some related insights from the political ecology scholarship.

2.2.1. Property, natural resources and the environment

Property rights have been used in many parts of the world to pursue environmental goals for the sustainable access and management of natural resources. The concept of property in relation to land and natural resources is

² Chapter 4 further discusses Peruvian agricultural land and forest law, and Chapter 5 explains how private property is enacted in practice in the agricultural frontiers of the Peruvian Amazon, in tension with those legal rules.

³ I use ‘property’ throughout this thesis instead of the longer ‘private property in land’ as all my research refers exclusively to this type of property.

⁴ This means agriculture practiced at a small-scale by family units and through largely non-industrialised means. Most of the farmers in my field site use parts of their lands to produce some crops for their own consumption, while the larger parts are reserved for cash crops like coffee, aimed at national and international markets.

⁵ Although much of the property law scholarship used in this critical literature review is from scholars from the common law, the concepts and theoretical discussions are universally applicable, and thus useful for this thesis.

not uniform because it is not only constructed by law but also with reference to other social and political dimensions: it can be understood as a private right of economic value, or a product of a collective decision or a social arrangement in relation to a natural resource (Fisher et al., 2013). The different understandings of property influence how it has been used in the context of environmental law, sometimes to justify regulatory limits to ownership rights in order to mandate some environmental protection goals, or to create property rights around natural resources as a way to promote economic incentives for sustainable use following Hardin's (1968) influential 'Tragedy of the Commons' framework, or to contrast it with other collective ownership arrangements to manage common goods under robust local institutions, social norms and local rules as highlighted by Ostrom's (1990) seminal work on the commons (Fisher et al., 2013). This close relationship between property law and environmental legal rules showcases a two-way relationship: on the one hand, how society understands property rights shapes how it conceives of their potential environmental impact and therefore the environmental legal rules society decides to establish; on the other hand, society's environmental concerns shape how it understands and regulates property rights (Coyle & Morrow, 2004; see also Scotford & Walsh, 2013). Thus, some argue that environmental considerations must be included as an inseparable function of property (Grinlinton, 2016; see also, Mattei & Quarta, 2018).

Property, understood as having an environmental function and as a broad spectrum of forms and manifestations, is a building block in the governance of natural resources like forests. According to Larson et al. (2021), forest governance is concerned with how institutions and social relations are arranged to make decisions about the landscape on various issues, including 'land and forest tenure reforms and control over resources' (p. 2). Some scholars studying forest governance have proposed to differentiate between the concept of property rights, as a 'bundle of rights' to use, manage or transfer land or other natural resources, and the concept of land tenure that includes the different types of property rights but also the institutional arrangements that support it, such as the public agencies, and the systems they have in place for monitoring and enforcement (Bruce et al., 2010; Robinson et al., 2014). The latter can be further complemented or expanded as a 'bundle of powers,' a concept used by political ecologists Ribot and Peluso (2003) to highlight the owners' ability to access 'technology, capital, markets, labor, knowledge, authority, identity and social relations' (p. 173), which materialise the ownership rights in practice.

The ways in which property and the institutions and technological tools that support it are understood and practiced, play an important role in forest governance. Political ecology, for example, highlights the importance of studying 'meanings, discourses and power' to better understand environmental changes that are related to land tenure, such as deforestation

(Sax, 2020, p. 293). Noting the political dimension in her study of Peru, Sax (2020) notes that property arrangements in forest contexts govern not only the land but also the people. Similarly, legal geographers Bennett and Layard (2015) have argued that it is important to analyse legal institutions as an expression of ordering done by some groups with some form of power in a place and a time for a reason. Legal rules and a comprehensive institutional support of agencies, including their managerial systems, aid in the ordering enterprise of the state, while also relying on technological devices. Scott (1998), for example, notably argued that state registries and maps are examples of these managerial systems and technological devices that are deployed to help make legible the environment for governmental control, particularly at the margins of the state. Socio-legal scholars have also paid attention to how technological devices, like maps, bridge the gap between law and geography, or between the legal rules and the space (Holder & Harrison, 2003), aided by new tools like geospatial information systems (GIS) that law is tasked to use, regulate and manage (Goldstein, 2003; Holder & Harrison, 2003). These arguments highlight the importance of understanding the relationships and spaces that influence, and are influenced by, property.

2.2.2. The spatial and relational features of property

In the classical idea of property, owners exercise a ‘despotic dominion’ that demands restriction of the rest (Blackstone, 1962 [1753], p. 2*); but this ‘bundle

of rights' of the owners, and the corresponding obligations from the non-owners, also involve institutions to manage and enforce property (Lange, 2017; Layard, 2020). In practice, full ownership (or full 'despotic dominion') occurs rarely, what legal anthropologists Franz and Keebet von Benda-Beckmann (1999) call 'largely a myth' (p. 30). This is because several legal rules, like those from planning law, moderate the extent of the owner's rights. Further, the rest of the society plays a key role in accepting and enabling property, which is why prominent property scholar Carol Rose (2022) argues in favour of more studies that consider an 'outside-in' perspective to property—that is, from the perspective of the larger society that enables it by accepting, encouraging or defending these property claims and their exercise—rather than the classical view of property rights from the 'inside-out' (i.e., what the owner can do in opposition to others). A relational consideration of property is highly contextual, it differs across space and time, but also across different cultures and jurisdictions (Ireland, 2021). For example, when discussing different elements of property relations—holders, objects, third-parties, and time—Franz and Keebet von Benda-Beckmann (1999) note that holders may not be only individuals, but whole lineages and sub-lineages; that different 'folk geographies' (p. 24) affect the conceptualisation of property (e.g., with physical points versus with modern cartography); or that time is relevant in the context

of inheritance, but also to maintain property (e.g., by complying with sustained conditions over time, such as cultivating a land).

Space, central in legal geography, is another key relational aspect of property. Property in land is, evidently, manifested in a material manner in the world. This is why, while recognising the value of the ‘bundle of rights’ relational perspective, some property law scholars have cautioned against losing sight of the materiality involved in owning a thing (Penner, 1997), especially if the thing is a land, as its physicality also shapes people’s relationships involved in property (Blandy et al., 2018; see also, Graham, 2011). This materiality of property brings some to consider the space it occupies in absolute terms, as something in the physical world that exists irrespective of social or political relations, but others consider space in the context of property as ‘the product of interrelations’ (Blomley, 2015, p. 138). Legal geographer Nicholas Blomley (2015) argues that ‘a relational view of space thus rejects the view of space as outside of the processes that define it...[, which] do not occur *in* or *on* space, but actively generate space’ (p. 138). This view is foregrounded by legal geography’s main interest in unveiling the ways in which law and space co-constitute (Braverman et al., 2015). Development and political ecology scholars Sikor and Lund (2009) have further argued that the co-constitution of property and space extends also to authority-making, ‘as legitimacy travels back and forth between [property claimants and the authority that can recognise

those claims]’ (p. 3), engaging in a recursive process that helps to enable the creation or legitimation of the state itself in what they call a ‘mutual contract of recognition’ (p. 9).

Not all spaces are the same, however. Some property arrangements and relations are placed in (and are co-constituting) frontier spaces.⁶ A frontier can refer to two ideas that are relevant for this thesis. First, as it is commonly used in agrarian and environmental studies to refer to the farthest places of agricultural settlements, usually where the farms meet the wilderness.⁷ Second, a frontier is part of the ‘rural’ or the ‘rural lawscape,’ the term used by Pruitt (2014) to discuss the particularities of the use of social norms and state law in non-urban spaces—areas characterised by being, at least partially, out of the reach of full government control. According to Das and Poole (2004), in frontiers or margins ‘nature can be imagined as wild and uncontrolled...where the state is constantly refounding its modes of order and lawmaking’ (p.8). Being in a frontier space, however, does not equate to living in anarchy or disorder, but to a more varied form of ordering where social norms and their accompanying

⁶ Also referred to as the ‘margins.’ I use the term ‘frontiers’ throughout the thesis, but allude to the ‘margins’ in some instances, particularly when referring to scholarship that prefers that term.

⁷ In the context of my research, an agricultural frontier (or a margin) is largely in a dynamic state, as the process of occupation and deforestation advance continuously further into the forest. This is not as unidirectional as it may seem because the frontiers could also retract, as the forest reclaims previously cultivated land, a process that has occurred in developed countries, for example. At a large scale, this ‘retraction’ is negligible in the case of Peru, but a more active state of flux can be seen when zooming in at the micro-level of each farm. There, some parts of the plots are actively farmed while some sections may be left to rest, which rapidly start growing back into secondary forests, albeit temporarily before they are put into agricultural production again.

institutional arrangements may coexist with state law (Pruitt, 2014; Saraf, 2020). As Damonte (2018) put it, referencing Das and Poole (2004), ‘in the margins of the state the boundaries between formality, informality and even illegality are diffuse, and so constitute fertile spaces for the production and reproduction of hybrid institutions’ (p. 1322).

These relationships between private property, people and space do not occur in a stable, atemporal vacuum; rather, they are dynamic, changing through time. Valverde (2014), for example, noticing a lack of serious consideration of time as a key dimension in socio-legal studies more generally, and legal geography in particular, has called on academics to focus on space as well as time—together—instead of as ‘separate dimensions...considered one after the other’ (p. 67). She argues that temporality thinking should not be only reduced to historical accounts that provide background information of what happened before, but also to account for ‘the temporal dimension of human experience’ when dealing with the law (Valverde, 2014, pp. 55-56); in the case of property, this could imply paying more attention to how property (relations, forms and understandings) changes throughout people’s lifetimes. In the same vein, Blandy et al. (2018) have shown the utility of thinking about temporalities in ‘enduring property relations’ using a dynamics approach that ‘enables us to pay particular attention to the role of time in property law’, where non-state norms can also be influential ‘upon parties’ behaviour and their relationship’

(p. 88). They call on property scholars to explore this approach (Blandy et al., 2018, p. 113), arguing that it can help unveil complex interactions across time, including when state and non-state norms are brought up to light at different moments during the on-going property relationship, noting, for example, that ‘formal legal rights...are privileged, perhaps particularly when the relationship is in crisis,’ (p. 90). Thus, a relational approach to property has to consider also the role of non-state norms and their interactions with legal rules.

2.2.3. Property in the context of non-state norms and inter-legality

The centrality of the state in producing legal norms, including those related to property, has been a source of scholarly debate for some time. Prominent legal pluralism scholar Sally Engle Merry (1988), for example, argues that we need to recognise ‘state law as fundamentally different [than non-state normative orders] in that it exercises the coercive power of the state,’ and it influences the other non-state norms (p. 879; see also Roberts, 2005). She has more recently noted, however, that amongst her peers there is a ‘general tendency...to adopt an expansive conception of law’ encompassing most non-state normative orders (Merry, 2020, p. 169). Commenting on property law, others consider that empirical research, such as Ellickson’s famous study of non-state property norms in Shasta County (1994), have been tempering the view that puts the state in a central position as the sole source of law (Blandy et al., 2018, p. 102). Pirie (2022) has called for what can be thought of as a middle ground, to conceive law

in terms of its legalistic formality (i.e., the generalisations and abstractions embedded in its rules), while recognising the relevance of other normative arrangements.

This thesis uncovers several instances of non-state normative arrangements related to property that I discuss as social norms and local rules to distinguish them from the Peruvian state law, or simply 'law'. Social norms in this thesis refer to the non-state norms that the farmers in Soritor, my field site, assert to enact and use private property, which they implement through physical practices. The farmers' local rules give concrete form and specific details to those social norms. Socio-legal researchers have also discussed social norms and local rules as elements of non-state legal orders, for example under the framework of legal pluralism (Grisel, 2021). In contexts of non-state norms, Merry's (1988) guidance on how to use a legal pluralist lens remains a useful basis for this research, in particular her calls to question the centrality of state law, reflect on how non-state norms provide an insight into the values of the collectives, and to move away from a focus on conflict (p. 889-890).

Other disciplines have also developed the concept of social norms. In behavioural studies, for example, social norms are thought of as the typical and expected conventions within a certain group, highlighting both a description of what people in that group do, and a normative assumption of what people in that group are expected to do (Nolan & Wallen, 2021). In the law and economics

literature, social norms are discussed as the building blocks of ‘private orders’ or arrangements of ‘private governance’ that construct normative spaces outside the official legal system of the state (Grisel, 2021). According to this scholarship, they are thought of as a rational and efficient reaction to convoluted or inefficient state law in contexts of long-term interactions of cohesive groups of people (Bernstein, 2001; Ellickson, 1994; Grisel, 2021). As Grisel (2021) points out, to some extent, this perspective is shared by Ostrom’s (1990) influential eight design principles for common-pool resources, which ‘offer a credible alternative to the state and the market by building “collective-choice arrangements” that rely on long-term cooperation between social actors’ (p. 8), such as in some forest contexts.

Scholars from both camps—legal anthropology and law and economics—have been interested in exploring empirically the use of non-state norms in the context of property in land. Through their ethnographic work in postcolonial Indonesia, for example, Franz and Keebet von Benda-Beckmann (1999) explain how the imposition of new land laws based on private property titles did not eliminate the customary law of *adat*, creating instead a plural or hybrid property normative system at the local level. And Ellickson’s (1994) study of ranchers in California finds that instead of them ‘bargaining in the shadow of the law’ to solve cattle trespassing or other land conflicts, as the law and economics theory would have assumed (see Mnookin & Kornhauser, 1978),

ranchers relied on ‘adaptive norms of neighborliness’ (Ellickson, 1994, p. 3), based on efficient cooperation without major consideration of the complexities of the state law since ‘only a few...[knew] of anything of these [legal] subtleties...’ (Ellickson, 1994, p. 50).

Interestingly, Ellickson (1994) explicitly sees his work on social norms in the context of rural land property as building a bridge between socio-legal studies and law and economics (p. 7),⁸ two seemingly differing approaches to empirically studying the law.⁹ Ellickson’s example demonstrates that paying attention to the overlaps between law and economics and socio-legal studies, particularly on the workings of non-state norms, can offer fresh perspectives. Leveraging these convergences may yield not only novel connections but also deeper insights—especially in cases that have traditionally been analysed through the lens of economics, such as farmers’ attitudes towards rules related to land tenure security and its relationship to deforestation discussed in section 2.3. As Craven (2019) argues, ‘if law and economics provides a starting-point analysis, social research methods can then elaborate on its accuracy and the

⁸ There are other instances where the two fields seem to converge in the context of non-state social norms and inter-legality around property. For example, Guevara (2009, p. 51) notes similar inter-legality features in two different studies on informal settlements, one in Rio de Janeiro by legal anthropologist de Sousa Santos (1977), and another in Lima by economist de Soto (2000), where, independently, both find people navigating property state law by transferring buildings but not the lands where the buildings stand, as the land formally belongs to the state.

⁹ Differing in their political economy inclinations (i.e., more right-leaning versus more left-leaning) (Craven, 2019), as well as in their preferences of methodology (i.e., more quantitative versus more qualitative).

appropriateness of approaching behaviour from solely the economics perspective' (p. 182).

The different ways in which state and non-state norms interact have been conceptualised in the socio-legal literature as inter-legality. By highlighting the dynamic ways in which non-state norms interconnect with state laws (Twining, 2012), inter-legality becomes a useful concept to understand how norms work in frontier spaces. It was first described by legal pluralist Boaventura de Sousa Santos who noted that the non-state ordering systems do not exist independent and parallel to state law, but rather have many connections with it, asserting that 'the legal life is constituted by an intersection of different legal orders, that is by interlegality...a highly dynamic process...in uneven and unstable mixings of legal codes' (de Sousa Santos, 1987, pp. 297-298). In this view, people that live in the inter-legality space are seen as having some agency to decide and navigate between the two (or more) normative spaces, taking advantage of their porosities and their interconnections (Walker, 2022). Walker (2022) notes that to inter-legality scholars Klabbers and Palombella (2019), this concept calls for 'embracing the law as comprehensive and composite,' (p. 2), in which the interconnectedness is itself a new 'legal situation,' and not just a sociological empirical observation (Palombella, 2019, p. 378). Similarly, in contexts of colonial domination and local resistance struggles, Freedman (2013) has described the meeting of customary law, or local practices, and the imposed

colonial law, as ‘hybridity’ that occurs in a ‘third space’ (see also Bhabha, 2012; Young, 1995). In these contexts, the co-constitution, or ‘contract of mutual recognition’, that Sikor and Lund (2009) allude to between property claimants and authority, does not occur exclusively with the state ‘as political authority is not exclusively vested in [it],...[which] complicates the situation significantly, and many competing contracts are formed,’ (p. 9) with the other non-state legitimate (and legitimising) authorities. The inter-legality of these contexts is embedded with people’s perceptions of the state law but also the non-state norms, as the next sub-section discusses.

2.2.4. Property and legal consciousness

People’s perception of the law, what it means to them and what is their disposition towards it, has important implications for shaping the norms and the practices around property. Thinking about law ‘in action’ as most socio-legal scholars do, inevitably leads to thinking about how those who use, or are otherwise implicated in, the state law and non-state norms, understand them. The literature on ‘legal consciousness’ has been useful in providing a framework for this consideration. According to Silbey (2001), legal consciousness ‘traces the ways in which law is experienced and interpreted by specific individuals as they engage, avoid or resist the law and legal meanings’ (p. 8626), which, without using this term, was already present since the early socio-legal work (Silbey, 2005). Ewick’s and Silbey’s (1998) influential analytical

categories of legal consciousness—*before, with* and *against* the law—represent different dispositions that people demonstrate when dealing with a legal issue: a set of rules that people see as objective and respected, rules that they strategically navigate, or rules that they need to actively resist, respectively. They rightly annotate that these are not static schemas that people maintain, but that ‘legal consciousness varies across time (to reflect learning and experience) and across interactions (to reflect opportunity..., relationships or purposes...)’ (Ewick & Silbey, 1998, p. 53), matching Valverde’s (2014) and Blandy et al.’s (2018) concern for considering a temporal and dynamic dimension when studying the law in general, and property in particular.

A more profound understanding of law in society benefits from an aggregate and relational analysis of the individual attitudes towards the law, conflicting as they may be. Some scholars, like Young (2014), have described ‘legal consciousness’ in terms of ‘a person’s attitudes toward, willingness to mobilize, suppositions about, and experiences of the law’ (p. 501). But, drawing attention to the original critical angle of this scholarship, Silbey (2005) has called for finding patterns from each person’s individual legal perceptions, captured by the empirical research, to further explain how legal hegemony comes to be and is maintained or contested. Thus, in unearthing perceptions, what matters more, Silbey (2005) argues, is the collective ideas that form ideologies, some of which will become hegemonic, rather than focusing on singled-out, individual

attitudes that fall more in the realm of psychological analysis (see also Ewick & Silbey, 1998). As Chua and Engel (2019) put it when describing the ‘hegemonic’ school of legal consciousness, ‘although subjectivity of the individual is important, it is not itself the [phenomenon to be explained] but serves primarily to reveal the effects of legal power’ (p. 339). Chua and Engel (2019), however, recognise value in the various strands or schools of legal consciousness—those that highlight the individuals’ subjectivity, the hegemonic influence of the law, or its mobilisation potential for social transformation—arguing that, to different extents, they all consider the interconnectedness of the individuals as part of a larger social context, where they co-constitute each other in a relational approach.

Most scholars studying people’s interactions with the law in the context of property and land, do not seem to explicitly use the legal consciousness concepts, or to have adopted Ewick’s and Silbey’s (1998) analytical categories of legal consciousness. Blandy (2015) noticed that despite the fact that Ewick’s and Silbey’s (1998) *before, with* and *against* the law ‘schemas’ have led to plentiful legal consciousness studies, there has been a lack of thematic scholarly focus on property. Without the explicit use of these categories, however, much of the empirical socio-legal literature on property could be said to embed a legal consciousness perspective, as it bases its insights from observing or asking about people’s perceptions, attitudes or ideas towards the legal rules or the

social norms of property relations. Signalling the relevance of looking at people's attitudes more than the law 'in the books' when studying property, for example, Layard (2020) notes that a 'recurring finding in socio-legal property scholarship is that people think of themselves as owners, even when, doctrinally, they would not be considered to be so' (p. 276). Moreover, in the property studies in contexts of non-state norms or inter-legality, attitudes that could be characterised as *against the law* (i.e., resistance) or *with the law* (i.e., strategic 'navigation') should be particularly distinctive. Discovering these attitudes may even inspire these studies, as with the case of Ellickson (1994) who acknowledged that it was the realisation that ranchers did not rely on the state legal rules to solve their land conflicts that led him to focus instead on uncovering the social norms that ranchers were using in practice. Other disciplines that study people's interactions with the law in the context of environmental change, like political ecology, for example, have also focused on trying to understand 'informal practices of compromise and accommodation, everyday resistance or outright refusal' (Li, 2007a, p. 279).

As the next subsection discusses, analysing people's attitudes towards property law can be particularly revealing in the context of frontier spaces to understand some states' grand enterprises to order their territories, such as the land formalisation policies as part of the law and development movement.

2.2.5. Property in the context of law and development

Property has also been a central topic of analysis when discussing the role of law in promoting or hindering development in the Global South, especially in frontier contexts where informal property arrangements are the norm. The work of Peru's own Hernando de Soto (2000; 1989) has been very influential worldwide in promoting the idea that developing countries need to engage in comprehensive titling projects to formalise informal land tenure in order to unlock capital for the poor by allowing faster transfer and easier access to credit. Despite that de Soto (2000) acknowledges that informal property arrangements can be legitimate as 'a [property] right does not necessarily have to be defined by formal law,' (p. 156) he considers these informal property arrangements to be too complex, varied and 'dispersed throughout hundreds of extralegal jurisdictions in scattered villages and city neighbourhoods' (p. 156) to be sufficiently legible for the market. Thus, he argues, the official modern property law works as the unifying system that allows for their easier exchange in a capitalist society, where 'the representation of assets fixed in legal property documents...gives them the powers to create surplus value' (de Soto, 2000, p. 141).

Several scholars from law and other disciplines have critiqued de Soto's views, and land titling ordering efforts of the state more generally, for failing to show the expected socio-economic benefits. For example, in an empirical study

in an urban area of Colombia, Gilbert (2002) shows that finance is not particularly high after formalisation, and that property transactions can, in fact, be more frequent without official property titles. Similarly, an empirical study in the department of San Martín, Peru, also showed that 'land markets can arise rapidly after the first settlement of colonists in a new frontier area and can be very active, even in the absence of formal land title' (Holland et al., 2016, p. 470). And, researching a rural community in the Peruvian highlands using mixed methods, Kerekes and Williamson (2010) find that prior to formalisation peasants already had secure tenure due to a norm of 'trust and respect among individuals' (p. 1021). They also argue that peasants did not get easier access to credit (Kerekes & Williamson, 2010), a finding in line with a systematic review that shows mixed or no significant effects on credit uptake across various countries of the Global South that have implemented state-led land formalisation efforts (Lawry et al., 2017).

Other critiques of the land formalisation idea centre on the lack of accounting of non-state norms about property and for disregarding the trade-offs involved in imposing state property law. The authors of the systematic review of empirical studies mentioned above, for example, acknowledge that none of the studies they analysed had considered how an alternative formal recognition of social norms on property could change socio-economic outcomes (Lawry et al., 2017). And, highlighting the limitations of the first law and

development movement, Upham (1994) criticised de Soto's earlier work (1989) as 'perhaps the most ironical description of the power of legally informal institutions in economic growth' because instead of embracing informal property arrangements, de Soto and others conclude that 'its inclusion within the legal system' is key (p. 236-237). Grand legal enterprises like land formalization are also problematic because they are often framed as a 'neutral' technical device, part of what Scott (2009) calls 'high modernism', which disregards its potential to alter existing power dynamics that may drive resistance on the ground (Home, 2013). These formalisation projects may use simple property rules, such as adverse possession, leaving an opening for complexity and interpretation that can be filled through processes of 'legal hybridity' that have led to unjust results toward vulnerable populations like women in some traditional rural contexts (Baaz et al., 2017; Fitzpatrick & McWilliam, 2013). Importantly, in informal land tenure contexts, rather than passively awaiting formalisation, people have been shown to have agency and display dynamic strategies of 'noncompliance with adaptation to the state legal system [of property]', as seen in a case study of an informal settlement in Buenos Aires (Van Gelder, 2010, p. 239).

Other trade-offs and non-socio-economic dimensions of state land formalisation efforts, such as the environment, are important to account for. For example, another meta-analysis of land formalisation found 'trade-offs

between...human-wellbeing [such as income and health,] and environmental outcomes' (Tseng et al., 2021, p. 248), as well as weak empirical support that these efforts lead to good environmental outcomes in the short term, and limited evidence of impact in the longer term. Land formalisation efforts could, in fact, entail worse environmental outcomes. For example, in a socio-legal study of formalisation of small-scale mining in Peru, Wieland (2020) argues that tackling the problem 'through conventional property rights,...would not...improve the environmental and labour conditions..., but contribute to the exclusion of vulnerable groups and the legalisation of a right to pollute' (p. 6), highlighting the missing social and environmental dimensions of analysis in de Soto's land formalisation argument.

2.3. Private property and tropical deforestation: a critical review of the empirical environmental studies literature

As discussed in the introductory chapter,¹⁰ land tenure arrangements in general, and private property in particular, have been directly and indirectly implicated in tropical deforestation related to small-scale agriculture in countries like Peru. This section provides a critical review of the empirical scholarship that has set out to understand the linkages between property arrangements, particularly private ownership, and deforestation processes in

¹⁰ See section 1.1.

tropical forest contexts. Researchers of tropical forest governance have been arguing that ‘tenurial problems’, such as insecure land tenure, are at the heart of deforestation in Latin America, affecting how farmers in agricultural frontiers make land use decisions (Caldas et al., 2007; Jaramillo & Kelly, 1997, p. 6). Numerous empirical studies throughout the tropical forests of the world have been trying to understand the interactions between private property and deforestation, including many in Latin America, particularly Brazil and a few from Peru. Their findings point to the ways in which the people living in these agricultural frontiers make land use decisions considering the legal rules and the social norms of property. A critical review of some of these studies reveals three themes that are key to understanding the relationship between private property and its environmental outcomes in tropical forests: the role of tenure security, the role of the state policies and institutions, and the role of social norms and local rules in inter-legality contexts.

2.3.1. Deforestation and tenure security

The empirical studies analysing the environmental effects of private property in tropical forest contexts, in particular through land formalisation, are inconclusive (Araujo et al., 2009; Jaramillo & Kelly, 1997; Mastrangelo & Gori Maia, 2021). They test two competing models. The first model is the more classical argument that matches Hardin’s (1968) Tragedy of the Commons parable, by which securing tenure through private property rights creates a

protective effect on the forest because it would encourage rational actors to avoid rushing to degrade the forest and instead engage in long-term sustainable forestry practices (Liscow, 2013; Mendelsohn, 1994). The second model argues the opposite, that deforestation increases as both a cause of securing land tenure, i.e., by clearing the forest in order to claim land rights (e.g., through adverse possession rules that demand proof of economic exploitation), and as a consequence of obtaining land tenure security that makes the land more valuable, promoting more investment that increases the availability of capital and thus, incentivises further deforestation to convert the land for agriculture (Farzin, 1984; Larson, 2012; Liscow, 2013). Further, clearing the land may intensify migration by sending a signal to others about the availability of land and by incentivising the provision of public services such as roads (Jaramillo & Kelly, 1997). As has been shown in Brazil, during this process, the initial deforested lands become more valuable because the buyer does not need to incur the cost of clearing the forest (Reydon et al., 2020), and getting an official property title may further raise the value, which could give these initial settlers the capital to finance the deforestation and settling of new agricultural frontiers (Jaramillo & Kelly, 1997).

Perceptions of risk are key to understanding the effects of securing land tenure in tropical forests. According to Araujo et al. (2009), farmers may feel the need to lower the risk of losing the land, or to pursue less risky investments, by

clearing the land to make it easier to monitor, to signal to others more firmly their claim, or even for farming or cattle ranching that generates more immediate income than managing a forest. In their study in the Brazilian Amazon they show that farmers engage in clearing the forest to manage risks associated with land conflicts (using rates of homicides as a proxy), and the existence of initiatives to expropriate land by a government agency (a possibility under Brazilian law that can deem standing forests unproductive and subject to redistribution) (Araujo et al., 2009). In the Philippines, another study found that locally recognized informal property rights that allow for selling a land seem to incentivize farmers to do more long term investment in sustainable agricultural practices, while the effects seemed unclear when the rights only allowed for renting the land (Omura, 2008).

Importantly, as Larson (2012) points out, perceptions of tenure security, and the risk of losing the land associated with it, need to be coupled with the practices that people perform to demonstrate their level of security, as well as considering that ‘people may believe their rights to be secure even when they are not’ (p. 17) according to the law, for example. Similarly, Robinson et al. (2014) have stressed the need of considering both what the different rules of these property arrangements are supposed to do, and how they are perceived by the people who occupy the land, in particular their perceptions about risk, a

factor that is likely more important in their day-to-day decision-making process about what to use the land for, or how to use it.

Although ‘forest tenure insecurity and lack of clarity are often associated [in the literature] with degradation and deforestation,’ (Larson, 2012, p. 16), in certain cases, legal uncertainty of land tenure in the agricultural frontiers could have a protective effect on tropical forests. For example, in Nicaragua, a study found that the areas that have higher tenure insecurity, measured in terms of less official property titles, showed less deforestation, indicating that land titling may be causing more deforestation because it increased agricultural investment (Liscow, 2013). A different empirical study in Peru also found a protective effect of insecurity, which, in this case, was not due to lack of formal property rights but rather due to ‘too many’ overlapping land rights in one area of various holders of titles for different purposes (Anderson et al., 2018). According to the authors, one reason may be that, in this context, the titleholders prefer to not develop the land in order to avoid conflict with the others (Anderson et al., 2018). These studies point to the importance of accounting for unintended environmental effects of official titling policies in these forest frontiers (Liscow, 2013).

2.3.2. Deforestation and state policies and institutions surrounding property

The relationship between tropical deforestation and private property is also influenced by a larger context of state institutions and policies. For example, economists argue that poor legal and institutional arrangements, such as lack of enforcement to protect private property, discourages long-term accumulation of standing forests and increases the transaction costs of a land market, which could lead to less productivity, and more incentives to open more lands in the frontiers (Araujo et al., 2009; Jaramillo & Kelly, 1997). More generally, policies to secure tenure through land titling in agricultural frontiers of tropical forests are seen as insufficient without institutional and legal arrangements to support them, such as the cadastre, effective monitoring, the judiciary, or the police (Assunção et al., 2019; Jaramillo & Kelly, 1997; Jung et al., 2022; Mastrangelo & Gori Maia, 2021). Thus, as Larson (2012) argues, ‘a title may or may not increase the security of possession...[as it] must be protected and defended...[and] not all states are functional or fair, and not all people necessarily have the same access to state protection’ (p. 18). In the case of official land registries, in particular, some researchers have found that Brazil’s efforts to make state-owned lands legible by registering them, has been important in reducing deforestation (Reydon et al., 2020), but other studies show mixed environmental results for private property registration. For example, a study in Brazil found that,

although registration in the Rural Environmental Cadastre (*Cadastro Ambiental Rural*, CAR)¹¹ did not have an impact on the amount of conversion of forests to crops, it drove more conversion of forests to pastures for cattle ranching (Jung et al., 2022).

Credit policies related to private property in agricultural frontiers of the tropical forests also seem to play a role in deforestation. Probst et al. (2020), for example, show that small and medium scale farmers that obtained land titles in the agricultural frontiers of the Brazilian Amazon increased deforestation after gaining access to new agricultural credit and markets. However, in the same context, a previous study by Assunção et al. (2019) provided evidence that the legal regime that conditioned the granting of agricultural credits to formal land tenure and compliance with environmental rules had the effect of lowering deforestation. In a different study that compared neighbouring towns in the Peru-Brazil border analysing satellite imagery and qualitative data from semi-structured interviews, Almeyda Zambrano et al. (2010) found that credit played a role in both places during the 1980's to promote occupation and subsequent deforestation of the land (having an even more important effect than the construction of primary roads). Using a similar mixed-methods approach, an earlier study in an area nearby in the Peruvian side of the border found that

¹¹ The CAR is Brazil's ambitious registration system that legally mandated each rural land to be georeferenced and to identify its compliance with the Forest code, which has been regarded as a key tool in curbing deforestation in the country (Jung et al., 2022).

‘roadside deforestation was most rapid in the second half of the 1980’s when credit and land title were easily available for colonists,’ but when those programmes ended, deforestation rates also declined (Alvarez & Naughton-Treves, 2003, p. 274).

2.3.3. Deforestation in legally pluralist contexts

Because of their location and historical context, most of the tropical deforestation occurs in frontier spaces and in postcolonial contexts influenced by state and non-state normative arrangements. Some have argued that legal traditions and doctrines implemented during colonial times may have set up trajectories that are still influencing current tenure regimes and deforestation. Using the arguments of Acemoglu and Johnson (2005) about the stronger property regimes set up by the British in their colonies compared to the Spanish and the Portuguese colonies, an econometric study by Corderí Novoa (2008) finds some correlation between those stronger property rights of former British colonies (based in the common law tradition) and more positive effect on forest conservation, compared to the situation in Latin American countries with Spanish or Portuguese colonial legal heritage (based in the civil law tradition) (Corderí Novoa, 2008).¹² But other scholars have criticised these types of path

¹² Analysing the case of mining, Peruvian property law scholar Arribas (2019) has also used the alleged difference between the colonial regimes for property—top-down in the case of the Spanish colonies, and bottom-up in the case of the British colonies—to argue that other contemporary differences between Peru and the United States, in this case economic, are due to this legal historic legacy.

dependency analyses that assume that the colonial legal system was implemented on a blank slate, not accounting for instances of legal pluralism in the context of past indigenous legal ordering or the existence of current customary law or other non-state norms (Aldashev, 2009; Merino, 2014).

Thus, in tropical forests contexts it is important to understand how local land practices and social norms interact with the ordering efforts and property legal rules of the state, in particular in the context of land titling. For example, a study in a traditional community in Benin found that, after obtaining official land titles, farmers increased land litigation over boundaries in lower-value lands because access to courts was now available to their owners (something the owners of the high-value lands did not need as much, likely because they had already invested in clarifying their boundaries through their own means before land titling) (Arruñada et al., 2021). In Peru, an ethnographic study in the agricultural frontiers of the Amazon forest by Shanee and Shanee (2016) revealed the different strategies used by two different groups of migrant farmers that informally settled the state-owned forests to try to obtain official private property titles. The most common are the migrant farmers who occupy the forest to cultivate it directly, partially sell some of their plots, and then ask officials for public services,¹³ and the other type are those organised by

¹³ As explained in Chapter 5, this is the most common situation in my field site, Soritor.

‘professional’ land traffickers who do not intend to farm the land themselves, and who engage in corruption practices with officials in order to get a hold of the land to sell it, usually to great profit (Shanee & Shane, 2016). Both deforest to make their land claims, which are mediated by environmental or political discourses such as presenting themselves as local conservation organisations or as being landless, as well as by legal loopholes or fraudulent documents to eventually gain formal tenure recognition by authorities through titles (Shanee & Shane, 2016). Similar discourses have been described in the land occupations of the Brazilian agricultural frontiers, which are used as a way to ‘conjure property’ and anticipate the state’s recognition that can eventually legitimise frauds and land speculations (Campbell, 2015).

Local property practices are important in tropical forests not only as a means to obtain official land tenure recognition. As Bennett et al. (2018) note, farmers use the forests inside their plots in different ways, not only to convert them to agriculture, but also for obtaining resources such as wood; however, Peruvian law does not formally recognise these uses, thus running contrary to farmers’ social norms that allow them to privately own and use forestlands. Sax (2020) has referred to this as an ‘agricultural bias’ in the Peruvian legal system of formal land tenure. After some farmers manage to obtain state recognition to their individual private property claims, researchers in Peru and Ecuador have found that farmers maintain these and other social norms as well as their

collective efforts (Cronkleton & Larson, 2015). As Putzel et al. (2015) observe for this context, ‘even after formal titling, informal collective institutions and social cohesion are often more important than formal documentation in maintaining possession and regulating use [of property]’ (p. 463).

2.4. Opportunities for building on existing knowledge

The literature critically reviewed in this Chapter 2 presents the conceptual and empirical basis, upon which this thesis is set to build on. Below, I summarise the key concepts and empirical results from the critical review of the literature, and I discuss the existing gaps, which this thesis helps fill using a socio-legal approach.

2.4.1. A gap in socio-legal studies about rural private property in the Peruvian Amazon

The legal and socio-legal scholarship analysed in section 2.2. is rich in concepts that are relevant for a study of property in frontier spaces. The ideas in this scholarship help better understand the different ways in which property relations interact with environmental concerns in a dynamic manner, especially in frontier spaces within developing countries in the context of rural poverty. These contexts are more amenable to inter-legality and to giving more consideration to people’s attitudes towards social norms and local practices of

property, concepts that have been developed theoretically and explored empirically in the socio-legal scholarship.

Despite the breadth of this scholarship, some thematic and spatial gaps remain that this thesis aims to fill. Until a few years ago, socio-legal research on property was mostly focused on urban and conflict issues, such as housing, local disputes, and court practices (Blandy, 2015). The domination of conflict as a focus of study in the context of legal pluralism, for example, had already been noted critically by Merry (1988) almost 40 years ago. And the limited interest in rural spaces happens even in legal geography, a sub-discipline more attentive to the particularities of different spaces. Pruitt (2014) criticised the fact that ‘legal scholars and critical legal geographers have largely ignored the rural,’ (p. 191) noting in more detail that ‘most reference to the rural in [legal geography]...merely name rural as the foil to urban, failing to grapple with the character or consequences or rural sociospatiality in the contemporary developed world’ (p. 191).

More recently, property arrangements in the context of natural resources and rural spaces appear to be of more interest to socio-legal scholars (see, for example, Graham et al., 2022). An specific example concerning forests is the special issue of the *Journal of Legal Pluralism and Unofficial Law* titled ‘People and Forests at the Legal Frontier.’ However, private property was largely absent from the contributions, which focused instead on topics related to global

policies of forests governance and carbon markets, including case studies on the collective management of forests in China, the commodification of forest in a carbon project in Tanzania, or the contested indigenous collective rights in Canada and Peru (Dancer, 2021). Recent scholarship, such as Clark's and Page's (2022) legal history of forests, Graham's and Shoemaker's (2023) discussion of the environmental consequences of imposing private property in rural areas, or Byer's (2023) critical examination of property in land, have begun to more seriously explore the rural space using a legal geography lens. They are, however, dominated by a perspective from the common law tradition and, to a good extent, based on a historical account in developed countries. This points to the need for further socio-legal research into the particularities of private property in the contemporary rural frontiers of developing countries of the Global South deeply involved in environmental change processes, such as in the Peruvian Amazon.

The socio-legal and environmental law scholarship from Peru also presents thematic and methodological gaps that this thesis will contribute to fill through the study of migrant farmers and their environmental impact in the Amazon forest. Legal studies on the Peruvian Amazon related to land tenure and deforestation have been done mostly using traditional doctrinal approaches (see, for example, Capella, 2008; Che Piu Deza & Galván, 2015; Wieland & Farfan, 2015). There are a few socio-legal studies with an

ethnographic approach on natural resources in frontier spaces in Peru, such as Guevara's (2014; 2010)¹⁴ studies of water rights in the context of an Andean community or Wieland's (2020) more recent work on gold miners in La Rinconada, the world's highest altitude informal mining settlement. However, these studies are not focussed thematically on land, nor geographically on the Amazon forest, which has a different ecological and cultural background than the Andean landscape.¹⁵ And, although some Peruvian socio-legal researchers have been interested in Amazonian contexts, they have largely investigated issues related to the customary law of indigenous peoples with a legal anthropology approach (see, for example, Urteaga Crovetto, 2013), or on extractive industries with a political ecology lens that focus the inquiry on participation (or lack thereof) and power asymmetries (see, for example, Merino, 2015; Merino & Gustafsson, 2021). Criticising Peruvian socio-legal scholarship 'traditional fixation' on conflict and crime, Guevara (2009) has already called for more studies about non-state norms in 'the field of civil law (possession, property,...contracts...), [that are] just as important—if not more so—in everyday life, and therefore should be included in the research agenda' (p. 62).

¹⁴ The title of his 2014 paper asking: 'How does Water Law work at 3,300 m.a.s.l.?' exemplifies well the effort of his socio-legal enquiry towards frontiers spaces.

¹⁵ Similarly, reflecting on the centrality of the Andean context in agrarian studies in Peru, Coomes (2024) recently called attention to the need of also studying small-scale farmers in the Peruvian Amazon.

2.4.2. The missing socio-legal perspective in tropical deforestation studies

The critical review of empirical scholarship from environmental studies, presented in Section 2.3, provides a robust foundation for understanding the relationship between deforestation and private property in practice. The evidence points to land tenure legal issues as indirect drivers of deforestation. Various studies have analysed the role that tenure security, understood in terms of formal titles, plays in this context, considering key issues such as uncertainty and perceptions of risk by landholders. Their contradicting or inconclusive findings caution against leaning on the simple hypothesis of neo-classical economics that expects a protective effect of private property formalisation efforts, pointing to the broader complexity that exists in these frontier contexts. These studies also highlight that the policies and institutions of the state that surround property arrangements, such as registries, enforcement of property and environmental law, and credit, are key to understanding the relationship between private property and deforestation. Other studies further call attention to considering local property arrangements in inter-legality settings, a characteristic of many frontier spaces in postcolonial countries with tropical forests.

However, these studies have some conceptual and methodological limitations that need to be accounted for. The contradictory results on the

environmental effects of securing land tenure in these frontier spaces of the tropical forests can be partially explained by a lack of uniform definition of concepts like property or land tenure security, so it is likely that these studies are not answering the same questions (Arnot et al., 2011; Omura, 2008; Robinson et al., 2014). Another explanation is that the institutional, social or economic context is very important and can influence the environmental outcomes of the implementation of similar land tenure regimes. And, due to their emphasis on causality, most of the empirical studies on deforestation drivers in general, and land tenure issues in particular, use quantitative methods with simplified variables that the researchers, most of them from economics, assume are accurate proxies for secure land tenure. As explained in section 2.3., these studies equate formal or official property titles with the concept of land tenure security. This is problematic because it disregards the social norms and local rules on property that already exist on the ground and the attitudes and actions that people display towards them in practice. In part due to limitations like this, Aldashev (2009) argues for an interdisciplinary approach in order to ‘move beyond purely economic or legal framework [research]...borrowing some findings and insights from legal anthropology and political science’ (p. 264). This means that putting together econometric models requires careful consideration of the assumptions used, but also that this methodology has constraints to fully

grasp socio-legally complex rural landscapes such as property in the agricultural frontiers of tropical forests.

Asking questions like ‘what are people...actually doing [in the context of state interventions]?’—as Tania Li (2007a, p. 280) animates political ecologist to do—is key for socio-legal researchers as well. As discussed in section 2.3, this type of qualitative empirical research on property in forest contexts exists, developed primarily by political ecologists. Some, for example, have criticised the deforestation literature for its extensive reliance on satellite remote sensing techniques which, without ‘ground-truthing’ from social sciences studies, ‘cannot reveal which specific actors were involved and what their underlying motivations were, nor how political negotiations and policies influenced them’ (Ravikumar et al., 2017, p. 172).

Although political ecologists’ major attention to power asymmetries has been helpful in bringing to light injustices in the context of land tenure in tropical forests, it may be dismissing other ways in which deforestation is connected to property.¹⁶ For example, research of this kind, such as Dammert’s (2017) and Lund’s (2021) case studies of deforestation by oil palm agribusinesses in Peru and Indonesia, respectively, have put the focus around the theme of land

¹⁶ According to Liu (2015), socio-legal scholarship, influenced by the U.S. critical legal scholars, may have also put too much focus into power dynamics as part of analysing the substantive aspects of the law, and too little into the structures and processes of the law that are important to complement those analyses.

grabbing and dispossession. In this literature, the frontiers are problematised in terms of power structures related to property that are negatively affecting the poor (and the environment). Rasmussen and Lund (2025) argue, for example, that ‘frontier dynamics are characterized by a rupture of scale, which breaks down local institutional arrangements and dislocates power and decision-making...[enabling] the dispossession of local communities, producing frontier spaces by...redrawing the boundaries between property and theft, and re-embedding places in narratives of progress and development’ (p. 1). While this is an important representation of the historical colonial dispossession of indigenous lands, or of cases where powerful corporations enter frontier spaces, it does not fully account for situations where the poor drive the colonisation or settlement of the frontiers in the first place.¹⁷ Thus, this literature may have disregarded cases in which the poor are environmentally impacting the landscape while economically benefiting from local private

¹⁷ The same can be said of ‘settler colonialism’, a term used in disciplines like critical legal geography to discuss the power asymmetries and social injustices in contexts of occupations sponsored by states or empires, such as in current Israel-Palestine, or the former Spanish or British empires of the colonial era. Milner’s (2020) explanation that the dispossession of natives in the colonies was justified by a Lockean understanding of property as cultivated land, is a good example of this. She asserts that ‘[p]roperty is...not only the concrete (legal) practice of settler colonial land dispossession: it is first and foremost its founding myth’ (p. 284). Importantly, the words ‘settler’ or ‘colonists’ on their own and in a different context, such as in the contemporary Amazon, have a different colloquial meaning that does not carry the same power connotations of the subjugation of others, but rather of the *others*, the subaltern (in this case the migrant farmers), occupying the (new) space themselves.

property arrangements, as is the case of much of the agricultural frontiers of the Peruvian Amazon, the focus of attention of this thesis.¹⁸

Further, political ecology studies are also limited by an approach that largely disregards legal and socio-legal scholarship on property. A case in point can be found in Larson's (2012) otherwise very thorough and informative overview of tenure security in the context of tropical forest governance. She identifies 'economics', 'political economy', 'multi-disciplinarity' as the disciplines (or multi-disciplines) that inform each of Ellsworth's (2002) main tendencies of the theory and practice of property, and reserves only a footnote to acknowledge in passing that 'the discipline of law also has a large place in property debates' (Larson, 2012, p. 22). The fact that political ecology scholarship seems not to have fully considered how the legal system works and interacts with non-state normative arrangements, as well as the different ways in which their functioning could be implicated in the cases political ecologists are studying, leads to blind spots. For example, their attention to accounts of the law through secondary sources or informants without understanding the legal framework and doctrines implicated in property law, can hinder their ability to

¹⁸ An important recent exception is perhaps Campbell's (2015) study of how elite and peasant colonists in the Brazilian Amazon 'conjure property', that is, how they engage in improvised and speculative practices of claiming and legitimizing land ownership, that also shapes the eventual implementation of Brazil's official property regimes and environmental policies in the Amazon forest. As the author recognises, 'sustained and careful ethnographic attention to what happens when official policy meets vernacular has much to offer to a political ecology of the region' (p. 193).

draw better contrasts with the law as it is implemented in practice, or with the existing land tenure social norms and local rules, thus leading to incomplete or inaccurate conclusions. By having a legal geography ‘disposition’ (Blomley, 2021, p. xvii), socio-legal studies in frontier spaces can be well-suited to address these and the other important gaps identified in the current legal, socio-legal and environmental studies literature.

2.5. Conclusion

This chapter has critically reviewed the legal, socio-legal and environmental studies literature that helps understand the role of private property in tropical deforestation, and the gaps that this thesis addresses. Key concepts from legal and socio-legal studies applied to property are useful for this purpose, in particular the use of property in the context of natural resources governance; the relational, spatial and temporal features of property; the use of social norms and local rules of property in frontier spaces forming inter-legality contexts; people’s attitudes towards property norms; and the state’s development efforts to deploy its legal rules of property to order those frontier spaces through land formalisation. And the empirical results from environmental studies on tropical deforestation shed light on how private property is related to this phenomenon, in particular in the context of land use change for agriculture. They show conflicting evidence regarding the effect of formalising private property (a proxy of land tenure security in many of these studies) in driving farmers’

decision-making to clear the land. And a few acknowledge that in these frontier spaces, non-state property arrangements need to be accounted for, as well. Importantly, this environmental scholarship also provides evidence that other institutional arrangements and policies of the state, such as registries, enforcement, and credit, can influence the environmental outcomes of private property in tropical forests.

The critical literature review has also revealed significant thematic, geographical and methodological gaps that this thesis seeks to address. On the one hand, legal and socio-legal studies on property, including legal geography, would benefit from more attention to the particularities of rural spaces, especially in places of the contemporary Global South. At the same time, there is an opportunity for the Peruvian legal and socio-legal scholarship to study empirically local property practices in the Amazon geography outside indigenous lands. On the other hand, even though the empirical environmental studies literature on private property in the context of tropical deforestation is considerable, the dominance of quantitative methodologies has limitations to fully grasp the socio-legal complexities of these frontier landscapes, such as the existence of social norms and local rules on property that provide tenure security. Qualitative studies from political ecology have been helpful in providing this larger contextual understanding but they too are limited by their focus on power asymmetries and lack of more profound engagement with the

law in general, and property norms in particular. These gaps demonstrate the relevance of this thesis approach as an inductive socio-legal analysis of how private property is practiced and experienced by migrant farmers in the Peruvian Amazon, and how these practices intersect with processes of deforestation and state-led land and forest governance.

3. METHODOLOGY

3.1. Introduction

This chapter discusses the methodology used in the thesis. As explained in the introductory Chapter 1, my main research question seeks to understand how state law and non-state norms about property are implicated in the deforestation of the Peruvian Amazon. Questions like this one that seek ‘to draw conclusions beyond what the law is,’ are amenable for socio-legal empirical research (Webley, 2020, p. 106). To do this research, I employed a case study design. Case studies are useful for addressing *how* type of questions (Yin, 2003), i.e., questions that investigate the processes or mechanisms in which a social phenomenon happens, such as the one driving my research. Further, a case study approach is particularly suitable for retaining the meaningful characteristics of current real-life situations and gaining a profound understanding of them, where the phenomenon under study is deeply embedded within its context (Yin, 2003). I used empirical qualitative methods to gather primary data and to analyse it inductively, by reading interview transcripts and notes, identifying recurring ideas, grouping them into themes, and refining them iteratively. Qualitative research is useful to find patterns in ‘naturally occurring data...in which participants’ meanings and practices are

deployed' (Silverman, 2020, p. 19), such as those of farmers and government officials in my field site.

This methodological approach allowed for investigating how state law and non-state norms are understood and implemented on the ground, to enact, use and transact private property in the Peruvian Amazon context. This approach also made it possible to trace how state law interacts with non-state norms, producing an inter-legality environment where property, community and deforestation co-constitute. Despite the limitations to do direct generalisations, 'analytic generalisations' can be drawn by this type of case studies (Yin, 2018), allowing for the application and extrapolation of the findings to theoretical ideas about inter-legality in rural spaces of the Global South, as well as about the co-constitution of property norms, community, and place.

The chapter is divided into six sections. Section 3.1. introduces the objective of the chapter, the research approach, and the organisation of the chapter. Section 3.2. describes my field site and discusses criteria or its selection and scope. Section 3.3. explains the qualitative research methods to gather and analyse the data used in the thesis and their suitability to answer the research questions. Section 3.4. discusses the ethical considerations of this research, which involved interviewing human subjects. Section 3.5. reflects about my positionality in the research. Section 3.6. concludes discussing the possible limitations of the methodology.

3.2. Field site

My case study is an investigation of private property practices of small-scale farmers occupying and deforesting state-owned forests in the district¹ of Soritor, in the Peruvian Amazon. Soritor is one of the districts in the province of Moyobamba, located in the department of San Martín (NE Peru). According to Reyes et al. (2020) deforestation in the department of San Martín began in earnest in the 1960s encouraged by government policies to colonise the Amazon, including through the construction of roads, followed in the 2000s by the expansion of the agricultural frontier in part due to development programmes promoting alternative crops such as oil palm, coffee and cocoa to counter illegal coca cultivation. Most of the 387 square kilometres of Soritor are in the *selva alta* (high altitude jungle) ecological zone (Instituto Nacional de Estadística e Informática 2018), characterised by hilly rainforests. According to the last national census, in 2017, 21,500 people lived in the district, of whom 72% lived in the town of the same name, and in the town of San Marcos (Instituto Nacional de Estadística e Informática 2018). The rest live in 61 *centros poblados* (populated centres or villages) of various sizes (Instituto Nacional de Estadística e Informática 2018).

¹ A district is the smallest political unit of administration in Peru, below the provinces, and the departments (also called regions). Districts and provinces have municipal governments, headed by mayors, with different but complementary competencies, and regions have regional governments, headed by governors.



Figure 1. Map of Northern Peru with the location of the District of Soritor, inside the department of San Martín (Open Streetmap Contributors, n.d.).

I chose Soritor as my field site because it shares various of the characteristics of the deforestation processes in the Peruvian Amazon that are a result of small-scale agriculture by migrant farmers, and because I was acquainted with the area. On average, Peru has lost 132,755 hectares of forest per year between 2001-2023 (Programa Nacional de Conservación de Bosques para la Mitigación del Cambio Climático, 2024). Most of this deforestation in the Peruvian Amazon is due to conversion to small-scale agriculture in plots of less than 5 hectares by farmers who do not have official property titles to the lands they occupy (Ministry of the Environment of Peru 2016; Reyes et al., 2020).

Similarly, in 2023 as in previous years, almost all of the deforestation of Soritor was in plots of 5 or less hectares (Geobosques, 2025) and, according to the last official agrarian census, in 2012 more than two thirds of farmers in Soritor did not have official property titles to the lands they occupied² (Instituto Nacional de Estadística e Informática, 2012, table 51). Importantly, as in other rural areas of Peru (del Castillo, 2016), farmers in Soritor conduct agricultural activities directly on their own farms; lease holding is rare, comprising only around 2% of the total agricultural plots in the district (Instituto Nacional de Estadística e Informática, 2012, table 51).

² This figure has likely not improved dramatically, as the land titling programmes available during that time and since, have not targeted that area (see sub-section 4.3.2. and section 7.2. for a longer discussion about the land titling programmes in the department of San Martín). In fact, the figure may underrepresent the current situation, due to the steady pace of immigration to the district.

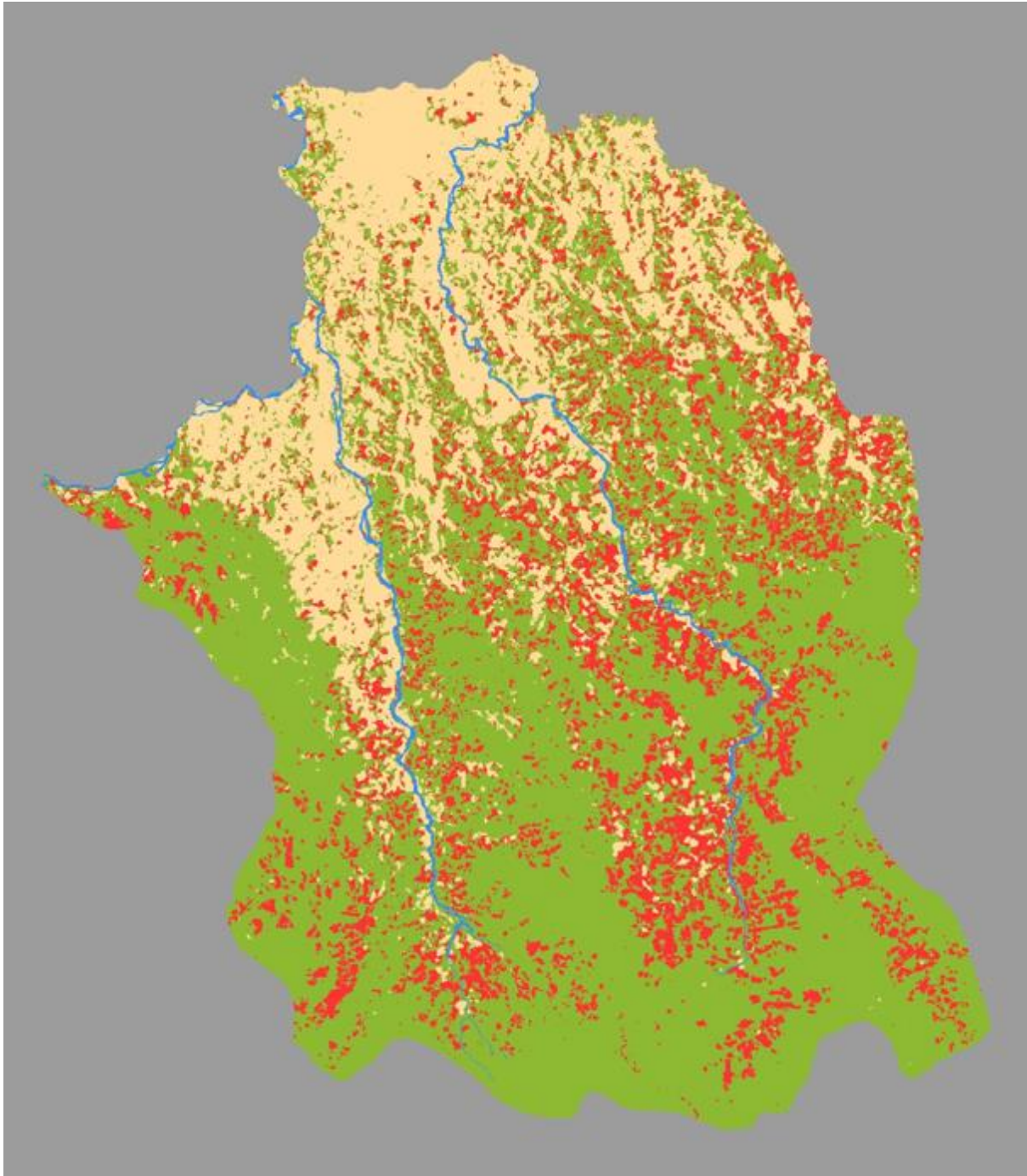


Figure 2. Accumulated forest loss (red) in the district of Soritor from 2001 to 2023 (Geobosques, 2025). The areas that had no forest before 2001 are depicted in light yellow, and the areas that still had forests by 2023 are depicted in green.

Presence of indigenous peoples and the rate of deforestation are two differences between Soritor and other Amazonian areas of recent agricultural

expansion in Peru. Unlike in Soritor, in many districts indigenous peoples that are native to the Peruvian Amazon hold vast lands in collective ownership, formally recognised by the state, which they use under customary law. There have been reports of various cases of encroachment of migrant farmers into the lands of indigenous peoples, leading to conflicts (see, for example, Garcés & Echevarría, 2009). But there are no native communities in Soritor, nor pending demands for these collective titles in the district, which means that these potential overlaps and conflicts are not present in my field site.³ The other difference between Soritor and other agricultural frontiers in the Peruvian Amazon is the deforestation rate. On average, throughout the Peruvian Amazon deforestation has been trending upwards, but in Soritor it has been decreasing, which is consistent with the broader trend in the San Martín department (Geobosques, 2025). Currently, the top deforestation fronts or hotspots in the Peruvian Amazon, with the highest rates of deforestation, are in 5 areas in other departments, all of them but one related to small-scale agriculture (Programa Nacional de Conservación de Bosques para la Mitigación del Cambio Climático, 2024). Current decreasing deforestation rates in Soritor, and in San Martín more broadly, may be due to the fact that, unlike other departments of the Peruvian

³ As explained in the introductory Chapter 1, this thesis is focused on the private property practices of migrant farmers in the Peruvian Amazon, a very different type of property arrangement than the collective ownership of *comunidades nativas*; studying the latter would require different research questions and methodological approaches (see section 1.2.).

Amazon, San Martin is already more densely populated so there may be less 'free' forested areas available for occupation and conversion to agriculture.

Prior acquaintance with the field site

I first became acquainted with Soritor in 2019 when I travelled to the area for a short visit as part of my work in environmental policy at the Global Green Growth Institute (GGGI). At that time, GGGI and its partners, the Peruvian Society for Environmental Law (SPDA), and World Agroforestry (ICRAF, currently CIFOR-ICRAF), were putting together a project to help the government promote agroforestry concessions, and Soritor was one of the areas selected for the project. I participated in the design stage of the project and in the first months of implementation that coincided with the COVID19 pandemic, which meant that I only did remote work from Lima and I did not travel again to the area, nor engaged with farmers there, until the doctoral programme. After beginning the doctoral programme, I identified two possible field sites: one was Soritor, and the other was Curimaná, a district in the neighbouring department of Ucayali where ICRAF had also done some work and had contacts in the villages. Technical staff of ICRAF helped me with the initial access to both places in July 2022, and August 2022, respectively, by letting me come along on two field visits to villages, one in each district, and introducing me to a few farmers. This was helpful to get a sense of the place, and to conduct a few trial interviews.

I then decided to use Soritor as my field site because it was safer than Curimaná, where informants mentioned there was some illegal coca cultivation.

3.3. Sources of data and analysis of the data

I used doctrinal and empirical qualitative methods to understand what the law, social norms and local rules are concerning the relationship between private property and deforestation, and—more importantly—how they are enacted and applied in practice in a case study of an agricultural frontier in the Peruvian Amazon. The data used in this thesis comes from two main sources. One source of the data is 42 semi-structured interviews I conducted from 2022 to 2024. The other source of the data is the Peruvian laws and regulations of agricultural land and forest, including property and adjacent legal rules related to forest governance that I identified and selected. I obtained complementary information from the panel discussions and presentations delivered by speakers at three public events I attended, as well as from informal conversations with 21 informants. The following sub-sections describe the interviews and criteria for the construction of the interview sample, the identification and selection of the laws and regulations, and the complementary sources of data, as well as how I analysed the data.

3.3.1. Interviews

Semi-structured interviews were my main source of primary data. I made several visits to Soritor in the department of San Martín between 2022 and 2024, interviewing 42 people in total with a focus on farmers, most of them coffee growers. I also interviewed other actors, such as government officials of national and regional offices with competencies related to the implementation of agricultural land and forest laws in Soritor and who had knowledge about the topics of my research.

Farmers

I interviewed 18 farmers from eight villages: Selva Alegre (7), Villa Hermosa (2), San Miguel (1), Nueva Galilea (1), Alto Perú (2), Jericó (1), Primero de Mayo (1), and El Lucero (3). I based my selection of villages where to interview farmers on three main criteria: first, a medium distance from the town of Soritor, far enough to avoid the more urbanized areas of the district; second, ease of access by vehicle (considering the wet and dry seasons); and third, recommendations from previous interviewees, using a snowball sampling approach through their suggestions or contacts.⁴ I also diversified the areas in terms of geography and size. I visited villages to the south, east and west of the town of Soritor in

⁴ The combination of medium distance and ease of access meant that I was able to visit areas that had been occupied for 30 to 20 years on average. I did not visit villages that were in longer distances and more recently occupied, as those were inaccessible by vehicle.

order to have a broader geographical range. And the villages where my interviewees lived were of various sizes,⁵ some like Nueva Galilea (population = 87) and Primero de Mayo (population = 43) were small, and others like Alto Perú (population = 676) and Villa Hermosa (population = 325), were large (see Instituto Nacional de Estadística e Informática 2018). I made several visits to some of the villages;⁶ sometimes, because I was able to interview various people, and other times because arranging an interview took multiple visits to find the farmers at home, for example.⁷ I attempted to contact first the village leaders for an interview: the *presidentes de la junta vecinal* (presidents of the neighbouring board) or the *tenientes gobernadores* (lieutenant governors)—all of whom farmers themselves—who held those leadership roles on a rotating basis, with other farmers in their villages taking on that role subsequently.⁸ Of the 19 farmers I interviewed, seven were holding one of these village leadership positions at the time of the interviews, and most of the rest had hold one or the

⁵ Their relative size in terms of population is also an indicator of the time of occupation of the place, with the larger ones having been occupied for longer.

⁶ Except for the villages of San Miguel and Primero de Mayo. I interviewed the person from San Miguel in the town of Soritor, and the person from Primero de Mayo in the village of El Lucero. And the interview to one of the landowners from Selva Alegre was conducted in Rioja, a district nearby Soritor and where the interviewee works at an NGO.

⁷ During the first interviews, I visited the villages during the day (e.g., between 8 am to 4 pm) but often found that the farmers were not at home. I soon realised that visiting at those hours was a mistake, and that I had to go to the villages earlier in the morning or later in the evening when they were more likely to be at home before or after working in their fields.

⁸ See section 6.2. for a detailed explanation of these village leaders' roles.

two positions before, a common occurrence, which is significant as they were acquainted with managing village affairs and making local land documents.

The interviews with farmers were usually longer than with other actors, and they provided data about all my research questions, with a focus on farmers' understandings of their property rights to land, farmers' use of social norms, local rules and local practices of private law related to property, the ways in which farmers navigate state law, and the role of property in shaping farmers' communities and the landscape. Most farmers showed interest in my research and the questions I posed to them, although some viewed them as basic or obvious (e.g., questions about how they knew who the landowners were in each village), which I explained that they were, in fact, interesting and important to people like me, from outside the villages who may not know how they lived in Soritor, or how the norms of property worked in practice in these rural areas. I would usually tell participants that I was interested in the 'farmer experience', in particular in knowing how the laws around property and forest governance actually worked on the ground and in their experiences with them and their own non-state norms, more than what the law said on paper; this seemed to resonate with them. Only in one instance a farmer declined to be interviewed, arguing he had no time.

Other interviewees

The other 24 interviews were with people whose work or expertise was related to agricultural land and forest issues in the Peruvian Amazon, with a focus on the department of San Martín more generally, and Soritor specifically. The interviews with these participants provided data about the implementation of the state law in practice, necessary to address my research question about the interactions between state law and farmers' social norms and local legal practices of private law related to property. In the district of Soritor, apart from interviewing farmers, I also conducted interviews with eight other people in the town of San Marcos, and in the town of Soritor: government officials of the municipality (4), a peace judge (1), an expert on notary public issues (1), a former sub-prefect (1), and a loan officer from a financial cooperative (1). Two of them, the delegated mayor of San Marcos, and the peace judge of San Marcos, were also farmers themselves and answered my questions from that point of view, as well. Away from the district of Soritor, I conducted 16 interviews with government officials and experts with competencies and knowledge related to the implementation of agricultural land and forest laws in my field site in the following cities of the department of San Martín: Moyobamba⁹ (10), Tarapoto¹⁰

⁹ Moyobamba is the capital of the department of San Martín and its second-largest city, where many regional government offices are located, mainly those related to environmental supervision and forest management. It is also located about 45 minutes by car from the town of Soritor.

¹⁰ Tarapoto is the largest city of the department of San Martín, and one of the largest ones in the Peruvian Amazon. Some regional government offices are located here, mainly those related to agricultural issues, including land titling.

(3), Nueva Cajamarca (1), as well as two in Lima, Peru's capital. The people I interviewed in these cities were various officials from environmental and agricultural offices of the regional government of San Martín, two loan officers at financial institutions, a judge in a criminal court, two environmental prosecutors, an official of the Judiciary who coordinated with peace judges in the jurisdiction of the department of San Martín, a former official at the land registry and who is a legal expert on property in the Moyobamba and Soritor area, and the head of the office of land titling of the Ministry of Agricultural Development and Irrigation of the national government.

I adopted a method of snowball sampling, whereby I initially reached out to these interviewees using the contacts I had from my work in policy before the doctoral programme, and they, or other informants, referred to other key people for the rest of the interviews. In other cases, I found out the names of the people whose roles were important in relation to the topic of my research, and I reached out to them directly. Most of these interviewees were keen to speak to me about the topics of my research, which I framed as an opportunity for them to share their important work or expertise. In some cases, I had to contact them several times by text messages or by phone to explain the objective of my research and set up a date and time for a meeting that worked for them. In other cases, I had to wait for some hours at their offices for them to be available for the interview or come back multiple times at another date when they were less

busy. In very few cases potential interviewees rejected my invitation to be interviewed alluding lack of available time, or by not responding to my requests.

Interview format and questions

Most of the interviews followed a similar format. All were in Spanish, my native language, with native Spanish-speakers, which I audio recorded¹¹ and then transcribed¹² (I complemented this by taking handwritten notes during the interviews,¹³ which I then typed up). The details of location and date of the interviews I used in the thesis, as well as the specific roles of each of the interviewees, and their significance in the context of the data they provided, are further explained in the empirical chapters of the thesis (see Chapters 4 to 8).

I prepared flexible questions in advance of the interviews, which I adapted, expanded or skipped considering each interviewee's background, interest and expertise (see Appendix 1 for my interview guide with a list of

¹¹ Except in a few instances when the interviewees preferred not to be audio recorded. In those cases, I took notes.

¹² Most of the interviews were transcribed by a Peruvian native speaker of Spanish, who I hired for this purpose using funding from my college. This person was familiar with the particularities of rural Peruvian Spanish.

¹³ In some cases, those notes also contained other complementary observations about something I had seen during my visit to an interviewee's village or farm, details about the location, or my own reflections on what I was hearing or thinking at the time in relation to my research.

questions)¹⁴. The interview questions were about interviewees' knowledge and perceptions on the legal rules and non-state norms of various key topics, such as landownership, forest ownership, forest protection, land use change (i.e., deforestation for agriculture), land titling, official property titles, and illegal forest activities and enforcement; I also asked other questions to farmers that provided important context, such as time of occupation, their place of origin, the types of crops they produced, or the number of plots of land they owned. I adapted or merged some of the questions as I gathered more experience with the interviews or when interviewing people with special knowledge, such as the notary public expert or the former official of the land registry. I also posed additional questions to delve deeper into something the interviewee mentioned in order to follow up on interesting threads. Many times, I skipped questions when I realised the interviewee had already answered them in a previous question, or when I realised that it was not meaningful to a particular interviewee.

I approached the interviews in an open, non-intrusive manner, noticing terms that conveyed important ideas. I let interviewees talk and finish their responses in their own terms, avoiding interrupting them with immediate

¹⁴ As I gathered experience with interviews, I realised some questions were less useful, and that other interview questions not explicitly in my original guide elicited more interesting responses related to my research questions. Thus, the questions in my interview guide became less useful to follow 'as-is,' and, after the first interviews, I mostly used it as a reference, which I had mostly memorised by then.

follow-up questions. I also refrained from correcting a legal argument or interpretation that appeared to me as wrong or inexact. Despite most not being aware that I had a background in law,¹⁵ sometimes an interviewee would ask me whether I knew what the correct legal rule was in a specific situation. In those cases, I responded that I wasn't sure and returned the question to them, asking them to tell me what they thought the legal rule is. On occasions the interviews were more unstructured: I would begin with a broad question about land and forest tenure in Soritor and then I would let the conversation flow, following up with more detailed questions about property or deforestation that I came up with at that moment. I also paid close attention to the key terms interviewees used when talking about property and deforestation, including, for example, terms for places such as *montaña* (forest), terms for practices such as *coger tierra* (taking land) or *amparar* (staying around in the land), or terms for legal instruments such as *compraventas* (buy and sell contracts); these carried conceptual ideas that were very useful for the analysis.¹⁶ On average, interviews lasted 1 hour, with some being as short as 40 minutes and others as long as 2 hours.

¹⁵ During the interviews I did not mention that I had a legal training or that I was a lawyer except in a couple of cases when I felt it was suitable to gather better data with a particular interviewee (e.g., to move to more legally complex questions), such as the expert on notary public issues or the legal expert that had worked at the official Land Registry. And even in those cases, I only brought it up naturally later during the interview, typically as part of a follow-up question, being careful to maintain the focus on the interviewee's experience and expertise rather than own my legal qualification.

¹⁶ Chapters 4 to 8 include a longer definition of these and other key terms.

3.3.2. Identification and selection of Peruvian laws and regulations

I identified and selected the state's legal norms on agricultural land and forest in Peru, most of which are enacted at the national level. I focused on those in force at the time of working on this thesis. But I also reviewed some that had previously been in force to understand the trajectory or changes of important legal norms, such as the law on land titling during the colonial period of Spanish rule (e.g., the *composición de tierras* regime that began in the 16th century) and during the early Peruvian republic (e.g., land titling laws of the 19th century and early 20th century).¹⁷ I searched the state's legal norms online and using SPIJ, the official database of Peruvian legislation (see Ministerio de Justicia del Perú, 2025). My training as a lawyer in Peru, as well as my previous experience in environmental law, with an emphasis on forest legislation, was instrumental in helping me identify and select the relevant laws and regulations for this thesis. I had less experience with agricultural land laws, particularly those related to land titling; thus, I devoted more time to identifying and selecting these laws and regulations.

I also identified and selected other legal norms. Most of the laws and regulations I identified and selected were, broadly speaking, part of Peruvian public law; however, due to the relevance of property transactions amongst

¹⁷ The doctrinal analysis presented in Chapter 4 includes these laws.

farmers, I also identified and selected private law legal rules concerning property and contracts, in particular from Peru's Civil Code (1984).¹⁸ In addition, as my research progressed, I identified and selected laws and regulations that were indirectly connected to the topics explored in this research, but that were useful in specific circumstances. For example, laws and regulations related to environmental impact assessments, civil procedure, registration, environmental crimes, the organisation of the state and the devolution process that granted agricultural land and forest competencies to regional governments¹⁹. Due to the scope of the project focused on the interaction of state laws and regulations with social norms, local rules and legal practices of private law, I did not identify or select treaties or other instruments of international law, or foreign laws or regulations, except in very concrete cases (i.e., the European Union Deforestation Regulation [EUDR], 2023).

¹⁸ Except in one specific case (see footnote 22 in Chapter 4), I did not identify or select judicial decisions concerning the laws and regulations I study in this thesis because the focus of my research was not on doctrinal discussions of the law, and because of the very nature of the topic concerning non-state norms in a frontier space where property conflicts were extremely unlikely to reach the courts. In addition, Peruvian law does not consider judicial decisions sources of law (except in some specific circumstances that establish binding precedents, and, in practice, there are not many cases of this type that could be relevant).

¹⁹ For a longer explanation of the devolution process in Peru, see Chapter 4, section 4.3.1.

3.3.3. Complementary information: public events and informal conversations

I had two types of additional sources of data that complemented the interviews. One is the three public events I attended as an observer, where I listened to speakers who had a particular expertise related to the issues of my research: a public event to discuss the policy implications for small-scale farmers from the incoming implementation of the EUDR (2023) (Lima, 8 November 2023), a capacity building event for peace judges (Moyobamba, 13 July 2023), and another capacity building event to promote agroforestry concessions (town of Soritor, 19 April 2023). The other source of additional primary data that complemented the interviews was the informal conversations I had with 21 people whom I cross paths with throughout the fieldwork (e.g., in governmental offices, in the aforementioned public events, or in the villages). Although often brief, they provided important background information on, for example, the organisation of the regional government offices, the state of a land titling project, key people at a government office I could contact for interviews, or the villages that were accessible by vehicle during the wet season. I informed them of my research project, and they were willing to collaborate with this and other background information. I did not audio record these interactions, but I took notes about what we discussed, and then I used these notes to help me during the analysis of the data.

3.3.4. Analysis of the data

I did thematic analysis of the data from my interviews and from my notes in an iterative process. I began by transcribing the first group of interviews I had, which, alongside my notes, I put in the NVivo software. I then read these initial data from the first interviews and notes, carefully looking for patterns and common themes that were relevant for my topic, including: understandings or interpretations of agricultural land and forest laws and regulations; ideas about ownership of land and forest; social norms, practices and local rules about property and forest use; and implementation of agricultural land and forest laws and regulations. As part of this process, some more concrete themes began to emerge inductively, such as: specific social norms and practices to enact private property, instances of people navigating in and out of the law and regulations, the use of local practices of private law to transact land through village leaders, perception of relatively high tenure security provided by local land documents, ease of access to credit, apathy towards official property titles, avoidance attitudes in relation to taxation of land, environmental social norms and local rules related to water protection, and interpretations that confused or merged some social norms and local rules with the state laws and regulations. I repeated this process with the rest of the interviews and notes I had transcribed that allowed me to further identify and confirm or disprove these patterns and refine the themes. I used these initial themes to code some transcripts and notes,

which I refined and regrouped as I went further into the coding process. During this time, I also started writing some of my early results into draft chapters using these themes, connecting the empirical data with concepts and empirical results of the scholarship from legal, socio-legal and environmental studies, using the writing process as a way to recursively think and further revise the text (as well as to discover and use additional scholarship relevant to those themes I had inductively uncovered).

I conducted a doctrinal analysis of the laws and regulations I identified and selected. I was already familiar with most of them, due to my previous experience with the subject matter in Peru. During fieldwork and when reading and coding the data from my interviews and notes, I went back to reading and analysing the laws and regulations I had selected to understand how they fitted or contrasted with the phenomena I had captured in the primary data. The process of identifying and selecting additional laws and regulations, and analysing them, was also iterative, as I identified the specific themes mentioned above that were related to other legal rules, which I identified, selected, and analysed. This process allowed me to understand key legal issues such as the extent to which Peruvian law concerning private property of agricultural land in the Amazon is coherent, the requirements for conducting deforestation legally, and whether planning law in Peru exists as a meaningful and binding set of enforceable legal rules, among others developed in Chapter 4. Further,

doctrinal analysis was also useful to notice and analyse contrasts between the legal rules of the State (mostly national, and a few enacted by the regional government of San Martín), and the social norms, local rules and local practices of private law of the farmers concerning, for example, private ownership of forestlands, or tenure security through non-registered *compraventas*, while also unveiling similarities between state law and non-state norms, such as the obligation to protect water sources.²⁰

3.4. Ethical considerations

This research adhered to ethical standards throughout its design and implementation, with particular attention to the principles of informed consent, voluntary participation, confidentiality, and the respectful treatment of all participants. I obtained ethical approval from the Social Sciences and Humanities Interdivisional Research Ethics Committee (SSH IDREC) of the University of Oxford (Research ethics reference: R81921/RE001).

I provided all interviewees with clear and comprehensive information in Spanish about the research objectives, the types of questions they would be asked, their right to withdraw at any time without penalty, and the measures in place to protect their privacy. At the start of our meeting, I introduced myself

²⁰ In addition to the discussions in Chapter 4, Chapters 5 to 8 highlight these and other key contrasts and similarities between state law and non-state norms, helping to shape the argument that this agricultural frontier of the Peruvian Amazon constitutes a landscape of inter-legality.

and my research project (or re-introduced myself and my research project if I had done it earlier when arranging the meeting), using a script I had prepared in advance, which also included information on informed consent (see the script in Appendix 2). I gave them an information sheet that had information on my research project, their rights as interviewees in the context of my research and contact information if they needed to get in touch or had a complaint (see the information sheet in Appendix 3). In addition, I handed interviewees an informed consent sheet and asked them to read it and sign it if they agreed with it (see the informed consent sheet in Appendix 4);²¹ I also provided them with the alternative of giving consent orally, which I recorded when I considered it to be easier in the context we were in, or when they felt more comfortable that way.²²

All the interviews are confidential. Participants' identities are protected, and detailed information of their identities, such as full first and last names and national ID numbers, has not been requested nor collected. To better explain the relevance of the data they provide, they are only mentioned in the thesis using their roles, such as 'farmer' or 'official', and the location (e.g., village) or government office where they have their lands or work, respectively, alongside

²¹ Although thorough, in practice many interviewees found the type of standard consent of the university to be too long and detailed.

²² Only in one occasion a farmer explained she could not read, so I read her the informed consent sheet, and she gave consent orally, which I recorded in her interview.

some contextual information (e.g., whether they are somebody's neighbour, if they are involved in an specific land conflict, or if their work involves a particular aspect of agricultural land and forest laws, among others). Audio recordings and transcripts were stored as digital files in a folder in the Microsoft OneDrive student account assigned to me by the university, and they are only accessible by me.

3.5. Positionality

I am conscious of my position as a white male researcher from Lima, the capital of Peru, who has a legal background, a middle upper-class upbringing and has had a privileged education. These characteristics likely shape my view of the world more generally, and my views of the social, environmental and economic issues of my country, particularly. Chief amongst these for the purpose of this research is my belief in the rule of law and sustainable development as important principles in society. Importantly, after my immersion in the field, I have come to appreciate that a rigid approach to both misses key nuances and trade-offs on the ground that farmers navigate in their daily efforts to improve their livelihoods. In terms of deforestation policy, this has a bearing in how I now see the legal rules on property and the environment in frontier areas: less as a problem of lack of enforcement, and more as an issue that requires further understanding and recognition of local normative practices. My socio-economic and academic profile likely also factors in my interviewees' view of me.

Farmers, in particular, are from a much less privileged socio-economic background, and they may have seen me as a privileged outsider who may not be able to understand their reality, or someone worthy of special deference due to my higher education level.

I considered all these aspects throughout the research project, from its design stage to the fieldwork and then to the analysis of the data and when writing this thesis, and I took steps to account for them to the extent possible. I paid attention to the ways my presence, manner of speaking, and overall cultural and social background might influence how participants perceived me and responded to my questions. During fieldwork, in particular, I was attentive to the cultural and language nuances of the place, and I adapted to them to make my participants feel more comfortable with me, while being transparent about my position and intentions as an outsider researcher. My nationality and native Spanish language, and my prior years of experience working in forest governance in Peru, gave me some of the tools I needed to navigate these differences thoughtfully and with responsibility towards my participants and to myself as a researcher. I treat the information they shared with me—through concrete responses, longer stories, or even their apparent discursive detours and questions—as important material entrusted to me, which I engage with carefully and faithfully when developing my analysis. I do not claim to speak for them, but rather to learn from their perspectives and construct a thoughtful,

respectful, and analytically grounded account of the issues they raised, guided by academic rigour and honesty.

3.6. Limitations of the methodology

This thesis has limitations that are not unusual for social sciences studies based on qualitative methods. Although I interviewed multiple farmers from different villages in Soritor, the criteria I used to visit villages, and the referral (snowballing) approach is not statistically representative of the population of farmers living in the district, so it is possible that some opinions and more factual accounts may be under- or over-represented. Also, there were some constraints typical of fieldwork, such as time, weather and funding, that limited my ability to reach more villages and more participants. Farmers' own ability or willingness to spend time with me for an interview, which sometimes was cut short due to other family or work commitments, may have been another limitation (although in other instances they were able to give me more time than initially anticipated). I managed these situations by monitoring when common patterns in the responses were emerging more constantly, signalling that a saturation point in the data was being reached. Also, the semi-structured interviews were useful in allowing for a flexible approach that took account of the knowledge I was acquiring as the fieldwork progressed and of the differences in the participants, but it is possible that some of the same questions were not posed in the exact same way to all participants that could have

responded them, which may imprint the data with less consistency than a structured interview (or a survey).

Importantly, despite the fact that many of the discussions revolved around what is formally illegal occupation of state forests, none of the participants felt that the interviews could lead to repercussions of any kind. This is mainly due to a general absence of enforcement of most of the laws and regulations concerning agricultural land and forests, as well as the extra precaution taken during the design of the project to keep confidentiality. Thus, farmers' responses were likely more honest than if the interviews referred to other issues subject to higher enforcement pressure or if they had been done without confidentiality.

There are three main reasons why the specific findings of this thesis may not be directly generalizable to other regions of the Peruvian Amazon. The first reason relates to the characteristics of relatively lower deforestation rates and the lack of indigenous peoples' collective lands in my field site compared to other areas of the Peruvian Amazon, which were explained in section 3.2. of this chapter. There may be variations in the intensity of direct or indirect deforestation drivers in current deforestation hotspots compared to those in my field site (now, or from 20 or 30 years ago when deforestation rates were higher there). And the presence of collective lands of indigenous peoples (*comunidades nativas*) in other places of the Peruvian Amazon, some of which have yet to be

titled, may lead to instances of conflict with migrant small-scale farmers that drive different land use and property relations on the ground (some of which could also be of collaboration, such as when some *comunidades nativas* decide to lease plots of lands to migrant small-scale farmers who then deforest and cultivate those lands). The second reason is that in other regions of the Peruvian Amazon, such as in Madre de Dios or Ucayali, criminal activities of drug and mining mafias related to coca cultivation and gold extraction are also becoming increasingly important deforestation drivers, which may be changing the occupation patterns of migrant small-scale farmers. These activities are not present in my field site.

The third reason why the findings on this thesis may not be directly generalizable to other areas of the Peruvian Amazon is the ecological differences between my field site and other places of the Peruvian Amazon, which may influence other types of land use and landholding patterns. The mountainous *selva alta* (high altitude jungle) ecological region of my field site is not suitable for large-scale mechanised farming for crops like oil palm, unlike in the *selva baja* (low jungle) ecological regions of the Peruvian Amazon where large-scale cultivation of this and other important commercial commodities has become another driver of deforestation (albeit not more significant than small-scale agriculture in the aggregate). In some *selva baja* contexts, studies from Dammert (2017) or the non-governmental organisation Environmental

Investigation Agency (2024) have shown that land accumulation and large-scale deforestation by agribusinesses through illegal practices has increasingly become an issue, a phenomenon not present in areas like my field site.

Despite these limitations, the themes developed in the thesis reveal broader issues that can be used as ‘analytical generalisations’ (Yin, 2018) to improve our understanding of how state and non-state norms related to private property interact and co-constitute communities and a deforested landscape, giving form to agricultural frontiers in tropical forests. The concluding Chapter 9 discusses the themes and their potential to be used for analysing and understanding this and other similar contexts where small-scale and tropical deforestation are linked.

4. THE CHALLENGES OF ORDERING A FRONTIER SPACE IN THE PERUVIAN AMAZON THROUGH AGRICULTURAL LAND AND FOREST LAWS

4.1. Introduction

This chapter explains the agricultural land and forest laws that apply in the Peruvian Amazon, as well as the state agencies and levels of government that are in charge of implementing and enforcing them, and the challenges they face. Under Peruvian law, encroaching on the forest to do agriculture is illegal due to, firstly, a constitutional doctrine set out in Article 66 of the Peruvian Constitution (*Constitución Política del Perú* [Constitution], 1993) that considers forestlands as a natural resource entrusted to the Peruvian state, and, secondly, due to environmental legal rules that ban deforestation (see, e.g., *Ley Forestal y de Fauna Silvestre* [LFFS], 2011, Article 37.1). In forestlands, the Peruvian state, through the regional governments, can grant limited administrative use rights to private parties and mostly for forestry activities, while agricultural land (i.e., land deemed legally and technically appropriate for agriculture) is subject to the Peruvian state law private property regime.

The chapter argues that these legal rules are cumbersome and sometimes contradictory, which complicates implementation. This is compounded by the

fact that their deployment in the Peruvian Amazon is weak, due to various institutional problems of the Peruvian state, such as poor interagency coordination and lack of financial and technical resources. These challenges are apparent in my field site, the district of Soritor, where the regional government of San Martín, the police and the environmental prosecutors are only marginally able to implement and enforce the state's agricultural land and forest laws.

This Chapter 4 is based mainly on a doctrinal analysis of Peruvian law and on qualitative analysis of primary data from interviews, complemented by data gathered from a public event and informal conversations with key informants. I analysed the laws of the Peruvian state for agricultural land and forest, as well as the more general legal rules on private property. I also analysed the laws and regulations that are related to the issues discussed in my thesis concerning the ordering of the space, such as planning and zoning, as well as one recent legal instrument from the European Union. In addition, I analysed academic literature and policy documents on agricultural land and forest in the Peruvian Amazon to discuss the challenges faced by the state agencies at the national and regional levels in charge of applying these laws on the ground in my field site. Insights from seven interviews with former and current government officials or persons affiliated with government programmes provided empirical data on how these legal rules are implemented in practice,

particularly in Soritor: the national director of land titling at the Ministry of Agricultural Development and Irrigation (MIDAGRI), the director of the *Dirección Regional de Agricultura* (Regional Directorate of Agriculture, DRA) in the regional government of San Martín, a crew member of a land titling programme in San Martín, two environmental prosecutors in San Martín, the official in charge of the land titling office of the DRA in the regional government of San Martín, and an official of the *Autoridad Regional Ambiental* (Regional Environmental Authority, ARA) in the regional government of San Martín. An event on the implementation of the European Union Deforestation Regulation (EUDR) (2023) and two additional informal conversations with an informant from ARA and an informant of one of the land titling programmes in San Martín also provided complementary data.

The chapter is divided into four sections. Section 4.1. introduces the main theme of the chapter, the data used for the analysis, and the organization of the chapter. Section 4.2. explains how the Peruvian legal system governs forests and agricultural land, two separate and cumbersome sets of legal rules that have some interconnectedness but also contradictions, as well as the legal rules concerning land use planning and zoning. Section 4.3. discusses the difficulties in implementing and enforcing the state's agricultural land and forest laws in the Peruvian Amazon, and in particular in Soritor, focusing on the national and regional governments' efforts to roll out the new agroforestry concessions,

implement land titling programmes, and enforcing the forest protection laws and regulations. Section 4.4. concludes by summarising the analysis presented in this chapter that shows the difficulties of implementing Peru's agricultural land and forest laws in the Peruvian Amazon, a cumbersome legal framework complicated by the institutional problems of the Peruvian state at the national and regional levels.

4.2. Peru's agricultural land and forest law: a brief overview of a cumbersome legal framework

Peru's agricultural land and forest legal framework is comprised of a web of laws¹, regulations² and procedural rules or guidelines³ determined mainly in a centralised manner at the national level. It follows the legal tradition of the Civil Law system that can be traced back to the Spanish colonial times, which recognises private property to agricultural land, but gives the state a powerful position to control natural resources, including forests. Under Peruvian law, the government can grant access to natural resources to citizens or companies through administrative use rights (Constitution, 1993, Article 66). Thus, private

¹ National laws are the primary legislation in Peru. They are passed by Congress (or by the Executive branch via delegation from Congress) and promulgated by the President of the Republic.

² Regulations are the secondary legislation in Peru, emitted by the Executive branch to implement national laws.

³ Agencies responsible for implementing laws and regulations may also issue tertiary legislation in the form of specific rules and guidelines that detail procedural and substantive aspects of regulations, which are also legally binding (unless expressly stated otherwise).

property in agricultural land and administrative use rights in forestlands are effectively governed by distinct laws and regulations. Together, they make the state's legal rules for ordering the landscape in which the farmers in Soritor live and farm. This legal framework is profuse, cumbersome and sometimes contradictory, which complicates implementation and enforcement. Subsections 4.2.1 and 4.2.2. explain the legal framework of each of them. Subsection 4.2.3. discusses related planning and zoning legal rules.

4.2.1. Agricultural land law

The Peruvian Constitution (1993) protects private property as a fundamental right of all persons (Article 2, para 16), and 'guarantees' the right to property of agricultural land, in particular (Article 88). Peruvian law ascribes four rights that the owners of private property have, including landowners: the right to use, the right to 'enjoy' (i.e., to receive the proceeds of the property), the right to 'dispose' (i.e., to get rid of the thing physically or legally, such as by destroying it or selling it), and the right to 'reclaim' (i.e., to defend and recover the possession) (*Código Civil* [Civil Code], 1984, Article 923). Using a broad comparative simplification, under Peruvian law, private property in land is the equivalent to a fee simple in the English common law, with some key differences concerning

the use of natural resources, which under Peruvian law largely remain under the control of the state even when they are within or on a private property.⁴

Generally speaking, Peruvian law does not restrict the transfer or the size of property in land, following a liberal economy approach.⁵ In theory, constitutional and civil law provisions could allow for further regulation or limits. The Constitution (1993) establishes that ‘private [economic] initiative is free,’ but it is exercised in accordance with a ‘social market economy’ (Article 58) and that the ‘law can determine the limits and the extension of [privately owned] land according to the peculiarities of each zone’ (Article 88). Further, the definition of private property in Article 923 of the Civil Code (1984) includes an obligation to ‘exercise [the rights that come with it] in harmony with the social interest and within the limits of the law.’ However, largely no restrictions to transfer or to the size of properties have been established in legislation or regulations. Thus, land can be transferred and accumulated rather freely. And, in principle, the transfer does not need to be registered in the official Land Registry to have legal effects, but Peruvian law does provide more security to

⁴ This means that if a forest is on top of the private property, or if minerals are found beneath the private property, the owner cannot directly extract them without prior permits or concessions from the government, as these natural resources do not ‘belong’ to the owner but to the Peruvian state. For some types of natural resources such as minerals and oil & gas, for example, Peruvian law allows for third-party actors to get concessions rights to them even if the land is under private property of a different person (who will not lose his or her private property, only be limited in his or her use and will be compensated for that limitation for the duration of the concession).

⁵ The only exception is for foreigners, who cannot own land within 50 km of the national borders (see Constitución Política del Perú, Article 71).

those who register it by granting a legal presumption that the person appearing in the official Land Registry is the sole rightful owner of the land (see Civil Code, 1984, Articles 2012 and 2013).

In Peru, each landowner usually farms their own plots of land directly (del Castillo, 2016), which means that leaseholds, although present in Peruvian private law, are rare in practice in the context of agricultural lands. In the Andes, in particular, this is a direct result of the agrarian reform implemented by the military leftist government during the 1970s, which broke-down most of the *haciendas*, the large estates owned by the elites, where many peasants farmed the lands under semi-feudal arrangements. In the Amazon context, most individual small-scale farmers settle in state-owned forestlands, work on them directly and behave as sole rightful owners, although most do not have official property titles (del Castillo, 2016; Ministry of the Environment of Peru 2016; Robiglio et al., 2015).

Land titling

Obtaining formal private property rights to new agricultural land in Peru is governed by the law and regulations for land titling of rural areas, also known as rural property formalisation or *saneamiento físico-legal* (physical-legal rectification) (see *Ley de Saneamiento Físico Legal y de Formalización de Predios Rurales a Cargo de los Gobiernos Regionales [Ley de Saneamiento]*, 2021; see also

Reglamento de la Ley N° 31145 [Reglamento de la Ley de Saneamiento], 2022). The legal rules for land titling in rural areas have changed over time but all were based on the same underlying legal doctrine—*prescripción adquisitiva de dominio* (adverse possession)—alongside the requirement to demonstrate ‘economic exploitation’ (i.e., use for agriculture). These legal rules can be traced back to the colonial legal procedure of *composición de tierras*⁶ that built on the experience of formalizing access and use rights of vacant land in Spain (Jurado, 2022). The Spanish crown decided to establish the *composición de tierras* system to formalise rural landownership in the Viceroyalty of Peru because, by the end of the XVI century, some Spaniards had been appropriating lands without proper titles⁷ (Guevara Gil, 2012). Apart from attempting to (re)order the space and the people in the colonies, the *composición de tierras* system was also devised by the Spanish crown to extract funds from the new landowners (Carrera, 2015; Guevara Gil, 2012).⁸ As Ots Capdequí (1959) put it, it was a legal

⁶ This term shares a similar meaning to the current legal terminology for land titling: both, *composición* in the colonial procedure, and *saneamiento* in the current procedure, mean ‘rectification’, i.e., to ‘fix’ what’s legally broken.

⁷ Land tenure in the Viceroyalty of Peru followed the ‘regalist’ doctrine, the legal justification underpinning the Spanish colonisation of the Americas. Under this doctrine, the Spanish crown had the ‘original and eminent domain’ of all the land in the conquered New World; and, as a royalty of the crown they could decide freely what to do with it (Guevara Gil, 2012). The Spanish crown granted land to the colonists under legal instruments such as a the *capitulaciones* (contracts between the Crown and the conquistadors) or the *mercedes* (royal grants of land) (Guevara Gil, 2012).

⁸ The *composición de tierras* system also became a very powerful mechanism to further the dispossession of the collective land rights of indigenous peoples in the colonies. The reason was its basis on the Lockean idea that the legitimacy of property came from its productive use, mainly understood as cultivation, which was not the same as how indigenous peoples used them, thus large swathes of those lands became *baldíos* (vacant lands), in excess to what indigenous peoples were deemed to need (Herzog, 2015; Jurado, 2022).

instrument by which ‘a de facto situation, produced at the margins of colonial law or against it—could be converted into a situation under the rule of law, through the payment of a certain amount [to the colonial coffers]’ (p. 37). This system was not applied in the Peruvian Amazon largely because it had not been significantly occupied, but its legal framing based on adverse possession and ‘economic exploitation’ is still important because they have permeated the land titling legal rules of the Peruvian state that are applied today in this region.

According to the current land titling legal rules, a farmer who wants to get an official property title must be in possession of a plot before the cutoff date of 31 December 2015, in an open (i.e., visible), peaceful and continued manner (*Ley de Saneamiento*, 2021, Article 6.1). They are also required to provide proof of ‘economic exploitation’ of the land (*Reglamento de la Ley de Saneamiento*, 2021, Article 12.1), which, in the Amazon context, has largely been understood to mean clearing the forest to plant crops or to raise cattle. This legal requirement has been criticised on various grounds. According to Baldovino (2016), the requirement has become an inherent perverse environmental incentive to deforest. Sax (2020) has termed this characteristic of Peruvian land tenure law in the context of the Amazon as a ‘colonial concept of agricultural productivity’ (p. 299). And, as Bennett et al. (2018) argue, despite the fact that the idea of providing formal titles only to the plots that are cultivated may seem

logical, it disregards the other uses of the forests that are part of farmers' socio-cultural life in practice.

Land titling in rural areas is an administrative procedure currently entrusted to regional governments under devolved powers,⁹ using land classification regulations. The DRAs of each regional government are tasked with conducting the land titling programmes on the ground. Under these programmes, official property titles are granted to farmers free of charge, following the legal rules established by the national government, such as the rules issued by the *Dirección General de Saneamiento de la Propiedad Agraria y Catastro Rural* (General Directorate of Formalisation of Agrarian Property and Rural Cadastre), the land titling office of MIDAGRI that administers the national agricultural cadastre and oversees the land titling process nationally. Once a farmer receives his or her official property title, subsequent legal acts, such as leasing, selling, or setting up a mortgage are governed by the general rules of the Civil Code (1984) for all private properties in land.

Land classification by its 'best use capacity'

⁹ Peru has been undergoing a slow process of decentralisation for the past 40 years. Regional governments, created by the Constitution of 1993 currently in force, are a relatively new administrative level of government that is a key part of this process. They are the intermediate level of government, between the national government, and the smaller local governments (municipalities).

The area to be titled has to be first classified as ‘agricultural’ by MIDAGRI, in coordination with the Ministry of the Environment, using a procedure set out in the Regulations for Classifying Lands by its Best Use Capacity (*Reglamento de Clasificación de Tierras por su Capacidad de Uso Mayor* [CTCUM], 2022) that evaluates and classifies the lands primarily considering soil factors, such as high pH levels, or topographic factors, such as steep slopes, among others. The old version of the CTCUM (2009) largely disregarded the forest cover as a criterion for classifying lands. Thus, until recently, under Peruvian law, it was not enough, and in fact it did not matter much, if the land was covered by a lush forest; what mattered was mostly whether the type of soil underneath could support agriculture. If it did, then the land could be granted as private property and could eventually be legally deforested after obtaining additional authorisations. This is how a legal classification can shape the landscape; a ‘deforestation by [legal] definition’ to rephrase the title of a study on the institutional and legal challenges of large-scale deforestation in Peru (EIA, 2015).

Possession rights of rural land

Farmers who possess land without an official property title may still have some recognition or protections under the law. Article 896 of the Civil Code (1984) considers possession as the exercise of one or several attributes of property; and Article 917 establishes a particular category of possession, the squatter or ‘precarious possessor’ (*poseedor precario*), who possesses *de facto* the good (e.g.,

a land), without a legal title to it (e.g., a tenant whose contract has expired, or a farmer who occupies a land without an official property title). Importantly, all possessors, even squatters, have a legal right to exercise a ‘possessory defence’ to ‘repel the force employed against [them] or the good, and to recover it, if [they] were dispossessed,’ unless the dispossession is done as part of an eviction process (Civil Code, 1984, Article 920).

Farmers without official property titles can obtain *constancias de posesión* (certificates of possession) from the regional government, and they have to provide information on the location of the land and documents that prove that they are in possession and ‘economic exploitation’ of it (see *Lineamientos para el Otorgamiento de Constancias de Posesión con Fines de Formalización de Predios Rústicos [Lineamientos de Constancias de Posesión]*, 2020).¹⁰ *Constancias de posesión* are useful for accessing various public services, such as water rights for irrigation, and are required as part of the land titling process. But, at least in theory, authorities should only grant them in lands classified under the CTCUM as agricultural, and they are explicitly prohibited by law from granting them in lands classified under the CTCUM as ‘protection

¹⁰ See section 6.3. for a full discussion of *constancias de posesión*. In addition, *constancias de productor agrario* (certificates of agricultural producer) are another type of official certificates that have been created to recognise small-scale farmers’ use of the land for agricultural purposes, notwithstanding the legality of their occupation (which cannot be used towards adverse possession claims) (see subsection 6.3.1.).

lands'¹¹ and 'forestlands,' which are lands that are suitable for maintaining forest cover (and that remain as forestlands even if they no longer are forested due to some human intervention) (LFFS, 2011, Article 37.2).

4.2.2. Forest law

Forests (i.e., the forest cover) and forestlands, are natural resources under Peruvian law (*Ley Orgánica para el Aprovechamiento Sostenible de los Recursos Naturales* [*Ley Orgánica de Recursos Naturales*], 1997, Article 3.b and 3.c). As a matter of constitutional doctrine, all natural resources are entrusted to the state, which has 'sovereign authority upon their use' (Constitution, 1993, Article 66). Because of this broad authority, the state 'exercise[s] executive and jurisdictional functions over them' and, thus, has the sole mandate to dictate laws and regulations regarding their use (*Ley Orgánica de Recursos Naturales*, 1997, Article 6). Natural resources are constitutionally designated as 'patrimony of the nation' (Constitution, Article 66), which means that as long as they are kept in its original form and location (e.g., the oil underground or the trees standing in a natural forest) they belong to the state¹², regardless of whether the

¹¹ See subsection 8.4.2. for a longer discussion on the varied (and admittedly confusing) legal definitions of areas under 'protection' under Peruvian law.

¹² Strictly speaking, the state does not behave like a full owner of natural resources—as if they were its freehold property—because it is understood that the state cannot exercise a key attribute of private ownership: to completely dispose of the property (e.g., the state can only grant natural resources as a concession subject to conditions, not sell it in full as it cannot renounce its constitutional mandate as the trustee of natural resources). Thus, in a strict sense, 'patrimony of the nation' is a slightly different legal category than 'state ownership' or public property.

land is under private property or not. The state grants use rights under administrative law, generically known as ‘concessions,’ to private parties so they can extract and use a natural resource (Constitution, 1993, Article 66).¹³ These private parties are then entitled to the proceeds from the extraction and use of the natural resources which have been granted to them under these concessions (e.g., by keeping the revenue, or by becoming owners of the actual end products, such as the oil or the timber extracted from an oil field or the natural forest, respectively) (*Ley Orgánica de Recursos Naturales*, 1997, Article 19).

Forestlands are determined using the CTCUM (2022). This classification is important as it determines where it is legal to conduct agriculture, which is also tied to where farmers can obtain official property titles. According to the CTCUM (2022), lands can fall in one of five categories: land for clean cultivation (e.g., annual crops), land for permanent cultivation, land for pasture, forestlands, and protection lands (they are codified with the letters A, C, P, F and X, respectively) (Article 16). The first three land classifications (A, C, and P) can be subject to private property and the land formalisation procedures (i.e., obtain official property titles),¹⁴ while the latter two (F and X) are not, even if these lands

¹³ The law allows concessions related to industries of underground natural resources like mining and oil and gas to overlap private properties (see, for example, *Texto Único Ordenado de la Ley General de Minería [TUO Ley Minería]*, 1992, Article 9).

¹⁴ It is possible that lands classified as agricultural and owned as private property, can have natural forests on top. In this case, the owners will need to obtain several authorisations to clear the forest and

currently lack forest cover due to deforestation (*Ley de Saneamiento*, 2021, Article 3.2).¹⁵ This is a function of the legal separation between agricultural land—under the private property regime, explained in the previous subsection—and forests and forestlands—under the natural resources’ regime controlled by the Peruvian state.

Concessions to use forest resources

There are various ways in which private parties, such as a farmer or other individuals, an indigenous community as a collective¹⁶ or a company, can get use rights to forestlands. These use rights are granted by the regional governments under devolved functions, implementing the LFFS and its regulations, as well as the procedural rules and guidelines established by the *Servicio Nacional Forestal y de Fauna Silvestre* (National Forest and Wildlife Service, SERFOR), the national government agency that oversees all regulations

be able to use the land for agriculture (or get permits to engage in forestry activities, like timber extraction).

¹⁵ This separation has not been always as clear cut in Peruvian law. Under the laws before the 1993 Constitution currently in force, the state had granted official property titles in places where today would be classified as forestlands and protection lands. Those older official property titles are still valid. The director of land titling at MIDAGRI, for example, stressed this point when criticising the Ministry of the Environment’s push to prosecute a deforestation case of a group of people in another region of the Amazon, arguing that their official property titles ‘are acquired rights to do agriculture, before the rules of land use change or the CTCUM’ (interview 40, city of Lima, 25 August 2022).

¹⁶ *Comunidades nativas* (native communities) are the indigenous peoples of the Peruvian Amazon. They have exclusive collective rights to their lands, including agricultural lands and forestlands, which the state, through the regional governments, legally recognises and formalises by granting them an official property title to the agricultural land plus a form of exclusive and permanent concession (*cesión en uso*) to the forestland (see *Ley de Comunidades Nativas y de Desarrollo Agrario de la Selva y Ceja de Selva* [*Ley de Comunidades Nativas*], 1978)

and policies concerning forest and wildlife management. The main use right is the *concesión forestal maderable* (forestry concession for timber). It is an exclusive 40-year renewable contract granted to medium or large-scale timber companies for the extraction of timber and other forest and wildlife resources from forestlands (e.g., hunting) (see LFFS, 2011, Articles 51 and 56). Regional governments can also grant forestry concessions for other purposes; for example, to implement ecotourism or conservation projects, and to individuals who do traditional extraction of non-timber forest products such as to local gatherers of Brazil nuts or to rubber tappers (see LFFS, 2011, Articles 51, 57, 58 and 59).

Agroforestry concession: a limited land formalisation mechanism

A forestry concession is not an apt use right that could be granted to farmers living in the Peruvian Amazon because farmers' main use of the land is for agriculture, not forestry. The law provides two other avenues for farmers in the Amazon that want to conduct their agricultural or forest extraction practices legally. The first is only for the few cases where they are in a land classified under the CTCUM as agricultural land and, thus, have, or can obtain, an official property title. And, if the farmers want to use the forests inside these properties (e.g., to extract timber) after they have obtained an official property title through the land titling programmes of the regional governments, they need to

apply for a forestry permit to the regional government (see LFFS, 2011, Article 69).

The second legal avenue to formalise land tenure in the Peruvian Amazon is the *cesión en uso para sistemas agroforestales* (agroforestry concession). Agroforestry concessions are a new land tenure formalisation instrument for small-scale farmers illegally occupying forestlands, where the government is barred from granting official private property rights. A novel aspect of these small concessions¹⁷ is that farmers sign a contract with the regional government in which farmers agree to implement sustainable practices, mainly to stop deforestation and to install agroforestry systems (LFFS, 2011, Article 63). Farmers with agroforestry concessions that fail to comply with these conditions would get fined and their contracts would be revoked by the *Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre* (Agency of Supervision of Forest and Wildlife Resources, OSINFOR), the agency of the national government that oversees compliance with the regulatory and contractual conditions in all forest concessions, authorisations and permits (see LFFS, 2011, Articles 145, 146 and 152).

¹⁷ The maximum amount of forestland that can be granted through an agroforestry concession is 100 hectares (LFFS, 2011, Article 63). But most agroforestry concession contracts are much smaller, corresponding to the average size of the actual plots of lands being managed by the farmers (e.g., between 3 to 10 hectares).

The EUDR and Peruvian domestic land tenure law

Finding a pathway to formalise the land use rights of thousands of small-scale farmers encroaching forestlands in the Peruvian Amazon suddenly became more urgent after the passing of the EUDR in 2023. The EUDR (2023) restricts the access to the European Union (EU) market of key agricultural commodities, such as coffee, that are linked to deforestation and forest degradation, unless due diligence and other conditions have been met. One of these conditions is that the production of those commodities respected domestic legislation, including the 'legal status of the area of production in terms of...land use rights' (EUDR, 2023, Articles 3(b) and 2(40)(a)). As Peña Alegría (2024) argues, this poses a major compliance challenge in Peru 'where most coffee for export is grown by thousands of small-scale farmers who lack formal land use rights [in the Amazon]' (p. 439).

The prospect of losing access to the EU market raised concerns of policymakers in Peru, including within the regional government of San Martín and SERFOR,¹⁸ who considered the granting of agroforestry concessions as the best option to help coffee farmers and other farmers that supply to international markets such as the EU, comply with the land use rights requirement of the

¹⁸ Public event 2, city of Lima, 8 November 2023.

EUDR.¹⁹ Agroforestry concessions became available in 2015, after the passing of the Regulations of the LFFS (see LFFS, 2011, Sexta Disp. Comp. Final; see also *Reglamento para la Gestión de las Plantaciones Forestales y los Sistemas Agroforestales [Reglamento de Plantaciones]*, 2015). However, the roll out of this land formalisation system in forestlands has been slow due to institutional and regulatory problems, including lengthy application procedures and rules that had not been fully clarified (Peña Alegría, 2024; Robiglio et al., 2021). As a result, by early 2024 approximately only 2% of the potential recipients of these concessions in San Martín had received one, despite the fact that the regional government had put together an ad-hoc team for this process (Gobierno Regional de San Martín, 2024; Peña Alegría, 2024; Robiglio et al., 2018).²⁰

4.2.3. Land use ‘planning’

Peru does not have a comprehensive land use planning legislation for rural areas. The General Law of the Environment (*Ley General del Ambiente [LGA]*, 2005) defines only some guiding principles to orient ‘planning and territorial

¹⁹ In January 2024, the Peruvian Congress passed a controversial law that modified the LFFS (2011) in order to facilitate the granting of private property rights in forestlands illegally deforested by exempting them from the CTCUM classification and from the authorization of ‘land use change’ (see *Ley que Modifica la Ley 29763 Ley Forestal y de Fauna Silvestre y Aprueba Disposiciones Complementarias Orientadas a Promover la Zonificación Forestal [Ley Antiforestal]*, 2024). The advocates of this legal change argued that it was needed to formalise the land tenure of the thousands of small-scale farmers encroaching forestlands in the Peruvian Amazon to help them comply with the EUDR (Peña Alegría, 2024). This law is being challenged in various Peruvian courts. In March 2025, one of them ruled that this legal change was ‘inapplicable,’ suspending its enforcement; the case remains under review by Peru’s Constitutional Tribunal for a final decision (Huacasi, 2025). This legal change is not analysed in this thesis as it came after my fieldwork, and it has not been implemented, nor is currently in force.

²⁰ Farmers’ ideas about agroforestry concessions in Soritor are discussed in subsection 7.5.2.

ordering’ (see Articles 19, 20, 22 and 23).²¹ Effectively, land use planning in rural areas is instead comprised of the agricultural land and forest laws and regulations explained in subsections 4.2.1 and 4.2.2 above, plus additional official zoning instruments that provide guidance to government officials. The two main official zoning instruments are the *Zonificación Forestal* (Forest Zoning, ZF), under the LFFS and its regulations (see LFFS, 2011, Title V), and the *Zonificación Ecológica y Económica* (Ecological and Economic Zoning, ZEE), that has its own regulations (see *Ley Orgánica de Recursos Naturales*, 1997, Article 13; *Reglamento de Zonificación Ecológica y Económica (ZEE)* [*Reglamento ZEE*], 2004).

Regional governments are in charge of developing and using the ZF and the ZEE, with the assistance and oversight of SERFOR and the Ministry of the Environment, respectively. ZF maps provide the information needed to guide the granting of forest concessions in a jurisdiction. The ZEE aggregates the information of the ZF and other official sources to construct a map of recommendations²² of ‘categories of use’ that consider the ‘potentialities and

²¹ More recently, in April 2025, the Peruvian Congress passed a law that creates the new *Sistema Nacional de Ordenamiento Territorial* (National System of Territorial Ordering, SINADOT) to better coordinate territorial ordering policies at the three levels of government (see *Ley de Ordenamiento Territorial y de Creación del Sistema Nacional de Ordenamiento Territorial (SINADOT)* [*Ley SINADOT*], 2025). This law has yet to be implemented.

²² In 2014, the Peruvian government passed the *Ley 30230*, a controversial law that environmentalists labelled critically as the *Paquetazo Ambiental*, loosely translated as environmental deregulation reform because it lowered various environmental regulatory and policy standards in an attempt to incentivise economic investment in the country (Tovar et al., 2014; see also *Ley que Establece Medidas Tributarias, Simplificación de Procedimientos y Permisos para la Promoción y Dinamización de la Inversión en el País* [*Paquetazo Ambiental*], 2014). One of the measures in the *Paquetazo Ambiental* (2014) determined that

limitations' of the different areas within the regional jurisdiction (see LGA, 2005, Article 21). The plans and maps of the ZEE, such as those of the ZEE of San Martín (the region where the district of Soritor is located), also incorporate the information of the CTCUM land studies, thus effectively becoming the main tool guiding where the land titling programmes can grant official property titles and where they should not. But there are challenges with these zoning tools and their information; among other things, because some of it is outdated,²³ or because the ZEE was made at a scale that was too large, thus not being detailed and refined enough to be fully suitable for the land titling programmes, as the national director of land titling at MIDAGRI²⁴ explained to me. According to Killeen (2022), the ZEE is part of a 'labyrinthian process' (p. 404) of developing even more studies and planning documents that are far from being applied in practice, some of which have yet to be done. As he put it, '[ZEEs are] aspirational recommendations of technocrats...[but] the actual decisions are made by local politicians in control of the regional offices of the forest service, the land tenure

'the [ZEE], nor the territorial ordering assign [land] uses,' (Article 22) thus settling previous legal and policy discussions on the binding nature of the ZEE. Different organisations brought legal complaints against this and other provisions in this law that ended in 2020 when Peru's Constitutional Tribunal decided that all of them were constitutional and legally valid (see *Caso Ley de Simplificación de Procedimientos y Promoción de la Inversión*, 2020). The guiding nature of these planning instruments has been recently confirmed in Peru's new *Ley SINADOT* (2025). Thus, under Peruvian law today, the ZEE is an instrument that provides information and guidance to authorities but that does not determine land uses in a binding manner.

²³ For example, the ZEE of San Martín was approved in 2007 using land studies that were done with technology that was less precise, and with the old CTCUM regulations that did not give much weight to standing forests to classify lands (unlike the new CTCUM regulations currently in force).

²⁴ Interview 40, city of Lima, 25 August 2022.

agency and the environmental agency, who routinely ignore the recommendations of the ZEE as they promote conventional development initiatives in their jurisdictions' (Killeen, 2022, p. 404).

This section has shown that the complex legal framework for land tenure for farmers in the Peruvian Amazon is based on constitutional doctrines and provisions that distinguish agricultural land from forestlands, the former subject to the private property regime, and the latter to the natural resources regime under increased government control. Following land classification and zoning rules, farmers could only legally occupy areas designated as agricultural lands, where they will eventually be able to get official property titles from the state. In turn, occupation and conversion of forestlands by farmers are considered illegal, although recent forest legal rules have created a path to formalisation under the new agroforestry concessions, administrative use rights that the state can grant in certain cases. This legal framework is cumbersome, and sometimes contradictory. The next section discusses how the implementation of this complex legal system is weak due in part to various institutional limitations of the Peruvian government.

4.3. The prohibition to do agriculture in forestlands: a largely unenforced legal rule

Officially, most deforestation is legally banned in Peru. There is a general prohibition to cutting down forests located in forestlands and protection lands for agricultural purposes (LFFS, 2011, Article 37.1). Further, forests are protected even on lands that have been legally placed in one of the agricultural categories under the CTCUM (A, C or P). In those cases, farmers with an official property title would need to follow strict legal rules and lengthy and expensive procedures required by the government to be allowed to do ‘land use change,’ that is, to clear the forest inside their properties for cultivation: first, farmers would have to request a special ‘land use change’ authorization from SERFOR; second, farmers would have to prepare an environmental impact assessment and submit it to MIDAGRI for review and approval;²⁵ and, third, farmers would need to request another authorization from SEFOR to clear the forest cover (see LFFS, 2011, Articles 36 and 38). All of this is subject to several conditions, including a legal requirement to ‘reserve a minimum of 30% of the forest

²⁵ As an example of how inaccessible these authorisations are to a poor farmer, the director of the DRA in the regional government of San Martín mentioned that doing a simple environmental impact assessment costs PEN 11,000 (approximately £2,200). He further criticised these regulations as ‘inapplicable’ and ‘impossible’ to comply with in practice (interview 9, city of Lima, 27 October 2023). Similarly, the national director of land titling at MIDAGRI questioned whether these environmental rules made sense for small-scale farmers (interview 40, city of Lima, 25 August 2022).

mass..., besides maintaining riparian or protection vegetation’ (LFFS, 2011, Article 38.4).

In practice, however, most farmers illegally occupy forestlands and, even in the few cases where they occupy agricultural lands, they do not seek these authorisations and enforcement is almost non-existent. According to the law, starting a forest fire or burning forest resources are ‘very serious’ administrative offenses, as are deforesting and conducting ‘land use change’ without authorizations (see *Reglamento de Infracciones y Sanciones en Materia Forestal y de Fauna Silvestre [Reglamento de Infracciones Forestales]*, 2021, Annex 1). Regional governments, tasked with supervisory functions in forestlands and other areas with forest cover under the devolved powers, can impose very high fines that start at approximately £10,700,²⁶ an impossible sum for any poor, small-scale farmer. Only recently, new guidelines from SERFOR give regional governments the possibility to use a compensatory scheme whereby first-time offenders could restore the forest or otherwise collaborate with the ARA, instead of paying the steep fines (see *Lineamientos para la Compensación de Multas por Infracción a la Legislación Forestal y de Fauna Silvestre*, 2022). Finally, deforestation could also be considered a crime, punishable with imprisonment of 4 to 6 years (*Código Penal*, 1991, Article 310).

²⁶ Fines are calculated in *Unidades Impositivas Tributarias* (Impositive Tax Units, UIT), ranging from 10 to 5,000 UITs for ‘very serious’ offenses such as deforestation (see *Reglamento de Infracciones Forestales*, 2021, Annex 1). The value of 1 UIT in 2025 is PEN 5,350.00, or approximately £1,070.00.

The *Fiscalía Especializada en Materia Ambiental* (Prosecutor's Office Specialised in Environmental Affairs, FEMA), with the support of the national police, are in charge of investigating and prosecuting all environmental crimes in the country, including those related to deforestation. But, in practice, FEMA prosecutors do not initiate criminal investigations against poor small-scale farmer, and these environmental rules go largely unenforced. This is evidenced by the widespread deforestation throughout the Peruvian Amazon directly related to conversion of forest to agriculture by thousands of migrant farmers (Ministry of the Environment of Peru 2016), like those in Soritor, my field site.

These forest legal rules that ban deforestation are in conflict with some of the land titling legal rules and practices. As mentioned in section 4.2.1., land titling programmes follow the legal requirement that farmers show 'economic exploitation' of the lands they occupy in order to get an official property title. This requirement has long been understood to mean that farmers have to clear the forests for cultivation, thus arguably becoming a perverse environmental incentive. Because of this, the policymakers drafting the regulations of the LFFS, managed to include a specific provision that clarifies that 'maintaining natural forests is [also] considered a form to prove the economic exploitation of [farmers'] land[s],' a rule in force since 2015 (*Reglamento para la Gestión Forestal*, 2015, Article 123). As with the example of the agroforestry concessions, this change in the law can be thought of as part of a push to accommodate new

sustainability concerns into agricultural land and forest law in Peru of more than two decades since the enactment of the old LFFS (see *Ley Forestal y de Fauna Silvestre* [old LFFS], 2000). On paper, at least, this is creating new legal regimes of what can be understood as ‘environmental property’ rights aimed not only at restricting what owners are allowed to do but also at determining an environmental function of property in these forest contexts (Fisher et al., 2013; Rodgers, 2009; Rodgers, 2003).

Entrenched ideas about the law are hard to change, however, and the common interpretation that ‘economic exploitation’ equals agriculture lives on in the mindset of officials and even land titling regulations. For example, the national director of land titling at MIDAGRI showed me a satellite image on his computer of a forested landscape where a regional government had been granting official property titles: ‘who are they favouring with this?...this is not agrarian [land],’ he said with suspicion, implying a possible case of corruption. I countered that perhaps it was adequately titled because, according to the LFFS, the economic exploitation could also be demonstrated by maintaining the natural forest, but he did not entertain this idea. And an individual contractor part of a field crew of one of the land titling programmes in San Martin that was working in a district near Soritor²⁷ confirmed that ‘in the field, you verify...the

²⁷ Interview 8, city of Moyobamba, 29 November 2023.

economic exploitation that the farmer has...it is the crops that the farmer cultivates...[or] if he has livestock, irrigation.’ In fact, the newest land titling regulations seem to revert to this understanding of economic exploitation, by establishing that the officials in charge of the procedure ‘have to verify the existence of seedbeds, crop plantations or livestock farming, according to the capacity of the pastures, or if applicable, of soil preparation work,’ specifying that ‘economic exploitation is considered to exist also in the rural estates that are in a resting period²⁸,’ thus, leaving aside any mention of natural forests (*Reglamento de la Ley de Saneamiento*, 2022, Article 4.13).²⁹

4.3.1. Institutional problems in forest governance in the Peruvian

Amazon

This example of conflicting legal rules and practices in the case of land titling and forest administration showcase a larger feature of Peruvian forest governance: government institutions that do not coordinate well amongst each other. At the national level, interagency coordination problems related to forest governance happen between SERFOR, the agency that oversees the implementation of forest laws and policies, and MIDAGRI, the ministry that

²⁸ Alluding to some forest re-growth between periods of cultivation.

²⁹ The individual contractor mentioned before avoided entertaining a hypothetical case I posed to him about lands classified as agricultural (i.e., potentially able to receive an official property title) that would still have a natural forest. He said that ‘it is hard that you’d find one...if someone leaves it [standing], ok, but that is by regeneration [of a previously cultivated land]...[natural forest] as such does not exist anymore [in that area]’ (interview 8, city of Moyobamba, 29 November 2023).

oversees the agricultural land laws and policies, including land titling, even though the former is hierarchically dependent on the latter. Regional governments that have the competencies of implementing both sets of laws and policies on the ground also replicate this problem at the subnational level.

Poor interagency coordination for forest governance may seem surprising by just looking at the law ‘in the books’ (Pound 1910). Under Peru’s administrative law, governmental agencies are bound by a general requirement to actively collaborate amongst them (see *Texto Único Ordenado de la Ley de Procedimiento Administrativo General* [TUO LPAG], Article 87). And the laws and regulations of forest governance have developed this requirement even further. For example, a simple word search in a thorough report by Wieland and Farfan (2015) on government competencies related to forest governance in Peru yields 41 hits for ‘coordination’ or similar terms. These refer to legally mandated inter-institutional committees or platforms, as well as to requirements to coordinate aimed at MIDAGRI, SERFOR, the regional governments, OSINFOR and other related agencies. Despite these interagency coordination platforms and requirements, the government agencies fail to actively coordinate in practice. Studies on forest governance in Peru have identified this and other examples of poor coordination related to agricultural land and forest laws, highlighting them as one of the most important institutional challenges in the Peruvian Amazon (Che Piu & Menton, 2014; Dourojeanni et al., 2009). An example of the

types of conflicting attitudes between officials in different agencies and ministries was given by the national director of land titling at MIDAGRI³⁰. When asked if he actively coordinated with the Ministry of the Environment (e.g., for issues related to prosecuting deforestation cases), he retorted: ‘yes, [well,] the Ministry of the Environment should coordinate with us...they only call me when they have problems.’

The agencies involved in agricultural land and forest laws in the Peruvian Amazon suffer from other institutional problems. According to Che Piu and Menton (2014), they are ‘weak institutions without adequate enforcement capacity and implementation’ (p. 10), due to several combining factors: lack of resources (financial and human), the pervasiveness of corruption and informality, the fact that the agencies’ mandates many times overlap, and that the devolution process regarding forest governance is incomplete or that it has been done without actual transfer of sufficient financial resources to regional governments. The latter is particularly important because, as explained earlier, the regional governments are tasked with the implementation of the LFFS on the ground. As Zamora (2021) explains, instead of a progressively and orderly process, as originally planned by the law (see *Ley de Bases de la Descentralización*, 2002), the devolution occurred in an accelerated fashion that

³⁰ Interview 40, city of Lima, 25 August 2022.

did not allow for a proper assessment of the capacity needs of the regional governments, and for implementing programmes to build these capacities, as well as in a context of poor relationships between levels of government, and the privileging of the budget of the national government over the subnational governments. The flawed devolution process, and the other institutional problems of the Peruvian government related to forest governance, are widespread and are understood to be important indirect drivers of deforestation in the Peruvian Amazon (Che Piu & Menton, 2014).

Implementing the forest governance legislation of Peru could benefit from a responsive regulation approach, which is particularly suitable for developing economies with various institutional challenges (Braithwaite, 2006). As Arevalo (2021) points out, there is some basis in the administrative law of Peru for this, including from some court cases, signalling that the supervisory role of agencies should have a preventive and guiding approach. However, thus far, the government has mainly maintained a standard command-and-control approach to forest governance, and it is only very recently that it is attempting some responsive regulation tailored to small-scale farmers, such as with the new compensatory scheme explained earlier whereby first-time offenders can do forest restoration instead of paying the large fines.

The next subsection examines how agricultural land and forest laws are implemented in Soritor to provide a closer view of the institutional challenges

that the state faces when trying to deploy its legal rules to order the frontier spaces of the Peruvian Amazon.

4.3.2. The challenges of deploying Peruvian law to order the frontier space of Soritor

As explained in Chapter 3, the district of Soritor shows a similar deforestation pattern by small-scale agriculture as in most of the Peruvian Amazon, where the implementation and enforcement of the agricultural land and forest laws and regulations is largely absent. In the villages of Soritor, what may appear to an untrained eye as a mosaic of primary forest interspersed with agricultural plots and large cleared areas, is actually ‘private properties’³¹ in different stages of agricultural production. The fields that are visible are under cultivation; many large, cleared areas are pastures for livestock; some wooded areas are secondary forests (previously cultivated plots that have been left to rest); and other wooded areas are reforested with plantations (usually monocultures of non-native species planted for timber). Some of the villages are inside or near areas under special conservations designations³² where some of these primary

³¹ In practice, although not officially recognised as such by the state because these lands have been occupied illegally, against the agricultural land and forest laws explained earlier in this chapter. Chapters 5 and 6 discuss how farmers enact private properties using social norms and practices, and how they consolidate them with the support of the newly created villages and their local practices of private law.

³² Namely the *Bosque de Protección Alto Mayo* (Alto Mayo Protective Forest), a national protected area near Soritor under Peru’s protected areas law (*Ley de Áreas Naturales Protegidas*, 1997), and the *Zonas de Conservación y Recuperación de Ecosistemas* (Zones of Ecosystem Conservation and Restoration, ZOCREs), an ad-hoc conservation designation created by the Regional Government of San Martín (see footnote 80 in Chapter 6 for a more detailed explanation of ZOCREs).

forests remain. In other villages, there may be small patches of primary forests set aside for future agricultural production, but it is more likely that they have been left there because they are located on steep slopes or other hard-to-reach places, or because the soil is not suitable for agriculture, such as rocky terrain.



Figure 3. Landscape view of a section of the district Soritor from the village of El Lucero (author's personal photograph, 2023). Most of the area has been completely deforested and converted to farms; the trees are either a few forest plantations or secondary forest (*purmas*). The only remaining primary forest is atop some faraway mountains in the background.

Very few of these farmers in Soritor have any forest use right or an official property title. During my fieldwork, agroforestry concessions under the LFFS

were being slowly rolled out, with only a few contracts granted in Soritor. Even though the regional government of San Martín is the one that had advanced the most in implementing this new official land tenure system, it had yet to make a meaningful dent in the land formalisation gap in the region. By 2024, the regional government had granted approximately 750 contracts in various districts (Gobierno Regional de San Martín, 2024), of which at least 58 were in Soritor, said an informant from the ARA³³. But this is a very small number considering that the formalisation gap is approximately 37,000 families that are occupying forestlands in the entire San Martín region and that could meet the requirements (Peña Alegría, 2024; Robiglio et al., 2018). The ARA has faced several challenges to implement the agroforestry concessions system, including regulations that are too complex and lack of funding, thus making the granting process difficult (Peña Alegría, 2024; Robiglio et al., 2021), which is further complicated by the fact that some farmers seem to be reluctant towards it, as discussed in Chapter 7.³⁴

³³ Informal conversation with informant 3, city of Moyobamba, 10 July 2023.

³⁴ See subsection 7.5.2.



Figure 4. Detail of a public notice from the ARA of the Regional Government of San Martín posted on a wall in Villa Hermosa, informing about incoming agroforestry concessions in various villages nearby (author’s personal photograph, 2023). It lists the farmers who applied, and the villages where the plots to be formalised are located, including a geolocation (GPS point).

The majority of these farmers in Soritor also lack official property titles. According to the last official statistics available (Instituto Nacional de Estadística e Informática, 2012, p. Table 51), only about 38% of plots of land in the district had an official property title in 2012, which is likely smaller today since migration has continued and the land titling projects have not entered the area since then. The reason why farmers lack official property titles in most cases is that they occupy forestlands or protection lands, not subject to the private property regime. But even those who occupy lands categorised as agricultural had not yet received an official property title due to problems with the land titling efforts of the government. When I interviewed the national director of land titling at MIDAGRI in 2022³⁵ he was critical of all regional governments in general for being too slow in implementing these programmes in their jurisdictions, and he had been sending official letters admonishing them for failing to attain their goals. During my fieldwork there were three different ongoing land titling efforts in the region of San Martín. One was the PTRT3³⁶ programme led by MIDAGRI with funding from the Inter-American Development Bank (IADB) and implemented through third-party contractor companies. It was a temporary programme that focused on granting collective

³⁵ Interview 40, city of Lima, 25 August 2022.

³⁶ Its full name is *Proyecto de Catastro, Titulación y Registro de Tierras Rurales en el Perú, tercera etapa* (Project of Cadastre, Titling and Registry of Rural Lands in Peru, third stage, PTRT3).

property titles to native communities, not official property titles to individual farmers, explained the director of the DRA³⁷. He was highly critical of this programme because, according to him, it ended up doing ‘practically nothing,’ due to an implementation model reliant on third party contractors with poor on-the-ground knowledge. The second land titling programme was directly implemented by the regional government through the DRA, with modest funding and a target of 1,000 official property titles per year, according to the director of land titling at the DRA³⁸, who explained that ‘that is the target I found...when I assumed the post,’ implying that it had been set long ago, and it is maintained by default.

The third land titling effort was the most important one. It was a larger ad-hoc investment project led by MIDAGRI and funded by the national government. Interviewees involved with this project and with the land titling office of the DRA³⁹ explained that the project had its own goals, target districts, and field crews comprised of individual contractor workers that did the fieldwork and prepared the documentation, which then was sent for review to the regional government’s office of land titling at the DRA that issued the official

³⁷ Interview 9, city of Lima, 27 October 2023.

³⁸ Interview 11, city of Tarapoto, 28 November 2023.

³⁹ Interview 11, city of Tarapoto, 28 November 2023; and interview 8, city of Moyobamba, 29 November 2023.

property titles. These interviewees confirmed that the project had a very large goal of 120,000 lands in the cadastre (90,000 of which with official property titles), which an informant, the head of that project,⁴⁰ thought was too ambitious. But Soritor was not one of the target districts, which was reasonable because the project's aim was updating the cadastre, that is, going back to areas that had received official property titles in the past but where the procedure had been incomplete or had had problems (e.g., failure to register the official property titles in the Land Registry, which also led to subsequent land transactions and subdivisions that had not been registered). This investment project had also run into problems that delayed its start by a year, said an individual contractor that was part of the crew doing fieldwork in Rioja,⁴¹ a province neighbouring Soritor.

The experience of this individual contractor⁴² was illustrative of the challenges that ordering this frontier space implies in practice. He described the difficulties of the day-to-day work of land titling, such as the hardship of the hilly terrain where they must walk along the boundaries of each plot ('we stay [there], [whether it's] sunny, [or] with rain'), and the time constraints they have in the field to achieve each of their quotas ('70 properties in a week, 10 days,...it's

⁴⁰ Informal conversation with informant 1, city of Tarapoto, 29 November 2023.

⁴¹ Interview 8, city of Moyobamba, 29 November 2023.

⁴² Interview 8, city of Moyobamba, 29 November 2023.

complicated'), or when, back from the field, they have to put together all the documentation ('here [in the office], at midnight, 1 am, [you'll find the place] more full with people'). He also related some of the typical issues they run into on the ground, such as boundary problems ('[although] there aren't that many...[if there's a conflict between neighbours while we are walking along the boundaries] we give them 5 minutes to figure it out between them, and if [they] don't, we say goodbye'), or inheritance problems when the husband has had children out of wedlock ('when it's massive land titling [like this one], we cannot do [titling based on] inheritance or donations...they'd have to have a *compraventa*⁴³ document').⁴⁴

⁴³ *Compraventa* documents (literally, 'buy-sell' documents) are the private contracts used by farmers to transact land. Chapter 6 discusses at length the significance of these documents for consolidating private property and achieving tenure security in this frontier space.

⁴⁴ They also provide guidance to farmers on various subjects related to landownership that come up with certain frequency. As an example, this interviewee mentioned the case of unmarried couples where the men do not put the women's names in the official property titles: 'there are questions that women ask about why they can't be considered for a[n official property] title...the title is always in the name of the husband [or partner], and he sells when he wants... we guide and at the same time exhort [that both appear in the official property title],' he said (interview 8, city of Moyobamba, 29 November 2023).



Figure 5. An individual contractor, part of the staff of the land titling programme in a nearby district of Soritor, working in the programme's office at night and showing a map of the properties to be formalised (author's personal photograph, 2023).

4.3.3. The state's lack of enforcement of its forest protection laws in the agricultural frontier of Soritor

The small-scale farmers in Soritor, as in most of the Peruvian Amazon, do not have authorisations or permits that, under the forest laws and regulations

explained in section 4.2.2., would be necessary to legally deforest the land and cultivate it, or to extract timber or to hunt. Thus, for someone well-versed in the intricacies of the agricultural land and forest laws and regulations, the landscape in Soritor might be seen as a mixture of mostly illegal land uses. Deforestation and land titling are outright prohibited by law in most of these lands because, under the 'best use capacity' land classification mechanism, they have been designated as forestlands (F) or protection lands (X). And, in the few spaces where the land has a 'best use capacity' for agriculture (A, C, or P), this legal expert would still view them as informal occupations, although ones that could eventually follow a legal path to obtain official property titles from one of the land titling programmes of the regional government. In all cases, however, in the punctilious eyes of the legal practitioner, farmers who have occupied this landscape and illegally transformed it by deforesting it, would be theoretically subject to the heavy administrative fines, and even to criminal prosecution explained previously.

But these penalties exist only in written law. Farmers in the field are not aware of them or do not pay attention to them. Part of this is due to the fact that farmers simply do not know these legal rules; some may be aware of pieces of the legislation but mix them up, are unaware of current legal rules, or choose to ignore them. For example, the farmers interviewed in Soritor seem to understand that logging for commercial purposes is prohibited unless they

request a permit to the ARA, which they do not do or are unable to do, as further explained in Chapter 8⁴⁵. However, farmers do not know that the law also prohibits deforesting even in the lands that are classified as agricultural lands under the 'best use capacity' regulations (A, C, or P), including in the few of them that have official property titles, without first going to the complicated authorisation procedures described before. In practice, farmers do not follow these procedures to obtain the authorisations to deforest the land, as seen by their illegal occupations of the forests, and the enactment of private property using social norms explained in Chapter 5.

The other reason why these legal rules do not matter to farmers is the fact that enforcement of the legal rules prohibiting deforestation is almost non-existent. Regional governments are responsible for supervising compliance with the LFFS and have the power to impose administrative fines to penalize illegal deforestation. The ARA is the agency within the regional government of San Martín that is in charge of the implementation of the LFFS, including granting use rights like forestry concessions, agroforestry concessions and timber extraction permits, but also of sanctioning illegal forest activities. However, in practice, the ARA rarely imposes fines on anyone. In the rare cases where they would fine someone, the ARA would be unable to ensure payment

⁴⁵ See sections 8.2.1. and 8.4.1.

because they had yet to establish a system for enforced collection (*cobranza coactiva*), as explained by the environmental prosecutors at the FEMA office in the city of Moyobamba⁴⁶. Furthermore, the environmental prosecutors explained that the ARA only considers reports or complaints involving deforestation when it happens inside areas of especial designation for conservation, such as protected areas under the *Ley de Áreas Naturales Protegidas* (Natural Protected Areas Law, 1997), essentially ignoring the rest of the forestlands. An official at the ARA who works on forest supervision⁴⁷ highlighted that they have been improving the supervision of illegal logging, for example, but he confessed that ‘honestly, [we] don’t do anything on deforestation.’ The ARA also shies away from its responsibility to conduct forest supervision in other ways. The environmental prosecutors complained that instead of the ARA handling these reports themselves, initiating procedures that should lead to administrative sanctions, like fines, the ARA has the practice of automatically referring all reports to the FEMA. This means that each of these reports that could be dealt with using the relatively simpler forest supervision system under administrative law, ends up being a more complex and longer criminal investigation.

⁴⁶ Interview 6, city of Moyobamba, 20 April 2023.

⁴⁷ Interview 43, city of Moyobamba, 24 November 2022.

These cases add up in the already heavy caseload of the environmental prosecutors at the FEMA in Moyobamba. The environmental prosecutors⁴⁸ explained that because they want to be thorough, they have established a policy in their office to conduct field inspections for each report. These field inspections have several difficulties and are costly. For example, when they arrive in the rural areas of Soritor, which can be several hours away by car or on foot, they do not find willing witnesses that want to speak with them. They thought this is due to a social norm that discourages farmers to report people from their own villages. Hostility can also escalate. On one occasion near the village of Alto Perú, environmental prosecutors reported that they were intercepted by groups of farmers who, aware of their visit in advance, blocked the road and stopped them, demanding that they leave immediately; outnumbered and lacking a security team, the environmental prosecutors obliged and left. Many times, environmental prosecutors conduct these field visits without the support of local police because the police lack the resources to accompany them, such as lack of petrol or broken down vehicles, or because the environmental prosecutors distrust the police. The environmental prosecutors said they feared that the police may be passing information to the villages by phone, alerting them to the inspections in advance. But even if environmental prosecutors were to conduct more secure and productive field

⁴⁸ Interview 6, city of Moyobamba, 20 April 2023.

inspections, they would still be constrained by their timing. They recognised with some resignation that, due to the large caseload and the small size of their team relative to the area under their jurisdiction (a lead prosecutor and two assistant prosecutors for a jurisdiction of hundreds of square kilometres), they always arrive weeks or months after the event has occurred, so they can no longer gather solid evidence on-site about potential suspects, for example.

An additional problem seems to be the judges. When asked how many convictions for deforestation they have managed to secure, if any, the environmental prosecutors of the FEMA Moyobamba⁴⁹ could only mention less than a handful of cases in the last twenty years, all within legally designated conservation areas, such as the Alto Mayo Protection Forest, a protected area under the administration of the *Servicio Nacional de Áreas Naturales Protegidas por el Estado* (National Service of Natural Areas Protected by the State, SERNANP), the agency that administers these protected areas nationally. They partly attribute the few convictions to a problem with judges who do not prioritise environmental cases. One of the environmental prosecutors described an extreme case to illustrate the little importance judges give to this type of crime: in 2017, the environmental prosecutors had completed an

⁴⁹ Interview 6, city of Moyobamba, 20 April 2023.

investigation into a deforestation case, charging the suspect, but by 2023—approximately six years later—the judge had yet to order the start of the trial.⁵⁰

4.4. Conclusion

This chapter has explained the cumbersome agricultural land and forest laws, including the legal rules for land use ‘planning’ and zoning, that are supposed to govern the ordering enterprise of the state in the Peruvian Amazon, as well as the challenges faced by the agencies and levels of government in charge of implementing and enforcing them, that contributes to create a frontier space where these laws are only thinly applied. Peruvian law has established a different legal regime for agricultural land, subject to private property, and for forests and forestlands, subject to administrative use rights such as permits and concessions. In part, this legal division builds on the Spanish colonial regime that gave the state a powerful position to control natural resources. The state has devised a legal classification system that divides rural lands by their ‘best use capacity,’ that helps delimitate which lands are subject to the state’s land titling formalisation programmes through official property titles, and which are set aside for forest use rights or forest protection. Land use decisions by the government are further informed and guided by two complementary zoning

⁵⁰ Chapter 8 discusses the experience of another judge who oversees criminal cases in her court in a nearby district that further illustrates the lack of enforcement of crimes related to deforestation (see section 8.4.1.)

instruments, the ZF and the ZEE, that are developed by regional governments under national regulations and oversight. These regional governments play a key role in the implementation and enforcement of various aspects of agricultural land and forest law in Peru as they are also in charge of granting official property titles, and forest use rights, which include large timber concessions but also the smaller and newer agroforestry concessions aimed at formalising small-scale farmers occupying forestlands.

In general, however, I argue that national and regional government authorities with agricultural land and forest mandates experience various institutional problems, including poor interagency coordination and lack of resources, that complicates the implementation and enforcement of these laws in the agricultural frontiers of the Peruvian Amazon. Soritor is a case in point where various land formalisation efforts have failed to make meaningful inroads, and land use conversion of the forest to agricultural plots through deforestation is hardly ever prosecuted and sanctioned, despite being largely forbidden by law. As Chapters 5 to 8 explore in detail, this is the context in which the farmers of Soritor occupy the forest using social norms, local rules and local practices of private law related to private property that interact with these (weakly applied) legal rules of the Peruvian state, co-constituting the agricultural frontiers of the Peruvian Amazon, a rural *lawscape* characterised by inter-legality.

5. ENACTING PRIVATE PROPERTY AND CONSTITUTING COMMUNITIES IN STATE FORESTLANDS OF THE PERUVIAN AMAZON

5.1. Introduction

This chapter discusses how private property is enacted by migrant small-scale farmers in forestlands that are formally under state ownership, leading to the constitution of communities and the transformation of the Amazon forest into an agricultural frontier. The chapter is informed by the insights from all my 42 interviews, drawing in particular from 17 semi-structured interviews with farmers of Soritor with whom I discussed how they occupy the forest, enact property rights and engage in collective actions in their communities as villages begin to form. The chapter also draws on data from interviews with non-farmers, namely a notary legal expert in Soritor, a legal expert who was a former official at the Land Registry office, and government officials who work on infrastructure development in the municipality of Soritor and environmental licensing (i.e., review of environmental impact assessments) in the regional government of San Martín.

The chapter is divided into five sections. Section 5.1. introduces the main theme of the chapter, the data used for the analysis, and the organisation of the

chapter. Section 5.2. explains how small-scale farmers begin to occupy the forest in Soritor. They come from the Andean highlands in search of more available and productive land, a process that is facilitated by earlier migration of relatives or other acquaintances. Section 5.3. unpacks three practices under a social norm, which I call the Amazon Settler social norm, that enable farmers to enact private property in virgin forests, despite it being against agricultural land and forest laws: *coger tierra* (taking land), *amparar la tierra* (staying around on the land), and *trabajar la tierra* (working the land). They are part of an overarching social norm in Soritor that recognises farmers as the sole decision makers in relation to their lands, which I call the Autonomous Farmer social norm. Section 5.4. argues that despite the individualistic ethos of production and landownership underlying the Autonomous Farmer social norm, farmers still need collective actions to facilitate key services and infrastructure, such as schools and roads. This process coincides with the arrival of more farmers, the formation of new villages, and the election of village leaders, whom the state officially recognises and who will coordinate with state agencies to obtain those services and infrastructure. As the next chapter discusses (Chapter 6) these village leaders will also become important to provide further legitimacy to farmers' properties by producing land documents. Section 5.5. concludes by summarising the analysis presented in this chapter.

5.2. From the highlands to the forest

Deforestation is better understood as a process, not an event. While cutting down a group of trees in one place may seem like a concrete action in a discrete moment and location, deforestation occurs throughout larger spatiotemporal scales. In the agricultural frontiers of the Peruvian Amazon, it begins even before farmers arrive in the forest, when they make the decision to migrate from the Andes or from another place in the Amazon, a nearby village or even a town in another province, likely one that was itself an agricultural frontier at one point. Their decision to migrate is influenced by a push/pull socio-economic dynamic: farmers are ‘pushed’ out of their communities due to land scarcity or lack of economic opportunities and are ‘pulled’ into the rainforest precisely because of the seemingly vast available land that they can convert to agricultural production.

This process is rather similar throughout the Peruvian Amazon. In an in-depth study of small-scale farmers in four Amazonian districts of different parts of Peru, Robiglio et al. (2015, p. 79) explain that ‘[underlying] the migratory movements exists some kind of search of “free” lands in areas where the access is facilitated by communication infrastructure. However, the “expulsion” elements are [also] important, considering the conditions of high demographic pressure, lack of socio-economic perspectives, and of political insecurity or

violence in the areas of origin.’¹ Thus, Robiglio et al. (2015, p. 80) point out that, with varying degrees, ‘migration is an active phenomenon’ in these frontiers.

5.2.1. Social relations facilitate migration to the forest

Migration is enabled by social connections. Direct or extended family, neighbours, or acquaintances from the same community of origin who already live in the new area, or an area nearby, owning plots of land, provide key information and initial resources to the soon-to-be migrants. They may explain where land is available or offer them some land so they can begin to cultivate. One of the founders of the village of Selva Alegre,² for example, said that he came because his brother-in-law, who was already living with this interviewee’s sister in a village very close to the town of Soritor in the 1980’s, mentioned that ‘people were saying that they were selling [land there], so we came to see...’ Another farmer, of the village of Alto Perú,³ explained that he arrived from Piura ‘because my brother was already living here...[he] donated me a piece of land. Then I bought [more] and started to work [in it].’

¹ The latter refers to the 1980s era of internal violence from the terrorist groups Shining Path and *Movimiento Revolucionario Tupac Amaru* (MRTA), both of which drove migration waves of peasants from rural areas in the highlands into cities or other rural spaces. But they had a much less prevalence in northern Peru and hence do not represent the main reason for movement to places like Soritor.

² Interview 33, Selva Alegre, 17 April 2023.

³ Interview 22, Alto Perú, 9 July 2023.

Most farmers in Soritor were born elsewhere. Interviewees reported that many came from Cutervo, a province 400 km away from Soritor, in the Andean department of Cajamarca. Another group came from Piura, a neighbouring department in northern Peru that, like Cajamarca, has a large rural population living in the Andes highlands. But migration is a circuitous endeavour; several interviewees mentioned leaving their home villages in the highlands to other places before eventually settling in Soritor. One of them is an early resident near the village of Selva Alegre.⁴ She came around 1984 to live with her in-laws who had arrived earlier, and she said that, as a young girl, her family left Cutervo to Jaén first. ‘We stopped in Jaén for 3 years and then we came here,’ she recounted. Something similar happened to the *alcalde delegado*⁵ of the town of San Marcos⁶ who came in 2003 as a child with his parents.⁷ Originally from Jaén in the department of Cajamarca, they left to go to Juanjuí first, a nearby area in the department of San Martín, ‘[and] it’s only after Juanjuí that I came here,’ he explained. Once in Soritor, people from the same places of origin may tend to cluster around certain specific areas. ‘Here we are all migrants, you know, from

⁴ Interview 23, Aguas Calientes – Selva Alegre, 14 April 2023.

⁵ An *alcalde delegado* (delegated mayor) is a municipal authority that some small towns in Peru can have once they reach a sizable population. *Alcaldes delegados* are elected in their towns, have a few municipal responsibilities, and manage a small amount of the district’s budget.

⁶ There are only two towns in the district of Soritor. One is the town of the same name, Soritor, the district’s main and only urban centre. The other town is San Marcos, 30 minutes away from the town of Soritor. San Marcos is much smaller than the town of Soritor, but it is larger than a village and this is why it was recently allowed to have an *alcalde delegado*.

⁷ Interview 29, town of San Marcos, 10 July 2023.

other places...,' said a farmer from Selva Alegre,⁸ 'here there's people from Jaén, but further up there's people from Piura...'

5.2.2. Migrating for more and better land

People cite similar reasons for coming to Soritor due to their families not having enough land in their communities of origin. For example, an early occupant in the village of Villa Hermosa⁹ explained how he and his family came to Soritor because 'we had too little land...only 3 hectares and we couldn't buy more [in Jaén].' Being able to find more land that was cheaper was key for them. He said that in Jaén there was some land available, but it was too expensive and so 'the *colindante*¹⁰ that had money was not letting [us] buy [land], who had little...[someone] wanted to sell one hectare? Bam! The *colindante* with more money grabbed it.' He had family in the town of San Marcos, a small village back then, who had come in the 1970s and that he visited regularly. These relatives kept telling him that 'around here there are lands that are more affordable,' so he and his family, like many other families, sold their land in Cutervo to get more land in Soritor, 'and with that...I bought like 10 hectares [in Soritor].'

⁸ Interview 31, Selva Alegre, 22 November 2022.

⁹ Interview 7, Villa Hermosa, 11 July 2023.

¹⁰ Adjacent neighbour.

Other interviewees closely connected the need for more extension of land with the fact that they wanted more fertile lands, or lands that would produce other more valuable crops. The early resident near Selva Alegre¹¹ said that ‘[in Cutervo], you only survive on potatoes, peas...it’s just for subsistence, but that’s all... [and] in Jaén we entered a forest but it was not productive...because the lands were “spongy” ... [and so] the plants didn’t grow...[but around here, people] cultivate coffee, raise cattle...there is more...space here.’ An interviewee from the village of El Lucero¹² recounted how he came as a young boy with his mother and siblings because ‘in that part of the highlands where I lived...it didn’t produce coffee; so, our desire was to come to a place that produced coffee and cultivate it, right?’ Another farmer, from the village of Primero de Mayo,¹³ also reported coming to Soritor as a young boy because of his uncle who had just taken land in the area: ‘We had little land [in Cutervo], [and] almost no productivity in the highlands...we only cultivated cane for the sugar, for the *aguardiente*¹⁴, and it wasn’t enough...[my uncle] called us and told us, “Come here to Soritor because I have other lands that I am going to give to you.”’ The idea of productivity was expressed in more clear material terms by the

¹¹ Interview 23, Aguas Calientes – Selva Alegre, 14 April 2023.

¹² Interview 27, town of Soritor, 16 April 2023.

¹³ Interview 30, El Lucero, 13, April 2023.

¹⁴ A liquor from sugarcane that is popular in many rural areas of Latin America.

interviewee from El Lucero.¹⁵ He explained that if they were to cultivate the same staple crops in Cutervo as the ones he cultivates in Soritor, it would take him 2 years for them to grow, but in Soritor ‘in 10 months to a year you are already eating [them].’

5.3. Enacting property in the Peruvian Amazon

People who migrated to Soritor had to find land to farm. As seen from the previous accounts, some obtained lands through acquaintances or family members who sold or donated a piece of their land to the newcomers. These acquaintances or relatives often also helped the new arrivals find other people who had arrived earlier and whom they could buy land from.

But other newcomers ended up venturing further into the forest looking for ‘free’ areas that had not been claimed and owned by another person. These areas of primary forest are called *montañas*, or sometimes *montes* for short. Although the literal meaning of a *montaña* is ‘mountains,’ in the context of the Peruvian Amazon people use the term to mean natural forests that have not been occupied for agriculture in the past, and thus likely not owned by other farmers.¹⁶ In the past, this meaning of *montaña*, present in everyday language in the Peruvian Amazon, was also used in legal language, such as in some old

¹⁵ Interview 27, town of Soritor, 16 April 2023.

¹⁶ In fact, this term is still used, or has been in the past, throughout rural Latin America with a similar meaning of a jungle or an arboreal mount (Real Diccionario de la Lengua Española, 2023)

statutes like the Organic Law for *Montaña* Lands (1898) or its successor the General Law of *Montaña* Lands (1909), which sought to organize the occupation of the Amazon by regulating, for example, the modes of acquisition of land through sale, concessions, or free allocation to small farmers, all subject to conditions that involved actively using the land for agriculture.¹⁷ In the geography of Soritor, the usage of the term *montaña* matches better its literal meaning in the sense that most of the unoccupied primary forest had been in the mountainous parts of the district. So, the expansion of the agricultural frontier into the forest has followed a pattern of verticality that is present in the mindset of local people: going from the lower areas, near the city of Moyobamba, and encroaching further into the forest by ‘going up.’

¹⁷ The law of 1909 was in effect for a long time, 65 years, until the military regime of the 1970s replaced it with new laws that no longer mentioned *montaña*, using instead *selva* (jungle) as the new legal term to designate the Amazon. Importantly, in line with this regime’s leftist ideology, these laws now explicitly recognised and provided protections to the collective land rights of Amazonian indigenous peoples. See, for example, the Law of Native Communities and the Agricultural Promotion of the *Selva* and *Ceja de Selva* (edge of the jungle) Regions (1974); or its successor, the Law of Native Communities and Agrarian Development of the *Selva* and *Ceja de Selva* (1978), which is still partially in effect today, especially in relation to the indigenous lands.



Figure 6. Topographic view of the district Soritor (in 3D) (Google Earth, 2025). It shows the different elevations of the terrain, and the patterns of occupation in the district, where the lower areas have been occupied (and deforested) for longer. The red pin shows the location of the town of Soritor.

These old statutes have since been repealed and the usage of *montañas* as a legal term has faded away, but there is an interesting contrast between the legal and the colloquial usage of the term. While both alluded to a similar idea of an unappropriated wilderness,¹⁸ the law reflected the Peruvian state's ordering enterprise of regulating the space by granting rights, whereas the

¹⁸ Part of a colonial mindset that disregarded the fact that many parts of the Amazon were already occupied by nomadic indigenous peoples with collective land arrangements consistent with their customary laws.

colloquial usage of the term highlights the farmers' idea of a free space that could be appropriated by possession. Both understandings are still discernible today in the law's regulatory framing of the forest as a natural resource under control of the state explained in Chapter 4, and in a farmers' social norm that recognises private property rights to those who take land in free *montañas* for agriculture. The next subsections explain the three practices farmers use to enact private property under this social norm, which I refer to as the 'Amazon Settler' social norm.

5.3.1. *Coger tierra* (taking land)

The process of going into a 'free'¹⁹ *montaña* to get a piece of forest that farmers can claim ownership to and convert it to a plot of land for agriculture is called *coger tierra* (taking land). In the farmers' mindset, *montañas* that are free areas resemble the International Law concept of a *terra nullius*²⁰. In an analogous manner to the International Law's doctrine of discovery²¹, farmers have a social norm that considers it legitimate to acquire these lands in private property

¹⁹ Strictly speaking, this is not a free area because, according to the Peruvian agricultural land and forest law discussed in Chapter 4, forestlands are natural resources under the control of the state. But, in practice, they are seen by farmers as open spaces with no owners.

²⁰ In International Law, the Latin term *terra nullius* alludes to a territory that is not owned by any state or sovereign entity (Legal Information Institute, 2022a). Contemporary Peruvian property law recognises the related legal concept of *res nullius* as a form of appropriation of 'things that do not belong to anyone,' although only limited to 'stones, seashells, or other analogous things that are found in the sea or in the rivers or its beaches or shores...' (see Article 929 of the Civil Code, 1984).

²¹ This International Law doctrine was used for the appropriation and colonisation of lands that were *terra nullius* (Legal Information Institute, 2022b)

when they reach them and get possession of them. And, just as this doctrine was used as a colonisation instrument by old European powers, these Andean migrants, now settlers in the Amazon, are also commonly called *colonos* (colonists). So, in the Peruvian Amazon it is common to talk about two different groups of people, the indigenous peoples, living in native communities, and the *colonos*, in the agricultural frontiers.²²

The social norm that the free *montañas* can be taken as private property is shared by migrant small-scale farmers across the Peruvian Amazon. For example, a study of the 1990s by Chicchón et al. (1997) in the valleys of Tampobata and Inambari in the Amazonian section of the department of Puno (South Eastern Peru), reports that ‘the perception of the *monte* as a free available good is still valid in both valleys. The farmers think that they can continue opening their own *chacras*²³ in the *monte* “further down”²⁴.’ In a more recent study in the districts of Irazola and Curimaná in the department of Ucayali (North Eastern Peru), Bennett et al. (2018) discuss how farmers lay claim to forests to get private landownership rights, highlighting the discrepancy with

²² Sometimes these areas overlap and are a source of conflict between these two groups; in many of these cases, indigenous peoples claim that the *colonos* encroach their lands. But there are also many instances of peaceful interrelation, for example, in places where native communities rent land to *colonos*. Importantly, as explained before in the introduction of the thesis (Chapter 1), and in the Methodology (Chapter 2), there are no native communities, and no claims of indigenous land in the district of Soritor, so cases like this fall outside the scope of this research project.

²³ *Chacra* is the colloquial term in Peru for cultivated land.

²⁴ The geography of this area is different than the one in Soritor, so in these valleys the *colonos* encroached the *montaña* by descending from the higher parts to the *selva baja* (low jungle).

Peruvian law. Similarly, in their study on land trafficking in the departments of Amazonas (North Eastern Peru) and San Martín, Shanee and Shanee (2016) explain how organised groups reach forested areas to lay claim to forests and establish private landownership rights.

In Soritor, although each person that took lands in *montañas* did so individually, they seldom engaged in it completely alone. They were joined by family members or a few other acquaintances that also took land in the area. However, it was uncommon for larger groups of people to band together to go to the same area of free *montañas* to *coger tierra* and divide it amongst them in a more organised fashion. For example, when I implied that maybe organised collectives also came to take land, one of the founders of El Lucero²⁵ corrected me: ‘no, no...very few. Not like that...[it was] by families.’ That may be changing somewhat. When asked about new areas of colonisation, several interviewees mentioned that some people were going to an area in Saposoá, an area in another province but reachable through Soritor. An interviewee’s son-in-law was among them.²⁶ ‘Almost 8 years [ago] he entered there...with his father, his two brothers, [and] they subdivided 4 plots [by taking land],’ this interviewee said, ‘people have made a committee, [have] elected a president...and since they are organised, then more people keep coming, and so...[newcomers] will pay a

²⁵ Interview 10, El Lucero, 13 April 2023.

²⁶ Interview 31, Selva Alegre, 22 November 2022.

small entrance fee of 200 or 300 [soles]²⁷...to the committee...for the communal expenses.’

In most cases in Soritor, *colonos* who took land did so to cultivate it themselves. But in other places, a similar process of going deep into the forest to *coger tierra* in free *montañas* is done by ‘professional land traffickers’ whose sole purpose is to take larger blocks of land at a time in order to divide them into several smaller plots and sell them to others for a quick profit (Shanee & Shanee, 2016). Land trafficking is a term that can have a broad definition, however. An interviewee who is a part-time farmer in the village of Selva Alegre and an NGO worker,²⁸ considered that land trafficking is also a newer phenomenon. He thought that the traditional taking of land that *colonos* did in the past differs from land trafficking in that the latter is an organised endeavour where there is ‘a group of 10, 20 [people] and they take a lot of land.’ And, whereas in the past ‘you did it because you wanted to cultivate [directly]...[now] everything is to do business [selling the land],’ he said. He further explained that land traffickers today engage in the whole process of *coger tierra* but only in a pretended manner: ‘[they] cultivate a section and say “yes, look, this is mine and I can sell it to you...” they even put up a hut there with [a simple roof] and sticks, and that’s it.’ There is a perception that taking land individually to directly

²⁷ Approximately GBP 40 and GBP 60, respectively.

²⁸ Interview 35, city of Rioja, 17 April 2023.

cultivate it is a more legitimate practice, but the line between this and land trafficking is in fact tenuous. The peace judge of San Marcos²⁹ put it like this: ‘in practice many citizens have fallen into the crime of land trafficking simply because they arrived first, took possession, took a plot, and from there, they [eventually divided it and sold it].’ In fact, both situations are illegal under the letter of the law, but they are largely unenforced by authorities at the regional government tasked with forest supervision, as explained in Chapter 4.³⁰

Reaching the free *montañas* is hard work. Farmers know the area is a free *montaña* because they may already live nearby in what was at that moment the agricultural frontiers, or they may hear about places where other people are coming to *coger tierra*. Arriving there involved several hours or even days of walking through the *montaña* in Soritor’s rugged geography. An old *colono* of Selva Alegre,³¹ that settled in the area in 1982 before the village was founded, told me how difficult it was to reach his plot and living there at the beginning: ‘everything was *monte*... the trail was *añuje*³² path...beasts of burden didn’t fit,

²⁹ Interview 13, San Marcos, 22 November 2022. Peace judges are part of the formal structure of the Judiciary, and they are entrusted with adjudicating minor cases in rural areas of Peru. They also have some limited notary public responsibilities; Chapter 6 discusses their key role in making land documents.

³⁰ The Peruvian Penal Code (1991) does not consider land trafficking as a crime, but the government could try to prosecute a few serious cases under the crime of *estelionato*, a type of fraudulent conduct of persons who sell something that does not belong to them. See Article 197.4, of the Penal Code (1991).

³¹ Interview 33, Selva Alegre, 17 April 2023.

³² *Añuje* or agouti is a rodent the size of a rabbit common in the neotropics, also hunted as bushmeat.

nothing...afterwards my wife thought this was [a] bad [idea]...she cried, but we were already here.’ Even after some years since the first settlers arrived, these places were still hard to reach. ‘There was no trail, nothing... [we] walked 4 or 5 hours [to reach the town of Soritor], walking across the river Indoche...there was no bridge,’ explained to me a person who bought land from the first people who had taken it in the village of Jericó.³³

Coger tierra involves a few practices that farmers follow to turn a free *montaña* into private property. Upon arriving at a free *montaña*, farmers set up camp in a place that will be good enough for agriculture, avoiding spaces with too many stones in the soil or with steep slopes. Then, they spent several days delineating the boundaries of what would eventually be their initial large property plot, ranging from 40 to 100 hectares, or even as big as 200 hectares, as two interviewees recalled.³⁴ They did this by opening up trails on each side of a plot. Sometimes, it may not have been necessary to clear all four borders of a rectangular plot because they may have used some geographic features as natural borders, like watercourses or hilltops.

During this process, farmers left standing the large trees they found in the middle of the new boundary trails. They used them as signing posts: ‘for

³³ Interview 41, Jericó, 12 July 2023.

³⁴ Interview 10, El Lucero, 13 April 2023; and interview 2, Villa Hermosa, 11 July 2023.

example, if in the middle of the trail there was a thick tree...then you'd take out the bark and you'd paint it with enamel. You'd put the "L", so that [means] *Lindero*³⁵,' explained to me a farmer from El Lucero.³⁶ Others used other symbols, as an interviewee from the newer nearby village of Primero de Mayo³⁷ detailed: 'we left a *palo*³⁸ in the middle and there we put...the initials, we put our names...my uncle put A and G; Anter Gonzáles, was his name.' Other people, especially future *colindantes* with whom they will share the boundary, are expected to maintain these large trees standing. This process of traversing the terrain to open up trails in their new property boundaries can take several weeks, and farmers needed to do monthly maintenance to keep the forest from reclaiming them.

Colonos did not clear the entirety of their new plots, only one or two small fractions of 1 hectare or half a hectare in the corners. They also put up a simple *tambo*³⁹ for shelter and as a signal that the place has an owner. They don't deforest further, primarily, because they are resource constrained as clearing the land is difficult and costly. They use these small patches that have been

³⁵ Spanish for boundary.

³⁶ Interview 27, town of Soritor, 16 April 2023.

³⁷ Interview 30, El Lucero, 13 April 2023.

³⁸ Spanish for stick, a colloquial expression for tree.

³⁹ A raised platform with a roof made of leaves.

cleared within the larger plot for two purposes, one practical and the other symbolic. The practical reason is to cultivate some staple crops for their own consumption, such as maize, or even planting grass to create pastures for cattle, that will eventually help them with the food that they will need to further work in their new farms without the need to leave as often for supplies. The *alcalde delegado* of the town of San Marcos,⁴⁰ explained that these crops are useful when you work in these areas, ‘so when you go you have what to eat...you take [supplies] for example...cooking oil, rice, your things, the rest you complement it with what you have there [cultivating].’ And, when coffee began to be an important cash crop in the area in the 1990s, the early *colonos* would also begin to cultivate it.

5.3.2. *Amparar la tierra* (staying around on the land)

During this time, those who have families do not move completely or permanently to the new plot, but they make sure to stay around; they call this practice *amparar la tierra*. This is the second purpose why farmers only clear one or two small patches inside the larger plot. The dictionary definition of *amparar* is ‘to protect’ or ‘to favour’ (Real Academia de la Lengua Española 2023). But farmers in Soritor use it in reference to possession: to *amparar la tierra* is to be present in the land deliberately and regularly, cultivating at least

⁴⁰ Interview 29, San Marcos, 10 July 2023.

some part of it, in order to assert ownership and to be able to physically defend it against others who might want to occupy it. Interestingly, although *amparar* is a colloquial term that is not present in modern Peruvian law,⁴¹ the verb was in fact used in connection with the doctrine of possession in colonial law under the Spanish regime several centuries ago. For example, the *mandamientos de posesión y amparo* (mandates of possession and protection) were the old mode of acquisition of agricultural lands to enforce the landownership titles granted by the Spanish crown in the colonies (Guevara Gil, 2012). It is possible to see remnants of this meaning in the modern law of other former Spanish colonies, for example in Costa Rica with the *interdicto de amparo de la posesión* (order to protect the possession),⁴² a legal remedy available for possessors when someone disturbs their possession (called in Peru *interdicto de retener*, or ‘order to retain’).

Amparar la tierra is very important in this first stage of enacting property in the *montañas*. The farmer from El Lucero who was one of the founders⁴³ and who arrived in 1987 when everything was *montañas* put it this way: ‘[at first] I worked a little [the land]...a small farm...just to take care of it so no one comes.’

⁴¹ In the Iberoamerican Civil Law tradition, including Peru, the term is more commonly used today in a different context as *acción de amparo* (writ of *amparo*), the constitutional remedy for defending human rights.

⁴² See Article 106.2 of the Civil Procedural Code of Costa Rica (2016).

⁴³ Interview 10, El Lucero, 13 April 2023.

The farmer from the village of Primero de Mayo,⁴⁴ expressed the same idea of *amparar*, including making trails for the boundaries, so ‘other people don’t take it from us, because a lot of people started arriving.’ *Amparar* did not mean staying put permanently, but rather checking in from time to time, regularly. In Jericó, for example, the initial *colonos* in the area ‘lived in [the town of] Soritor, [and] they only came, took a look at their land [and], if no one had entered, [then] they came back to live in Soritor,’ clarified one interviewee.⁴⁵

Most interviewees that referred to the risk of invasion when they first took land in a *montaña* only mentioned it in passing. But a few alluded to specific examples of violence that, although rare, can exemplify the personal and material risks involved in *coger tierra* and *amparar* in those early stages. For example, the old farmer in El Lucero⁴⁶ said that they were not really afraid of other people invading them, ‘but what was scary were the tigers, the lions,’ using the colloquial terms for jaguars or pumas that still roamed the *montañas* in those years, but which are since long gone.⁴⁷ He said that the reason other people did not invade was because they *amparaban* (stayed around). But if you did not do that, then others could certainly come in and when the owner came

⁴⁴ Interview 30, El Lucero, 13 April 2023.

⁴⁵ Interview 41, Jericó, 12 July 2023.

⁴⁶ Interview 10, El Lucero, 13 April 2023

⁴⁷ See subsection 8.2.1. for an explanation on the impact of agriculture and deforestation in the wildlife of Soritor.

back ‘you would find it *chacra*, of course...others would [have taken it]...[and you could not force them out] how would you?...if you didn’t even have documents, right?...the *bravo*⁴⁸ would stay like a *bravo*, of course, even if the land had been yours.’ He mentioned one instance of deadly violence in those early days related to a land dispute. ‘They did kill a person for land...,’ he said, recalling that the person had taken a large plot by himself. Asked what happened to the land after the person was killed, he said that the land was taken by other people ‘when they saw it free [again],’ speculating that ‘[perhaps] the person who killed him took the land, as [the killer] knew that [the owner] wasn’t coming back.’ A farmer in the village of Selva Alegre⁴⁹ also mentioned that, in other places, when they are beginning to *coger tierra* and there may be disputes, people ‘would kill each other sometimes.’

In those early days of occupation, the physical changes in the landscape may have been still relatively small, with barely visible trails, some small farms, and a few huts. However, the legal conceptualization of the landscape in the minds of farmers had been decisively transformed: what was once a free *montaña* was now plots of land with many identifiable owners, susceptible to deforestation, cultivation, division, or sale. In practical terms, as the peace judge

⁴⁸ In reference to an invader that was a ‘tough guy’, someone behaving like a violent bully.

⁴⁹ Interview 1, Selva Alegre, 23 November 2022.

explained,⁵⁰ this means that people ‘didn’t wait to [fully] convert *montañas* into cropland’ as a preamble to enact property. This is also because farmers consider themselves as the owners of the *montañas* inside their properties. The concept that a *montaña* is legally a natural resource not subjected to private property, according to Peruvian law explained in Chapter 4, is thus largely at odds with farmers’ Amazon Settler social norm that recognises private property rights to those who take land in free *montañas*. ‘If you have forest inside your property then we in the community know that it is your property and so you can work it, [clearing it for agriculture],’ said one of the interviewees from Selva Alegre,⁵¹ stressing that there is largely no difference between owning a cultivated plot and owning a forest. Empirical findings in other places of the Peruvian Amazon with small-scale farmers who cultivate oil palm in the *selva baja* (low altitude jungle), have noted a similar discrepancy (Bennett et al., 2018), signalling that this is a widespread legal conceptualisation among small-scale farmers throughout the Peruvian Amazon.

From far away, satellites have been providing ever more detailed data and images that monitor deforestation in places like Soritor. What these data and images have not been able to pick up, however, is the Amazon Settler social norm and its practices that farmers use to enact private property in these areas

⁵⁰ Interview 13, San Marcos, 22 November 2022.

⁵¹ Interview 31, Selva Alegre, 22 November 2022.

and to change the landscape. In particular during the early occupation of free *montañas*, satellite remote sensing misses an important empirical insight concerning both geography and the law: that even though only small patches of deforestation are visible, the whole area has already undergone a major transformation, from a state-owned forestland to an agricultural landscape of private property owners. Widespread deforestation, in this sense, lags behind enacting property.

5.3.3. *Trabajar la tierra* (working the land)

Labour is seen by farmers as a key aspect of the process of enacting property in these frontiers. *Coger tierra* and *amparar* are closely related to farmers' ideas about 'working the land' as an indicator of who are the owners of private property. Interestingly, this idea is also closely related to the famous slogan '*la tierra es de quien la trabaja*' (the land belongs to those who work it) of the Mexican revolution, that was also used in the agrarian reform movement throughout Latin America, including Peru during the 1960s and 1970s. In the Peruvian context, the agrarian reform focused on breaking up the *haciendas* (large states) in the coastal and the Andean highland regions to redistribute it to the peasants who were working on them, but because *haciendas* were mostly absent from the Peruvian Amazon, the agrarian reform did not involve the Amazonian regions (Monterroso et al., 2017).

Especially at the beginning, when people start to *coger tierra* and *amparar*, farmers are expected to use the land for agriculture. This is the third practice involved in enacting private property in free *montañas* under the Amazon Settler social norm. Locke's statement that 'as much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property,' (Locke, 1948 [1689], para. 32) would ring largely true to modern farmers enacting private property in the Peruvian Amazon. The only caveat is that, as explained before, *coger tierra* and *amparar* do not immediately imply clearing and cultivating the entirety of plot to be recognised as landowners, instead, what is expected is a slow progression towards actively using the land. When asked if she thought there was, in practice, a difference between a landowner with an official property title and one who does not have one, the old resident near Selva Alegre⁵² stated bluntly that 'in practice owner is he [or she] who works the land...he [or she] who attends to it,' a view that is shared amongst interviewees. Labour that is equated with farming is, then, seen as a key element that constitutes property in these frontiers, especially during the early stages of enacting property. This interviewee shared a story of a confrontation with government authorities that highlights this idea:

the [government] authorities have told me that they say that [official property titles] are more legal. In practice, the reality is that who works in that place is the owner, so

⁵² Interview 23, Aguas Calientes – Selva Alegre, 14 April 2023.

to speak...For example, I fought with some [government] authorities that came last year. They told me that “if you don’t take care of this place, we’re going to take it from you...because it’s from the state.” “OK,” I said to them. “I know it’s from the state, the waters is from the State, OK, but my work is mine. If...you take it from me, I go and I report you that you’re taking my work. Somebody is going to stand up for me. The human rights...there are authorities that have to stand up for one because that’s the law. The one who works is the owner.” And he told me, “yes.” There it is, then. What’s from the state, it’s OK, it’s from the state, but not my work, my work is mine... The *monte*, yes, well...they knew it’s from nature, from God. Or the waters, also. But with my work, you know? My work. If you want to kick me out, you have to pay me.⁵³

This interviewee’s account is also interesting because it shows an example of how people in these frontiers try to navigate the official law, not just reject it. This interviewee understood that, in taking land, there may be a difference between the legal rules and what farmers are doing on the ground, but she also tried to make a legal case that could resonate with official authorities of the Peruvian state. Because of the particularities of her case (her land was inside a protected zone, and she was enmeshed in litigation), she had been more exposed to the law than most other farmers. She could, thus, identify pieces of the law that she then re-interpreted to make sense of both worlds, the law ‘in the books,’ and the law ‘in action,’ or in practice (see Pound 1910). And

⁵³ Chapter 8 further explores how the exposure to the laws and regulations of forest protection affects farmers’ decisions to clear or protect the land.

she provided a complex legal reasoning, appealing not only to public law (human rights), but also to private law (compensation).

The material practices involved in the practices of *coger tierra*, *amparar* and *trabajar la tierra* under the Amazon Settler social norm can also be seen as communication devices. By appropriating the land through this first possession, farmers are not so much communicating to the entire world (Blackstone, 1962 [1753], p. *2), but specifically to other farmers in the locality that they have a legitimate claim to own that land in property. As Rose (1985) observes, this type of communication related to the acts of possession need to fit the audience, which in this case is the other farmers that are effectively acquainted with, and respectful of, the Amazon Settler social norm.

5.3.4. The Autonomous Farmer: the overarching property social norm in the agricultural frontier

In this forest context, far from having a common pool resource mindset of communal management (Ostrom, 1990), all farmers maintain a strong individualistic land tenure ethos. They have a social norm that considers each farmer as the sole decision maker about what to do with their lands, which is managed according to each owner's and their family's agricultural knowledge and desires. There are no rules in the community about what people can cultivate, when they have to cultivate or harvest, or in what quantities, and,

except an unevenly applied norm to protect water explored in Chapter 8, there are no rules about how much forest farmers can clear inside their own properties. One of the farmers from Selva Alegre⁵⁴ put it this way: ‘it's property... and you know, as an owner, you do what you want, you're autonomous.’ The question of whether each farmer decides on their own when or how much to deforest inside their properties, seemed obvious to a farmer in the village of Alto Perú,⁵⁵ who just said: ‘of course!’ I refer to this overarching property social norm as the Autonomous Farmer social norm.

Still, some farmers do understand that the government may be involved somehow in what can be done inside their properties, indicating some reach of the law and the Peruvian state in this frontier space. For example, some farmers considered that there might be less freedom to do selective logging to sell timber or to clear *montañas* inside their properties to do agriculture. The old farmer from the village of Selva Alegre⁵⁶ thought that, before, people were allowed to cut timber to sell it, but now ‘it’s forbidden, it’s pretty hard, pretty hard,’ adding that if the authorities from the regional government found a person cutting down trees, then ‘they’ll take [the wood] away.’ According to him, this does not apply to clear cutting for agriculture, because ‘of course [you can convert a

⁵⁴ Interview 31, Selva Alegre, 22 November 2022.

⁵⁵ Interview 22, Alto Perú, 9 July 2023.

⁵⁶ Interview 33, Selva Alegre, 17 April 2023.

montaña to a *chacra*],’ but ‘what you cannot do anymore is cut wood and move it to do business,’ in reference to transporting timber to sell in the market. His son, the *presidente* of the village,⁵⁷ had a more nuanced understanding of what the law allowed inside their properties, explaining that

what is going to happen is that the larger authority is going to step in, which is the regional government...so then they give you laws that [say] that you don’t cut down the virgin forest...that in what you had [previously] worked, you [can] do *purma*⁵⁸ management.

Despite the fact that these accounts are simplified, legally imprecise or plainly incorrect descriptions of the law explained in Chapter 4, they show that farmers are not completely oblivious to it. Farmers’ Amazon Settler social norm whereby people can become private owners of forestlands is an example of an understanding of a legal institution, property, that is largely at odds with Peruvian agricultural land and forest law. But as the above accounts show, pieces of the law permeate these agricultural frontiers. Farmers communicate amongst each other to share what they know and understand about the law on issues that are of consequence to them such as laws about illegal logging, largely because they are they are one of the few that are at least partially enforced to

⁵⁷ Interview 31, Selva Alegre, 22 November 2022.

⁵⁸ *Purma* is a colloquial term for secondary forest. In tropical forest agriculture, *purmas* are ‘an ephemeral resting stage [of the land] in the agricultural cycle,’ and are part of the ‘shifting cultivation’ practiced by most small-scale farmers in the Peruvian Amazon ‘where crop fields are fallowed to recuperate soil fertility and control weeds and pests’ (Sears et al., 2021, p. 2).

some extent by the state.⁵⁹ As a village leader from Nueva Galilea⁶⁰ said about the law, people ‘spread the word.’ In the process of sharing their legal knowledge, the law gets distorted in various versions, or even mixed with norms of the community. For example, the same *presidente* of Selva Alegre⁶¹ also mentioned that he thought there was a ‘new law’ that criminalised deforesting the upper parts of the hills, which other farmers identified as part of a social norm that requires farmers to protect water sources, rather than this being a legal rule of the state. Chapter 8 explores in detail how farmers understand and use the state laws and regulations concerning forest protection, navigating between them and their social norms and local rules.

5.4. Enacting property and constituting community

Despite that the Autonomous Farmer social norm highlights farmers’ individualistic ethos of landownership, they still need a collective to fulfil various needs. As more settlers arrived at free *montañas* to *coger tierra*, a village began to form. So, as seen elsewhere in Peru and Ecuador (Cronkleton & Larson, 2015; Rudel, 1995), these individualistic landowners group together with others in the area to develop common services and infrastructure. New neighbours

⁵⁹ See subsection 8.4.1. for a longer discussion on the enforcement of illegal logging legal rules in Soritor, and farmers’ attitudes towards it.

⁶⁰ Interview 42, Nueva Galilea, 17 April 2023.

⁶¹ Interview 31, Selva Alegre, 22 November 2022.

start building trust and a collective begins to form. Early in the formation of a village, this may include collective actions like opening new trails that will eventually become roads to connect the emerging village to a neighbouring older village closer to the town of Soritor. ‘Sometimes one person entered, then he brought his family, his friends, and that’s how people spread the word...people started coming, and they started to meet, and to [work on widening] the trails because before we only walked in [narrow] trails,’ exemplified the interviewee from Primero de Mayo.⁶²

5.4.1. Creating schools, constituting communities

This is how the villages I visited started around more than 30 years ago, after the areas gathered a critical mass of people. One of the old farmers in Selva Alegre⁶³ mentioned that the village was founded around 1990, although he had arrived several years before, in 1982 when ‘there was nothing [here].’ The farmer from Jericó⁶⁴ produced a more specific date for when the village started: April 30, 1982. The date of the foundation of villages like Jericó is telling as it reveals the importance of one of the most essential aspects of these collective efforts: the establishment of the village school. As the farmer from Jericó said,

⁶² Interview 30, El Lucero, 13 April 2023.

⁶³ Interview 33, Selva Alegre, 17 April 2023.

⁶⁴ Interview 41, Jericó, 12 July 2023.

‘that’s the anniversary of Jericó...that’s when the *caserío*⁶⁵ is created, I mean, as a *centro poblado*...when they gave us the [official] resolution for the creation of the little school, you know?’

Schools are an integral part of community-making and a driving force of consolidating property and increasing deforestation. The story in El Lucero is paradigmatic of this process. The farmer who was one of the founders of that village⁶⁶ explained that early on they set out to build a school for the children. ‘We convened meetings, we got ourselves [village] leaders...I remember when [several people] came into my house, they said “let’s request a meeting...let’s ask for the school [to the municipality]...”’ The farmers constructed a hut on a section of a plot donated by one of them who had taken land at the beginning. ‘The school was first made of straw...small, very small,’ this interviewee recalled. And the municipality eventually helped with some materials, like providing corrugated sheets for the roof. Initially, the people in El Lucero managed to convince a teacher to come in exchange for food and a rustic shelter. ‘There [the teacher] also endured hardship because there wasn’t anything more,’ added the farmer. The *colonos* sent requests to the

⁶⁵ *Caserío* stems from the Spanish *casa* (house), literally meaning a grouping of houses. *Caseríos* or *centros poblados* (populated centres) are the terminology used to formally recognise rural villages in Perú. This recognition helps give legibility to the collective that will be able to demand more easily some services or support from the government, such as to build schools or roads.

⁶⁶ Interview 10, El Lucero, 13 April 2023.

government's *Unidad de Gestión Educativa Local* (Local Unit of Education Management, UGEL) to hire him and pay him a salary, which finally happened after a year without pay. This farmer from El Lucero linked the founding of the school with the larger migration process to the village and the surrounding area. According to him, after the school was formed in the early 1990s many more people started to migrate to the area because not only the men could come, but also their spouses and children. When he first arrived in 1987, this interviewee only cultivated a small patch of land 'just to take care of it, so no one would come.' 'We couldn't bring the kids here, what would they study here? There were no schools, there was nothing...you had to come alone,' he added. By 1993, the school was functioning, he brought his whole family, and they started to clear more of the *montaña* inside his property. News about this area spread, and soon more people started arriving at El Lucero, buying smaller plots from the first *colonos* who divided the larger properties they had originally taken. By the 2000s, this interviewee explained that there was no more *montaña* left in El Lucero.

5.4.2. Enabling communities by connecting farmers with roads and markets

Increased migration and deforestation in the area of El Lucero and similar areas in Soritor were also linked to the economic and agronomic cycles of coffee, some of which had been planted since the first settlers arrived. Economic prices and

policy incentives of the Peruvian government, such as loans to coffee farmers, also seemed to have played a major role. The son of the farmer of El Lucero⁶⁷ explained how his father had only a few coffee plants in the beginning, when there was still plenty of *montaña*. But then, around 1995, ‘the government of Fujimori started to give out loans [to coffee farmers]; and the coffee that was at 18 [soles] went up to 500 [soles]⁶⁸ ...and so everybody started cutting down the forest, the only thing each [person] wanted was coffee, they didn’t want any other crop.’ Asked about what the loan was for exactly, he said that it was ‘to eat.’ He elaborated with an example: ‘my father says that they didn’t even have [money] for the salt, [so] to buy salt they went away [to work] for a day as labourers, but if you already had [money] to buy that salt, then you didn’t go away as a labourer, you worked in your own farm.’ According to this farmer’s account, the price of coffee also increased greatly due to the new open market policies of Peru’s President Fujimori that drove more exports to the United States, which contrasted with the closed market policies under the previous administration of President García in the late 1980s.⁶⁹ Thus, key services like schools, plus the cultivation of coffee, an increasingly valuable cash crop,

⁶⁷ Interview 17, El Lucero, 13 April 2023.

⁶⁸ Approximately GBP 4 and 100 GBP, respectively.

⁶⁹ The government support for coffee cultivation and the large increase in price and production in Peru during that time, in particular in areas of San Martín, like Soritor, seem to have been directly related to the efforts to curb coca cultivation under the ‘alternative development’ programme, a key cooperation outcome of the stronger relations between the United States and Peru during the Fujimori administration (Global Coffee Report, 2013; Scott Palmer 1998).

alongside government loans and an open markets policy that impacted coffee, seem to have galvanised a dynamic of increased deforestation in rural areas of Soritor, in turn helping consolidate the villages.

Figure 1 illustrates an example of a coffee plantation inside the property of a farmer. In the background, what at first sight looks like free *montañas*, are in fact properties of other farmers who have taken land more recently.



Figure 7. A farmer's coffee *finca* on the top of a hill in the village of Villa Hermosa, Soritor (author's personal photograph, 2023).

The account from this interviewee is consistent with the empirical findings in other contexts were both increased income support to farmers and

open trade policies related to agricultural commodity markets, have been shown to be correlated with increased deforestation (Busch & Ferretti-Gallon, 2023). Because of this, current international legal rules such as the European Union Deforestation Regulation (EUDR) (2023), mentioned in Chapter 4, are imposing trade restrictions on coffee and other commodities involved in tropical deforestation, and creating new environmental rules such as due diligence requirements for importers to the European Union market and the obligation that the production of these commodities is done in accordance with the laws of the countries of origin.⁷⁰

Back in the late 1990s, large tracts of *montaña* in the properties in El Lucero and other villages were rapidly turned into coffee plantations, and some coffee planted early on could now be harvested and sold in the market, thus bringing in more money to farmers in the area. At that point, farmers not only could invest more in their own lands, deforesting larger parts of their properties for agriculture, but they also had more resources for collective endeavours that were needed by them as a community. A key part of being able to commercialise

⁷⁰ Designed to incentivise more sustainable production of these commodities, it is also possible that the EUDR could impact the land tenure configuration on the ground in places like Soritor. For example, it could drive the Peruvian state to heighten the enforcement of its land tenure and environmental laws, thus reducing the taking of forestland, the enactment of new properties and the formation of new communities, eventually containing the expansion of the agricultural frontiers. So far, however, the effect has been different and unexpected: as explained in Chapter 4, the Peruvian Congress recently passed a legislative change to accommodate the EUDR requirement of compliance with domestic laws by waving the forest protection rules that restrict formalising agricultural occupations in forestlands, a controversial move in the eyes of many environmentalist groups (see footnote 19 in Chapter 4; see also Peña Alegría, 2024).

cash crops, like coffee, is to be able to transport them outside of these newly settled areas. Thus, one of the primary concerns of new communities in this frontier areas is to improve the trails and to build rudimentary roads. A well-known lawyer in Moyobamba with expertise in land tenure issues who was also a former official at the Land registry,⁷¹ explained how opening trails and roads can progress fast: ‘you arrive to a certain kilometre [of a road], go away for some months[, come back,] and the road is further along...[farmers] start to prepare their roads by themselves, with nothing but picks and shovels they cut down the trees and there they go, they make their roads...’ The old farmer from El Lucero⁷² remembers that the village did *gestiones*⁷³ with the municipality of Soritor in order to get help to build the road that connected the town of Soritor to their new village. ‘We petitioned for the road, but then [each of us] had to collaborate...[with] half a quintal of coffee...we collected 1,500 kilos...and [the municipality] had to provide the machine for the [construction] work,’ said this interviewee explaining how most collective endeavours are also done in conjunction with some government authorities, like the municipality of Soritor.

⁷¹ Interview 36, city of Moyobamba, 19 April 2023.

⁷² Interview 10, El Lucero, 13 April 2023.

⁷³ There is not one precise term in English that captures the meaning of this word. In Spanish, to do *gestiones* or *trámites*, as they are also called, means to actively engage with an authority in order to obtain something; this comprises several actions, like filling out forms and dealing with paperwork, submitting documents that have an application or a petition, seeking meetings with the authority to explain the petition, visiting and checking in with the authority from time to time, inquiring regularly about the progress of the petition, etc.

The support provided by the municipality to villages, which continues today in coordination with other government authorities, had limited consideration of the environmental impacts of roads or the fact that they are connecting areas that are, strictly speaking, illegal occupations. According to the official in charge of territorial and infrastructure development of the municipality,⁷⁴ roads are ‘part of the...activities that the mayor always pledges to the people.’ He explained that the villages request the municipality’s support ‘through documentation, a petition...and we start evaluating where we are going to intervene...,’ which may be in older villages whose road needs maintenance, or in newer villages that need new roads. The latter was the case of a place near the village of Nueva Galilea, for example, where ‘we have a petition to open a new road [because the farmers there] only have narrow trails,’ as explained by this official when I interviewed him. The municipality utilises its machinery and some public funding, but also ‘when the people is willing, they give us a contribution, sometimes in fuel [for the machines], [and] in food and lodging for our workers,’ he explained. This official noted that they engage with the *Autoridad Regional Ambiental* (Regional Environmental Authority, ARA) to apply for the review of the environmental impact assessments of the municipality’s road projects, which is mandated by law (see *Ley del Sistema Nacional de Evaluación de Impacto Ambiental*, 2001). However,

⁷⁴ Interview 18, city of Soritor, 10 July 2023.

the official at ARA in charge of evaluating these applications⁷⁵ acknowledged that that is not always the case, ‘to be honest’:

What have we observed in practice? That a lot of local governments, in order to [do it] fast, due to a petition from the villages...they always intervene [building a road]...[they don't wait for the environmental review]...Soritor is one of the districts with the most villages...and the need to improve their roads is constant...What do local governments do? They grant [farmers'] requests [telling them:] “you know what? Look, I'll put the machinery, the fuel,” but...[municipalities] incur in an offense, in an error.

Arguably, an even more important consideration is the criteria the municipality of Soritor utilises to prioritise where to build roads, which deviates from environmental regulations. According to the official of the municipality,⁷⁶ they consider distance and the amount of people in the village, but not the indirect environmental impact of opening up roads that attracts more *colonos* into the forest, a well-documented deforestation factor in these agricultural frontiers (Reyes et al., 2024). This official was aware that there were some areas where they should not build roads, like inside a regional protection zone nearby ‘because it is also a risk for us..., right? [someone] can file a complaint...[before] the regional environmental authority...’ But outside of those areas he thought that there ‘is no problem.’ This understanding does not follow the forest regulations that highly restricts deforestation in most places, as explained in

⁷⁵ Interview 5, city of Moyobamba, 10 July 2023.

⁷⁶ Interview 18, city of Soritor, 10 July 2023.

Chapter 4, or Peru's law of environmental impact assessments mentioned before. But it is useful for the practical purpose of addressing the expectations of the farmers and their villages, the constituency of the local government, while, at the same time, avoiding administrative responsibility for the officials at the municipality that know that ARA's enforcement is minimal and limited only to regional protection zones, not regular forestland.

5.5. Conclusion

This chapter has examined how private property is first enacted in the forestlands of Soritor, its close relationship to the formation of community, and the initial stages of deforestation that configure the agricultural frontier in the Peruvian Amazon. The chapter explained how farmers, who arrive from the Andean highlands looking for more and better land, understand and enact private property in forestlands that are formally under state control. These farmers disregard the agricultural land and forest laws of the state, and instead follow a social norm that recognises private property rights to those who take land in the free *montañas*, the Amazon Settler social norm. They enact property following three practices that give them legitimacy to their land claims. One is *coger tierra*, which involves physical practices such as opening trails in the boundaries, marking large trees, and putting up small huts. The other two practices for making land claims and enacting private property are *amparar* and *trabajar*, which imply a Lockean understanding of legitimating property

through possessing the land and using it for agriculture (Locke, 1948 [1689], para. 32), even if progressively at the beginning. Farmers claim an individualistic ethos of landownership and production that echoes Blackstone's 'despotic dominion' ideal (1962 [1753], p. *2). This individualistic ethos underlies their overarching social norm of property by which farmers are the sole decision makers over their lands, the Autonomous Farmer social norm. The chapter contributes to the environmental studies literature on deforestation reviewed in Chapter 2 with a first detailed account of how social norms to occupy the forest and enact private property work in the agricultural frontiers of Peruvian Amazon. And it presents a perspective that differs from the more widely used framework popularized by Ostrom (1990), in which non-state norms are usually described in the context of rural communities' management of forests as commons.

The analysis presented in this chapter also shows the extent to which farmers rely not just on their social norms and practices to enact property and constitute community, but also on the laws of the Peruvian state. Claiming private ownership over forestlands is clearly at odds with Peruvian law that places forestlands under the natural resources legal regime and, thus, not subject to private property, as explained in Chapter 4. But farmers' engagement with the state and its laws is not completely antagonistic or avoidant; some instances of Peruvian state law and government intervention are acknowledged

(e.g., the laws that limit illegal logging),⁷⁷ or even actively used by farmers to get state support to farmers' collective actions, such as to build schools and roads. In the process, the state law is simplified, selectively drawn upon, distorted, and reframed by farmers and their village leaders in order to make it fit with the farmers' social norms and conceptions of property. At the same time, government authorities, such as the Municipality of Soritor, avoid strictly following the state law to fulfil the demands of the farmers in the new villages, the municipality's constituency. These examples show characteristics of an inter-legality context (de Sousa Santos, 1987; Twining, 2012).

The close relationship between private property and community in Soritor is an illustration of Blandy's and Sibley's (2010) point that 'law and space actively shape and constitute society, while being themselves continuously socially produced' (p. 278). As this chapter has shown, enacting private property with farmers' social norms and their property practices, leads to constituting communities, which also drives more deforestation, changing the space and beginning to configure the agricultural frontiers of the Peruvian Amazon. The fact that private property seems to be a foundational element of community, and of the transformation of the space into an agricultural frontier in the Peruvian Amazon, does not mean it is the only important factor, or part of what

⁷⁷ For a complete discussion on how farmers engage with the legal rules concerning illegal logging, see subsections 8.2.1. and 8.4.1.

Graeber and Wengrow (2021) characterise as the Western's conceptual 'obsession with [placing] property rights as the basis of society' (p. 362). As seen in the introduction of the thesis⁷⁸ and in this chapter, the occupation of the Amazon by small-scale farmers is also driven by other important indirect factors, such as poverty in the areas of origin, or the international value chains of agricultural commodities like coffee. But this finding of the co-constitutive nature of property and community is, nonetheless, notable as it helps explain how the modern agricultural frontiers of the Peruvian Amazon come to be, by congregating more people that share a similar socio-economic background and common social norms of property.

Chapter 6 delves deeper into the connection between private property and community in Soritor, demonstrating a co-constitutive relationship, where the newly formed communities, through land documents produced by their local leaders using local practices of private law, turn to consolidate the private property of farmers.

⁷⁸ See section 1.1.

6. COMMUNITIES CONSOLIDATING PRIVATE PROPERTY IN THE AGRICULTURAL FRONTIERS OF THE PERUVIAN AMAZON: LEGIBILITY THROUGH CERTIFICATES AND CONTRACTS

6.1. Introduction

This chapter explains how farmers in Soritor consolidate property through local land documents. The chapter argues that these documents, made by local leaders in the community, provide ‘legal legibility’ that takes over from the physical acts involved in enacting property at the beginning of occupation discussed in Chapter 5, showing a dynamic understanding of property and the co-constitutive relationship of property and community. The analysis presented in this chapter is informed by insights from all my 42 semi-structured interviews, drawing in particular from 20 of them. 15 interviews were with farmers and village leaders of Soritor with whom I discussed the procedures and documents they use to prove property rights and transact land. And the other five interviews were with the former supervisor of *tenientes gobernadores*¹ in Soritor, the peace judge of Soritor, the director of the

¹ *Tenientes gobernadores* (lieutenant governors) are one of two types of village leaders. See section 6.2. for a complete explanation of the role of *tenientes gobernadores*.

Moyobamba office of the Regional Directorate of Agriculture (*Dirección Regional de Agricultura*, DRA), a legal expert from Moyobamba who was a former official in the Land Registry office, and an expert on notary issues in Soritor. Data from an informal conversation with an official of the Regional Environmental Authority (*Autoridad Regional Ambiental*, ARA) and from a capacity building event for peace judges contributed to developing the themes discussed in this chapter.

The chapter is divided into four sections. Section 6.1. introduces the main theme of the chapter, the data used for the analysis and the organization of the chapter. Sections 6.2. and 6.3. discuss the two mechanisms by which farmers obtain documents that help them consolidate the legitimacy of their landownership claims in this agricultural frontier of the Peruvian Amazon: *constancias* (certificates) and *compraventas* (buy and sell contracts). These are made by village leaders, local or regional officials through legal procedures that often deviate from the legal rules, or through local practices that are partially based on Peruvian contract and property law (i.e., local practices of private law). I argue that these land documents provide ‘legal legibility’ to both farmers and their properties, which is not only recognised by farmers within the communities but also by many outsiders, including by officials of the Peruvian state in order to be able to deploy some of the state’s policies in practice, such as

those related to agriculture or provision of services and infrastructure. Section 6.4. concludes by summarising the analysis presented in this chapter.

6.2. Constituting community and consolidating private property with village leaders: *tenientes*, *presidentes* and their land documents

Farmers who took land in the free *montañas* of Soritor as private property and began clearing and cultivating parts of their large new plots, are eventually faced with supply and demand pressures of an emerging local marketplace for land. Other farmers who are new to Soritor, or who have been living in other areas of the district that have settled in Soritor before, got word that there was a new place of colonisation, and wanted to come because land might be more plentiful, better, or cheaper than the areas they were currently in. Many of them were not willing to try their hands at *coger tierra* (taking land) in free *montañas* because of the difficulties and risks of venturing further up into the forest in the rugged geography of Soritor. At the same time, as explained in Chapter 5, the farmers who initially took land are not planning on cultivating the entirety of their extensive new properties because they are constrained by capital and labour, and because it is not needed in order to claim property rights, as it is enough to *amparar la tierra* (staying around on the land) and *trabajar la tierra* (working the land) in only small patches. This means that newcomers' demand for land can be met by these first settlers' surplus of land, at prices that are cheaper than in other areas because of the new frontier characteristic of the

place that still makes it relatively difficult to access. Many of the initial settlers or *colonos* started dividing up their large plots into smaller ones and selling them to newcomers who then cleared more of the *montaña* inside their new properties in a process that slowly but surely ramped up deforestation, at the same time creating a larger group of individual property owners that would become the basis of a new village.

As part of the community-building process, farmers get together to elect *autoridades* (leaders)² of the newly formed village. ‘This is the very first thing that [communities did],’ stressed to me the interviewee from Primero de Mayo.³ This was the case in El Lucero, where ‘as they saw that more and more people came, [then] they wanted to make...leaders now...to organise the meetings now...so they could make [this] a *caserío*⁴,’ explained one of its founders.⁵ There are two main leaders in the villages: the *teniente gobernador* (lieutenant governor), and the *presidente de la junta vecinal*⁶ (president of the neighbourhood board). At the beginning in Primero de Mayo, as in other villages

² People call each of these village leaders *una autoridad*, which literally translates to ‘an authority’. This makes sense because in Spanish, unlike in English, *una autoridad* is usually a single person and not an entity. In order to avoid confusion, I use the term ‘leader’ (and ‘leaders’ for the plural) in this thesis, which more clearly reflects in English the individual nature of a person vested with, or recognised to have, some form of authority for decision making in the villages.

³ Interview 30, El Lucero, 13 April 2023.

⁴ A grouping of houses, sometimes interchangeable with ‘village’. See also footnote 65 in Chapter 5.

⁵ Interview 10, El Lucero, 13 April 2023.

⁶ Previously called *agente municipal* (municipal agent).

newly formed, these leaders did not have an official recognition from the municipality or other state authorities. But then ‘[our village leaders] began to submit their documents to the *gobernación*⁷ [and] the municipality, and [the *gobernación* and the municipality] gave them their stamps as accredited [persons], and so then [our village leaders] could now send their [own formal] documents,’ recounted the farmer from this village⁸, stressing the importance of the official recognition granted by the Peruvian state for the legitimacy of village leaders.

Both village leaders play important roles in organising internal and external affairs of the community. *Presidentes* are responsible for coordinating most issues of importance in their communities and their role is formally recognised as such by municipalities, in this case the Municipality of Soritor. *Presidentes*’ tasks include coordinating the *faena comunal* (community work), a customary system throughout rural areas of Peru under which each *ciudadano* or *ciudadana* (citizen)⁹ is expected to collaborate with their work towards a collective activity, from cleaning the streets in the *caserío*, to building a road or maintaining the infrastructure of the school. *Presidentes* also run the village

⁷ He means the office of the sub-prefect, a functionary of the Ministry of the Interior in each district that oversees the work of the *tenientes*.

⁸ Interview 30, El Lucero, 13 April 2023.

⁹ This is a term that farmers use in the villages to mean a person who is registered in the *padrón de ciudadanos* (citizens’ roll) of each village. The *padrón* lists only the heads of the family, which are usually men. Everyone registered in the *padrón* must work in the *faenas comunales*.

assemblies and coordinate externally with leaders from other villages or with government authorities at the municipal, regional, or national level, doing *gestiones or trámites*¹⁰. For example, they write and submit documents to make requests to the municipality for support with machinery to build the roads, and they go to meetings with municipal authorities in the town of Soritor or with regional government authorities in the city of Moyobamba.

Tenientes support the *presidentes* by helping coordinate village affairs, but they also perform key internal services of a legal nature related to property in the community. This is because, as communities begin to grow, farmers turn to documents to transfer land and to prove landownership, complementing the physical acts of enacting property analysed in Chapter 5. Officially, the *tenientes* are designated by the Ministry of the Interior¹¹ to represent the national government within their communities¹² and their work does not carry a salary, unlike the district sub-prefects who formally supervise the *tenientes* (and above them the provincial sub-prefects, and the regional prefects).¹³ In practice,

¹⁰ The action of actively engaging with an administrative procedure involving, related, for example, with a petition or an application. See also footnote 73 in Chapter 5.

¹¹ The Ministry of the Interior in Peru is in charge of the Police and other public order functions.

¹² See article 8, b) of the *Reglamento de Organización y Funciones de las Autoridades Políticas* (Regulations of Organisation and Functions of the Political Authorities) (2007).

¹³ The role of sub-prefects has been criticised for being a way for central government administrations to pay back political favours in the provinces and districts, as well as for being wasteful because their competencies are somewhat redundant to the democratically elected authorities of the municipal and regional levels of government (Palomino, 2022). Since *tenientes* are proposed by their own communities

tenientes are selected and proposed in the villages in an *asamblea comunal* (communal assembly), and their election is largely rubber stamped by the Ministry of the Interior (Falla, 2021). And, despite what the regulations say about the *tenientes*' official functions to represent the national government in their localities,¹⁴ in practice, *tenientes* function more like legitimate representatives and leaders of their own communities (Falla, 2021). As the next sections will explain, it is in this capacity that they are key to giving properties and their owners legal 'legibility' in the agricultural frontiers of Soritor through land documents.

6.3. Making farmers, properties and farming legible through *constancias de posesión* (certificates of possession)

Inside the communities, *tenientes* perform the crucial service of drafting and issuing property documents, which farmers regard as legitimate and legally valid. One of these documents is the *constancia de posesión* (certificate of possession). Several interviewees mentioned that, in the past, *tenientes* could issue *constancias de posesión* to help farmers prove that they were in possession

after internal elections, and they do not receive a government salary, they have not been subjected to the same criticism.

¹⁴ *Tenientes* have a set of functions enumerated in Article 17.2 of the *Reglamento de Organización y Funciones de las Autoridades Políticas* (Regulations of Organization and Functions of the Political Authorities) (2007). Many are broad, such as informing the sub-prefect of the district about political, social and economic issues of relevance in their communities, or helping to 'promote the national identity within the framework of intercultural respect;' while others are slightly more concrete, such as supporting disaster planning and response efforts, helping supervise public services, or supporting the government authorities in charge of social and development programmes.

of a plot of land, a document that would be usually used by farmers in some type of *trámite* before a government authority, or to obtain credit. An NGO worker and part-time farmer who had recently bought land in Selva Alegre¹⁵ said that ‘it’s something that the *agente*, the *teniente*, or even the *presidente de ronda*¹⁶ gives, I believe.’ But he thought that farmers used the *constancia de posesión* ‘when you took land,’ to prove ownership during the initial settlement process when people did not have other documents. This was confirmed by the *teniente* of Selva Alegre¹⁷ who implied that *constancias de posesión* were something of the past because ‘[it] means that I arrived in the...let’s say 2000s, and that land had been free and I had enclosed it, right?’ Similarly, the *teniente* of El Lucero explained that he would not give a *constancia de posesión* today to a farmer ‘because all the lands have owners, and nobody can, let’s say, invade them...[but] had I been the [village] leader in those times [of the initial occupation], I would have had to issue a *constancia de posesión*...that’s the first document.’

¹⁵ Interview 35, city of Rioja, 17 April 2023.

¹⁶ The head of the *ronda campesina* (*ronda* for short). *Rondas campesinas* are community patrols, a common institution in many rural areas of Peru that have traditionally exercised some functions to maintain the peace, and control petty crimes inside the villages. In Soritor, most farmers reported that the *rondas* were somewhat inactive because they enjoyed a relative safe and calm environment.

¹⁷ Interview 24, Selva Alegre, 23 November 2022.

In fact, *tenientes* are not legally allowed to certify landownership by issuing these *constancias de posesión*. The former sub-prefect of Soritor,¹⁸ who used to oversee *tenientes* in that jurisdiction, explained that in 2017 the regional prefect, her superior, gave the instruction that *tenientes* do not issue *constancias de posesión* anymore because it was not within their legal purview. ‘Before 2017, the *tenientes* did just about everything,’ she commented with disapproval. ‘They can issue *constancias* about what’s on top of the land, like the type and quantity of crops or cattle,’ she thought, in reference to certifying not the ownership of the land, but the agricultural work done on top of the land, which can be useful to access government programmes targeted to farmers. This echoes the practice of *trabajar la tierra* (working the land) under the Amazon Settler social norm discussed in Chapter 5, although untethered from landownership. As subsection 6.3.1. below discusses, producing a land document that certifies the agricultural production of the land but not landownership is a useful distinction for the Peruvian state that attempts to reconcile a contradiction: the need for farmers to be legible (e.g., in order to receive government agricultural assistance), while ensuring that their landownership claims—that are formally against the agricultural land and forest laws—remain officially unacknowledged by the Peruvian state.

¹⁸ Interview 38, town of Soritor, 18 April 2023.

Currently, peace judges, a special type of judge that adjudicates small disputes and has limited notary functions,¹⁹ issue *constancias de posesión*. The peace judge of the town of San Marcos²⁰, who has jurisdiction over Soritor, detailed the procedure required by law that he follows to issue *constancias de posesión*:

Let's see...the *constancia de posesión* is a document by which a citizen requests, through an application and a simple affidavit...by which they request to me, as peace judge, to go to his plot of land to verify that he's truly doing agricultural activities. And [so, I] go to the place, verify that in fact the citizen does work certain area [of land] approximately, because we don't have instruments to measure, so we do an empirical calculation. And we also annotate the *mejoras*²¹ that he's working, say coffee, cocoa, pasture, how much of the area is he working with [the] different *mejoras*. And with this verification, we issue [the *constancia de posesión*]...and it also details the *colindantes*²²...in the four cardinal points...we even specify if there's *montaña*...

¹⁹ Peace judges are a sui generis type of judges. According to articles 61 and 26 of the *Texto Único Ordenado de la Ley Orgánica del Poder Judicial* (Consolidated Text of the Organic Law of the Judiciary) (1993) peace judges are part of the judiciary, but they have no legal training. A specific statute governs their functions, the *Ley de Justicia de Paz* (Law of the Peace Justice) (2012). Article 8 (2012) states that they are democratically elected in their localities. And they perform their duties part-time without a salary, although they charge fees for their services according to a tariff schedule approved by the Superior Courts that have jurisdiction in their areas, who also train and supervise them. According to article 6 of this law (2012), peace judges have two main tasks: resolving small disputes through mediation, and performing limited notary public functions in places where notaries public are not available. In fact, even though they are at the foundation of Peru's formal justice system, in many places it is these notarial functions, and not their adjudication functions, that are the most in demand by people (Gálvez Rivas, 2015).

²⁰ Interview 13, town of San Marcos, 22 November 2022.

²¹ A *mejora*, literally an improvement, is any type of work that a farmer applies to the land to convert what was originally a *montaña* into a 'productive' space. It usually entails deforesting and cultivating the land, but also building a house, for example.

²² Adjacent neighbours.

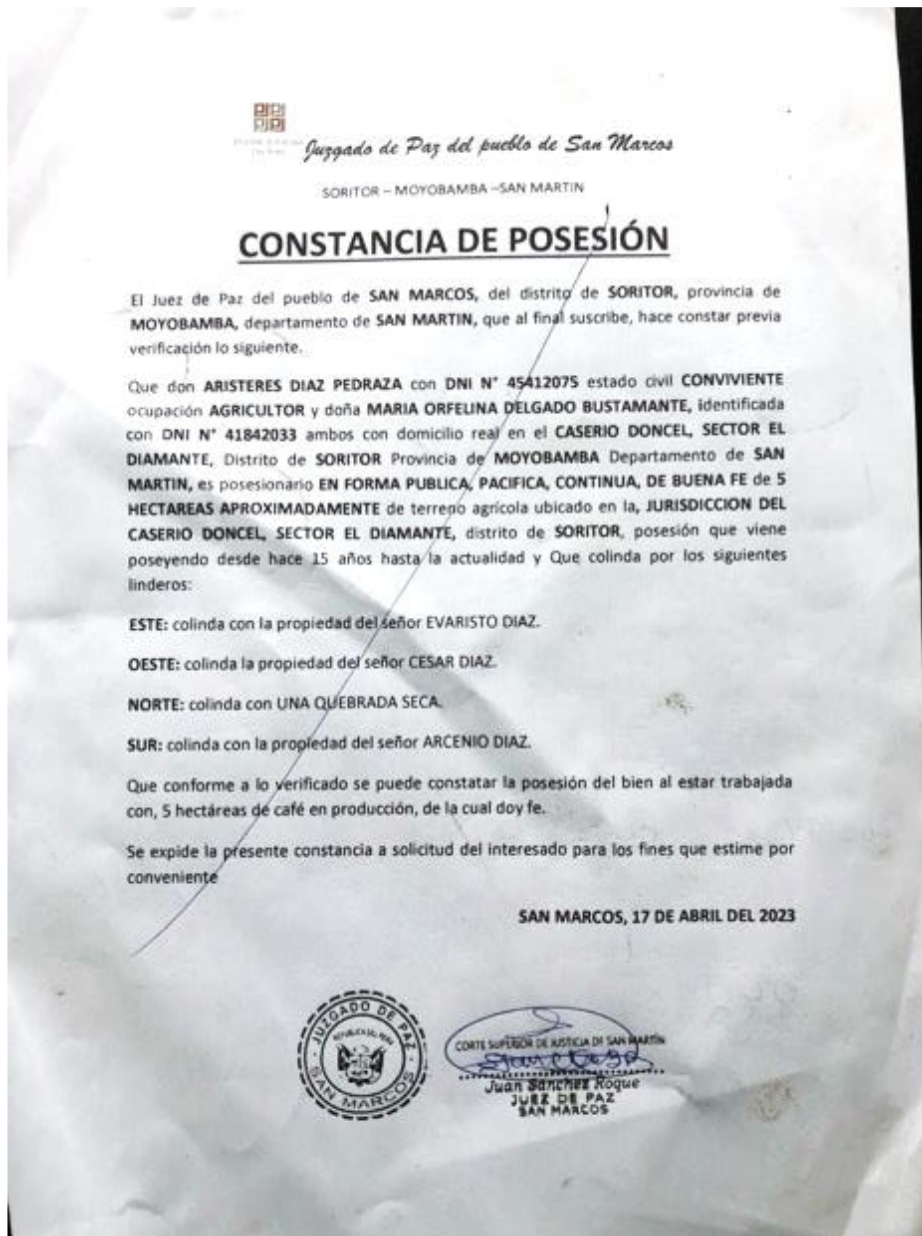


Figure 8. A *constancia de posesión* of the peace judge (author's personal photograph, 2023). The document refers to the landowner not in terms of a property owner, but as a 'possessor.' It also mentions that 'as has been verified [on site,] it can be corroborated the possession of the asset [that] is worked with 5 hectares of coffee in production, of which I hereby attest to,' avoiding references to a 'landowner' or a 'property', and stressing the fact that the land is being used for agriculture, and that the peace judge has verified said possession by visiting the area.

The peace judge adopts two strategies that complement (or sometimes replace) the on-site visits to issue *constancias de posesión*. Despite that it is not a requirement under the legal rules, he said that one strategy he uses is to cross-

check with the village leaders, ‘*tenientes*, or...*presidentes*...[and] that inquiry tells us if [the farmer] is a resident from here and [if] his plot is this one...’ The other one, as the peace judge of San Marcos mentioned, is making the landowners sign an affidavit, a sworn statement by the farmer that he or she is the true possessor of the land. It serves a purpose that is not so much in the interest of the farmer, but of the peace judge. The peace judge²³ mentioned that the administrative office of the Superior Court of San Martín that coordinates the work of peace judges in the jurisdiction had recently created this requirement to give peace judges an additional layer of legal protection against potential complaints, including criminal prosecution, if they issue *constancias* that could be seen as supporting the land claims of someone who is not the true possessor of the land. He alluded to the fact that, sometimes, he does not go to every plot of land to do the on-site visit because he may know the person already. And so, ‘this is why, as part of the requirements...[the farmer] who needs a *constancia de posesión* has to submit an application plus an affidavit. So, based on that, we issue [the *constancia*], and we limit certain liability [for ourselves] because the application and the affidavit stay in [my] archive,’ he explained.

²³ Interview 13, town of San Marcos, 22 November 2022.

6.3.1. A legal fiction to provide legibility to farmers but not to their properties: *constancias de productor agrario* (certificates of agricultural producer)

There is a nuanced distinction between *what* a farmer does and *where* the farmer does it in these accounts of the former sub-prefect of Soritor and the peace judge of the town of San Marcos, as well as in the views of other officials. According to the peace judge²⁴, for example, his '*constancia de posesión* is only to endorse that the citizen is doing the agricultural activity, but it's not a document that, let's say, endorses him for an [official] property title in the future.' This distinction is more clearly shown in the documents that are issued by a governmental agency: the *Dirección Regional de Agricultura* (Regional Directorate of Agriculture, DRA). The DRA also issues *constancias de posesión*, as the director of their office in the city of Moyobamba²⁵ explained, plus another slightly different document: the *constancia de productor agrario* (certificate of agricultural producer). This office only issues *constancias de posesión* to farmers occupying lands where, under the legal rules of land classification, they could

²⁴ Interview 13, town of San Marcos, 22 November 2022.

²⁵ Interview 37, city of Moyobamba, 25 November 2022.

eventually obtain an official property title.²⁶ In other cases,²⁷ this office of the regional government will not issue them a *constancia de posesión*, as these documents are solely for land titling purposes.

Unlike the *constancia de posesión* issued by the DRA, the *constancia de productor agrario* only states that a person is a farmer without an acknowledgement of the type of right the farmer has to the plot of land that he or she occupies. *Constancias de productor agrario* are a practical way for the Peruvian State to give some type of official recognition to farmers in order to access government loans or subsidies, such as those from Agrobanco, Peru's national agricultural bank, or from any of the other support programs run by the Ministry of Agricultural Development and Irrigation (MIDAGRI), without acknowledging the inconsistency of farmers' occupying lands against the agricultural land and forest laws. As the director of the Moyobamba office of the DRA²⁸ explained, with this type of *constancia* 'we are only certifying that that

²⁶ That is, in lands classified as agricultural in San Martín's *Zonificación Ecológica y Económica* (ZEE), which follows the legal rules of the land classification system under the CTCUM (2022). See Chapter 4 for more detail about the ZEE and the CTCUM.

²⁷ i.e., when farmers are occupying forestlands and protection lands, which, following the legal rules of the CTCUM land classification system explained in Chapter 4, cannot be granted as private property (and, thus, are not subject to the land titling procedure).

²⁸ Interview 37, city of Moyobamba, 25 November 2022.

[farmer] has his [agricultural] product, manages his *chacra*²⁹, but he cannot be titled, right?’

6.3.2. Governmental coordination and legal flexibility to make *constancias*

The process of granting *constancias de posesión* and *constancias de productor agrario* involves a surprising instance of coordination within the regional government that contrasts with the entrenched lack of interagency coordination that has been considered a key problem related to the country’s poor forest governance (see, for example, Che Piu & Menton, 2014; Glave & Borasino, 2019).³⁰ The director of the Moyobamba office of the DRA³¹ explained that his office actively requests information to the *Autoridad Regional Ambiental* (Regional Environmental Authority, ARA), the office in charge of San Martín’s *Zonificación Ecológica y Económica* (Ecological and Economic Zoning, ZEE)³², and he does not issue a *constancia de posesión* until his office has received an official report from the ARA. He detailed their engagement this way: ‘so, we coordinate, right? we ask the ARA to classify the land [using] UTM coordinates...[and the ARA] submit[s] a report saying that the land is apt for, for

²⁹ Term in Peru for cultivated field.

³⁰ For a longer discussion on Peru’s forest governance problems see section 4.3.

³¹ Interview 37, city of Moyobamba, 25 November 2022.

³² See subsection 4.2.3., for an explanation of the role of the ZEE in ordering rural areas.

example, agriculture, right?’ An informant from the ARA³³ confirmed that the regional government has a protocol that directs the ARA and the DRA to coordinate amongst themselves in the land titling procedures and verify where a specific land is located according to the ZEE. It stems from a rule established in Article 10 of the *Reglamento para la Aplicación de la ZEE en San Martín* (Regulations for the Application of the ZEE of San Martín) (2009) that mandates that the decisions of the different offices of the regional government ‘related to the use and occupation of the territory,’ need to have a ‘ZEE validation report.’ ‘Now, the land titling [programme] does not intervene just anywhere,’ emphasized this informant. This contrasts with the disjointed way in which these two offices in charge of complementary land zoning and allocation decisions worked in the past, which sometimes resulted in granting official property titles in lands that were not legally apt for private property according to the agricultural land and forest laws explained in Chapter 4.

Sometimes the report from the ARA comes back showing that the farmer is not on a land classified as apt for agriculture and, thus, it is not subject to land titling, which triggers a flexible approach to the legal rules and procedures by the director of the Moyobamba office of the DRA³⁴ to issue a *constancia*. He explained that ‘when it’s a forestland zone we issue the *constancia de productor*

³³ Informal conversation with informant 2, city of Moyobamba, 19 July 2022.

³⁴ Interview 37, city of Moyobamba, 25 November 2022.

agrario.’ The director has devised a workaround to this bureaucratic procedure to decide which *constancia* to issue by informally checking the zoning maps on his computer before farmers formally submit their applications, helping them avoid paying processing fees twice if it is obvious they will not be able to get the *constancia de posesión* in the first place.³⁵ ‘Sometimes I say to them...if you have the GPS point of your plot, give it to me...[and so] when [I see that] it’s apt [for agriculture], [only then] you pay, and then we send it for [the formal] classification [to the ARA],’ he explained.

Apart from checking the official maps, an important part of the administrative procedure of issuing the *constancias* is conducting prior on-site visits. The regulations for the administrative procedures of the Regional Government of San Martín state that these visits are a mandatory requirement (*Texto Único de Procedimientos Administrativos del Gobierno Regional de San Martín*, 2023, p. 751). The director of the Moyobamba office of the DRA³⁶ explained that

if [a farmer] comes...I say, “submit your request, your copy of the *compraventa*, your national ID document, and then we go to the field” ... that’s the procedure, right? I verify, ask the *colindantes*...[see] if he really owns the

³⁵ At the time of the interview, the director said that the processing fee for each of these certificates was PEN 88.70, or approximately £19. This amount might be perceived as relatively expensive to farmers, who, according to a recent study, do not even make the ideal living wage of approximately £500 per month, or £16 per day (Andersen et al., 2022)

³⁶ Interview 37, city of Moyobamba, 25 November 2022.

plot, [if he is] cultivating in an unopposed manner, [and] then we issue the *constancias*.

But this process is lengthy and demands many resources, which this office lacks. The director of the Moyobamba office of the DRA³⁷ complained that his office only had two motorcycles to do the visits, and that ‘it’s only me who does the [on-site] inspections...I don’t have any other personnel, I mean, my personnel is vulnerable³⁸...he’s diabetic, I’m not going to ask him to [go]...[imagine if] he goes, falls down from the motorcycle, he is injured, you know?...I had two [people], [the other one] has retired.’

The national government has adapted some of the rules of its agricultural support programmes to consider these resource constraints at the regional level. The director of the Moyobamba office of the DRA³⁹ noted that MIDAGRI is aware that these administrative procedures for the *constancias* can take a long time due to the on-site visits. So, when in 2022 the national government launched Fertiabono, a new programme to subsidise fertilisers, MIDAGRI instructed the regional offices to also accept *constancias de productor* from the *tenientes* so it could be rolled out faster. The NGO worker and part-time farmer

³⁷ Interview 37, city of Moyobamba, 25 November 2022.

³⁸ He means that his only personnel had a health condition that qualified him as ‘vulnerable’ in the context of the COVID19 pandemic.

³⁹ Interview 37, city of Moyobamba, 25 November 2022.

in Selva Alegre⁴⁰ had used one of these *constancias* to access another government support programme for farmers. ‘Two years ago, I bought island *guano* and [Agrorural]⁴¹ asked me for a *constancia*...I went to...San Marcos...in San Marcos, with the *escritura*⁴², I went to the *teniente* and the *teniente* issued me a *constancia*.’⁴³ And because Agrorural does not have an office in San Martín, the official of Agrorural in a nearby department was allowing farmers from San Martín to send a photo of their documents via a messaging application, which this interviewee did, instead of requiring them to submit a physical copy in person.

As these accounts show, in practice, government officials bend the legal rules and official procedures to facilitate access to documents that give some official legibility to farmers and their lands, or their agricultural activities, especially to deploy agricultural support programmes. A specific case narrated by the director of the Moyobamba office of the DRA⁴⁴ exemplifies this better. He mentioned that the people from MIDAGRI, who enlisted farmers to the

⁴⁰ Interview 35, city of Rioja, 17 April 2023.

⁴¹ Agrorural is the agency of the national government in charge of selling and distributing *guano* from the coastal islands of Peru, which is used as fertiliser.

⁴² *Escritura*, in this context, is a short name for the contract to buy and sell land made by the peace judges. The next section discusses these *escrituras*.

⁴³ He did not go to the *teniente* in Selva Alegre, where he has his land and where he is registered as *ciudadano*, but to the town of San Marcos, which he said he did because it was more convenient as that was closer.

⁴⁴ Interview 37, city of Moyobamba, 25 November 2022.

Fertiabono programme, had been rejecting some of them because of a problem with their documentation. The director helped a group of these farmers by facilitating the issuance of *constancias* because, in his words: ‘I’m worried, you know? That [the farmers] are spending money, right? So, then I decide to give them a *constancia* from the regional government.’ He said that he only does this with the farmers ‘I already know, the ones I’ve already visited their *chacras* [in the past for other reasons].’ He also extended this flexibility to groups of farmers that he may have been familiar with. In those cases, instead of the on-site visits required by the rules of this procedure, he accepted the ‘members list of a [farmers’] association that is being formed...they bring a copy of their minutes book...or the list of the *ronda*⁴⁵...so that’s a guarantee that they are residents of that place.’ I asked him to clarify if this was in the regulations, and he responded that

no, that’s something we started to [do]...so [that the programme] runs, runs...we are managing this [by] facilitating [things]...[and] it’s running, eh? It’s running, yes...we have more than...20 thousand farmers enlisted [in the programme].

Clearly, if they had strictly followed the legal rules and procedures, it would have been impossible to enlist so many people with this office’s meagre resources.

⁴⁵ The *ronda campesina* is the community patrol, a traditional institution throughout rural Peru. See also footnote 16.

It is not only this regional government office that incorporated some flexibility in the legal procedures to issue the *constancias*. The peace judge⁴⁶ does it, as well. For example, if a farmer requests a *constancia de posesión* but the peace judge had issued one before to that same farmer, the peace judge will likely not do another on-site visit to verify who possesses the land in that moment because, he said, ‘I have them registered who they are, I know their lands already.’ And similarly to the director of the Moyobamba office of the DRA, the peace judge also accepts the members lists of the coffee or cocoa farmers’ associations

because those associations have their boards, they have their technicians who go to the field, verify who are the members...the board gives me a document that [the farmer] is an active member...that gives me security that the citizen exists...they give me the reassurance that they are active members, that they have lands...I feel trust because not everyone is a member, right?

Apart from the *constancias*, the other key land documents in Soritor are the *compraventas* (buy and sell contracts). The next section explains how they are made and their role in consolidating property in Soritor.

⁴⁶ Interview 13, town of San Marcos, 22 November 2022.

6.4. Constituting property and making it legible through local practices of private law: *compraventas* (buy and sell contracts)

Since most farmers do not have official property titles, they cannot rely on the regular avenues of the law to transfer property. Usually, according to the law, a person who wants to sell real property needs to do it before a notary public, who will require several documents, chiefly among them certificates from the official Land Registry administered by the *Superintendencia Nacional de Registros Públicos* (Peru's National Public Records Office, SUNARP) showing that that person is the rightful owner of the land. The notary public will then write a document on a special authorised paper called *escritura pública* (public deed) that states the transaction. The notary public keeps an official copy of the *escritura pública* in her own records and sends another one to SUNARP to register it in the official Land Registry.

In principle, doing private contracts to sell and buy land without using a notary public (and, thus, without registering the transaction in the official Land Registry), is permitted under Peruvian property law, although it provides less legal protections. Article 949 of the Peruvian Civil Code (1984), states that property in land can be sold to another person by a simple agreement between the parties, which, in theory, could even be oral. A well-known lawyer in the city

of Moyobamba who had worked in SUNARP as a registrar before,⁴⁷ corroborated this legal explanation, pointing out emphatically that these types of private contracts are legally valid, ‘why? Because a contract to buy and sell land, since it has freedom of form, you’re not obliged to register it [in the official Land Registry]. I mean, registering it...doesn’t make you more of a titleholder...it only gives you a bit more security.’ However, in practice, no lawyer would advise her client to sign only a private contract if it can be avoided (and even less so do an oral one only) because of the risk of future disputes that may arise with other people who could claim that the same land was also sold to them earlier, involving lengthy and complicated civil litigation in the courts to prove a ‘better right.’ Thus, the standard way of eliminating this legal risk is to do the transaction before a notary public who then can send the deed to the official Land Registry where it will enjoy a legal presumption of truth.

But farmers do not use this formal system with the notaries public and the official Land Registry, relying instead on local practices of private law that are based on another land document: *compraventas*, made by peace judges and *tenientes*. As seen in Chapter 5, farmers do not have official property titles they can register in the official Land Registry because their land occupations are against the agricultural land and forest laws, which means that they cannot use

⁴⁷ Interview 36, city of Moyobamba, 19 April 2023.

the notary public for their land transactions, either. But farmers do value the use of legal documents to complement their land ownership claims and to perform their land transactions. So, they turn to locally made land documents to transact land called *compraventas* that are perceived as legally binding and that provide good tenure security because they are trusted by all farmers and even recognised by other people who do not live in the villages, including government officials or loan officers from financial institutions, as Chapter 7 discusses.

Compraventa contracts are not an invention of the farmers of Soritor or of other rural areas of Peru. They are part of Peruvian contract and property law; in its simplest form, they are just a written agreement to transfer the property of a thing, in this case a land, in exchange for a payment. Article 1529 of Peru's Civil Code (1984) takes a similarly broad definition, stating that 'through a *compraventa*, the seller commits to transferring the property of a good to the buyer, and the buyer commits to paying its price in money,' without specifying a particular documentary form to be followed.

In the villages of Soritor, *compraventas* are how 'the administration of our land is done,' said the *presidente* of the village of Selva Alegre⁴⁸. These private contracts between two farmers, the seller and the buyer, are generally made by

⁴⁸ Interview 31, Selva Alegre, 22 November 2022.

the *tenientes* and signed before them, who serve as witnesses.⁴⁹ The *presidente* of Selva Alegre summarised how people in the community think of the *compraventas*:

[Say] I buy the land from you. I take you to the *teniente* and he does a document of sale. And that is called a *compra - venta* document. So that document is the one that supports you, that that property is yours. And, moreover, in the community we all know each other, and we know that this is your property, is your property, is your property, and no one is gonna take it from you. And that's what people say: "if this is mine, who's gonna take it from me?" Even though I don't have an [official] property title, it's my property, of course. And the documents of the community [like the *compraventas*] is what matters.

Tenientes draft a *compraventa* using a template with clauses that point to a relational understanding of property, further highlighting the importance of the community as a legitimisation mechanism of farmers' land tenure claims. They are based on the past *compraventas* that *tenientes* have on file, and that have been passed on to them by the previous *tenientes*. *Compraventas* are relatively simple and short documents, usually one or two pages long, with a

⁴⁹ Although most farmers consider that making *compraventas* in the villages is the role of the *teniente*, a few interviewees mentioned also making them with the *presidente* (also known as *agente municipal*, or just *agente* for short). For example, the *presidente* of the village of Alto Perú pointed out that he too can do *compraventas*, but that it is up to the farmers, 'sometimes, some people do it with the *teniente*, some before the *presidente*...as the village leaders [we] do this, [we] sign this document.' (Interview 19, Alto Perú, 24 November 2022.) And, when asked how farmers prove that they own a plot of land, an old farmer from El Lucero mentioned that that is done 'through a document that has been made...with the leader that there is in [the farmer's] village...*teniente* or *agente municipal*, any that does it around there' (interview 10, El Lucero, 13 April 2023). The delegated mayor from San Marcos mentioned an instance when he bought a plot of land in another area, 5 hours by walking from San Marcos, and once they reached it, they could not find the *teniente* so 'I paid [the seller] and made him sign a receipt...before the *agente municipal*' (interview 29, town of San Marcos, 10 July 2023).

common structure. A *compraventa* begins with an introduction containing general information about the time, date, location, the names of the seller and the buyer, their national identification numbers, and their addresses. One clause is a statement by the seller indicating that he or she is the true owner of the land and that, through this document, he or she is selling the land to the buyer, specifying the size in square meters or hectares. Another clause describes the land, including its location in the community. *Compraventas* do not identify the property by geolocation, a property code, or a name of the plot, nor do they always use physical features as reference points. Instead, they identify the location of the farm in a specific space by referencing the boundaries of the plot and indicating the names of the *colindantes* in each cardinal direction: east, west, north, and south. Thus, the location of a property is expressed, above all, in relational terms: who the owner is relative to the other owners surrounding his or her land. This clause also describes what is on the property, a proxy for how the farmer is using the land; for example, whether there are specific crops or pasture, or even some *montaña*, and in what quantity. Finally, the last clauses indicate the price and refer to the payment that has been made and that all parties are in agreement.

CONTRATO PRIVADO DE COMPRA VENTA DE UN LOTE DE TERRENO AGRICOLA

Conste por el presente contrato privado de compra y venta de un lote de terreno agrícola, que celebran de una parte en calidad de vendedores los señores Eliseo Oblitas Collantes, identificado con DNI: 40296561 y la señora María Flavia Sanchez Contreras con DNI: 27255072. Y la otra parte como comprador el señor Jose Adolfo Ramirez Vilchez, identificado con DNI: 33566357 con domicilio en el centro poblado Sangamayoc- Distrito Barranquita, Provincia Lamas- San Martín. Los vendedores con residencia en el caserío Santa Rosa-Soritor-Moyobamba- San Martín, personas contratantes que se encuentran aptas para tratar y contratar de acuerdo a la ley, bajo las condiciones estipuladas las siguientes clausulas:

PRIMERO: Los señores vendedores Eliseo Oblitas Collantes y Maria Flavia Sanchez Contreras quienes son propietarios de un terreno agrícola ubicado en el caserío de Santa Rosa, comprensión del Distrito de Soritor, Provincia de Moyobamba, Departamento de San Martín con una extensión de 8 hectareas y en la fecha de forma voluntaria dan en venta real y enajenación definitiva a su comprador Jose Adolfo Ramirez Vilchez, dicho terreno cuenta con mejoras de Iverna, plantaciones de café en producción, arboles maderables cuyos colindantes son los siguientes propietarios:

POR EL ESTE: Colinda con área no catastral

POR EL OESTE: Con el caserío Santa Rosa

POR EL NORTE: Con la propiedad del Señor Santos Cieza y el Señor Santiago Muñoz

POR EL SUR: Con la propiedad del señor Rodriguez Aguilar Estanislao

SEGUNDO: El precio pactado de la presente venta de comun acuerdo en forma libre y voluntaria asciende a la suma de SETENTA Y SEIS MIL SOLES (S/ 76.000.00) en moneda nacional, los vendedores declaran haver recibido en efectivo quedando ambas partes a su entera satisfacción. Haciendo contar que dicho terreno que vende no pesa gravamen alguno es todo conforme a la ley. Quedando que los vendedores firman el documento notarial cuando sea cancelado el total.

TERCERO: Estando conforme con las clausulas anteriores, dejando constancia que los compradores deben tomar posesión de la propiedad a partir de la fecha, pasan a firmar el presente contrato en señal de conformidad y de mutuo acuerdo el dia jueves dos de marzo de dos mil ventitres.



The image shows four signatures and stamps. Top left: Eliseo Oblitas Collantes, DNI: 40296561, VENDEDOR. Top right: Maria Flavia Sanchez Contreras, DNI: 27255072, VENDEDOR. Bottom left: Jose Adolfo Ramirez Vilchez, DNI: 33566357, COMPRADOR. Bottom right: Benjamin Velayarce CuiPal, DNI: 00834502, TENIENTE GOBERNADOR. There is a circular stamp next to the bottom right signature.

Figure 9. A copy of a *compraventa* made by the *teniente* of the village of Santa Rosa. The title reads: ‘Private contract of *compra venta* of a lot of agricultural land’. The contract states that the property has 8 hectares, and that the plot has *mejoras* (improvements): ‘grass for cattle [‘*Ivernas*’], coffee plantations in production, and trees for timber’. It also lists the *colindantes* in each of the four cardinal directions.

Occasionally, farmers also go to the peace judge to do a *compraventa*.

Some farmers say they prefer to go to the peace judge to do *compraventas*

because they consider his documents to be ‘more legal’, as the delegated mayor of the town of San Marcos⁵⁰ put it. The legal expert from Moyobamba and former SUNARP registrar⁵¹ reinforced the idea that farmers perceive peace judges as playing a key role in conducting these transactions, especially when compared to the notary public. He pointed out that ‘more than the notary public, the peace judge gives you more confidence because the peace judge knows the seller and knows the buyer. I mean, you don’t go to the *chacra* now to buy a plot of land, and the peace judge doesn’t know you...[farmers] trust more the peace judge than a notary public that only verifies the signatures.’⁵²

Even though peace judges have no formal legal training, the peace judge of the town of San Marcos⁵³ was aware of some of the legal nuances of the *compraventas* he does. He noted, for example, that ‘colloquially, [people] talk about a sale, and *compraventa*, but legally it is a transfer of possession.’ His clarification is formally correct. Articles 898, 900 and 901 of the Civil Code (1984)

⁵⁰ Interview 29, town of San Marcos, 10 July 2023.

⁵¹ Interview 36, city of Moyobamba, 19 April 2023.

⁵² As the lawyer suggests, farmers that do not have official property titles could still go to notaries public to ask them to certify ‘the *manifestación de voluntad* (expression of will) of the parties,’ as an expert on notary public functions from Soritor explained (interview 44, town of Soritor, 13 April 2023). This means that the notary public would only verify that each person who signs the document is properly identified as who they say they are (e.g., by verifying their signatures, their national identification documents, and the government online ID database to match their fingerprints), but not to certify the contents of the documents they are signing, or whether the seller truly owns the land. And this document cannot be registered in the official Land registry.

⁵³ Interview 13, town of San Marcos, 22 November 2022.

recognise that possessors can transfer their possession to another person, who, if it is in a place where it is legal to do so, can then add up their time under possession for the purpose of later claiming property rights through adverse possession.⁵⁴ Thus since the transactions of land in Soritor involve, strictly speaking, transfers of possession, they should not be regarded as *compraventas*, as legally defined in Article 1529 of the Civil Code (1984) cited earlier. This legal nuance is lost for all practical purposes as people in Soritor discuss their transfers in terms of *compraventas* because they consider the possession of their lands as private property.

Compraventa documents made by the peace judges have a more complex legal language than the ones done by the *tenientes*, reflecting the more nuanced legal understanding. Although farmers still call these documents *compraventas*, the peace judges use a different formal name: *escrituras públicas de transferencia posesoria de bienes inmuebles* (public deeds of possessory transfer of real estate). These *compraventas* with a sophisticated name follow a template predetermined by the Judiciary (see Oficina Nacional de Justicia de Paz y Justicia Indígena 2020, pp. 94-96).

⁵⁴ However, as explained in Chapter 4, most of the farmers in Soritor and throughout the Peruvian Amazon would not be able to claim adverse possession to acquire official property titles because they occupy lands classified as forestlands or protection lands that are legally deemed natural resources under the control of the Peruvian state, not subject to private property.

6.1. Escritura de transferencia posesoria de bien Inmueble

En
siendo las horas del del mes de
de 202..., ante mí,, juez(a) de paz de
distrito de, provincia de
departamento de, **COMPARECIERON, CON EL FIN
DE OTORGAR ESCRITURA DE TRANSFERENCIA POSESORIA,**
las siguientes personas:

-
identificado(a) con DNI n.º, peruano(a), de
estado civil, con domicilio en
....., de ocupación
....., a quien en adelante se
denominará **TRANSFERENTE**; y, de la otra parte,
-
identificado(a) con DNI n.º, peruano(a), de
estado civil, con domicilio en
....., de ocupación
....., a quien en adelante se
denominará **ADQUIRENTE**.

Los señores son mayores de edad, sufragantes, hábiles para
contratar e inteligentes en el idioma castellano, a quienes, luego
de haber identificado, doy fe, así como de haber constatado que
proceden con la capacidad, la libertad y el conocimiento que
se obligan conforme a la Ley de Justicia de Paz (Ley n.º 29824).
Asimismo, se advirtió a los interesados sobre los efectos legales
del presente instrumento público notarial, que se realiza sin
minuta, conforme a los términos y las condiciones establecidos en
las cláusulas siguientes:

PRIMERA: El(La) **TRANSFERENTE** declara ser poseionario(a)
del inmueble denominado de
..... m², ubicado en

SÉPTIMA: La presente transferencia incluye todo derecho que
pudiera corresponderle al(a la) **TRANSFERENTE** respecto del
INMUEBLE transferido, por lo que renuncia a cualquier acción
posterior que cuestione el legítimo derecho de posesión del(de la)
ADQUIRENTE, quien adiciona su plazo posesorio conforme al
artículo 898 del Código Civil. Asimismo, el(la) **TRANSFERENTE**
se compromete a prestar su colaboración futura, en caso resulte
necesario, para la suscripción de documentos que se requieran
para la formalización de la propiedad y el saneamiento físico legal
a favor del(de la) **ADQUIRENTE**.

OCTAVA: El(La) **TRANSFERENTE** hace entrega de todos los
documentos que tiene en su poder referente al **INMUEBLE** que
transfiere, lo que el(la) **ADQUIRENTE** recibe a su plena satisfacción.

NOVENA: El(La) **TRANSFERENTE** declara que se encuentra al día
en el pago de los tributos y arbitrios, o toda obligación que pudiera
afectar el inmueble transferido en posesión. En caso de que
existiera alguna deuda pendiente, anterior a la fecha del presente
contrato, se compromete a su cancelación total.

DÉCIMA: Ambas partes, debidamente informadas del contenido
de las cláusulas que anteceden, las admiten en todas y cada una de
sus partes.

Con la finalidad de garantizar el derecho transferido, el juez
de paz que suscribe procedió a realizar la constatación de la
posesión, además de verificar las características del bien y la
entrega de la documentación correspondiente.

La presente escritura se firmó en presencia del juez de paz y se
registró en el folio n.º del libro notarial de este Juzgado de Paz.
..... (Lugar y fecha)

TRANSFERENTE	ADQUIRENTE
Nombre:	Nombre:
DNI:	DNI:

(Firma y sello del juez de paz)

Figure 10. First and last pages of the template of the *escrituras* of peace judges in a manual for peace judges published by the Judiciary (see Oficina Nacional de Justicia de Paz y Justicia Indígena 2020, pp. 94-96). These *escrituras* use more complex legal language. They also refer to the ‘possessory transfer’ (*transferencia posesoria*), i.e., not a transfer of property *per se*; and they allude to the peace judge’s visit to do the ‘verification of the possession’ (*constatación de la posesión*).

According to the Peace Judge of San Marcos⁵⁵, in 2018, the Superior Court of Justice of San Martín introduced a clause to the template in which the transferor and the acquirer state that they ‘are aware that said possession is not in a protected area, so the transfer of possession is being carried out in

⁵⁵ Interview 14, on the road to Nueva Galilea, 14 April 2023.

accordance with the law.’⁵⁶ Although small, this addition seems to be a timid attempt by the Peruvian state to intervene with a legal norm of public law in what are otherwise private law transactions in order to incentivise behaviour that is in compliance with environmental regulation.

The law confers some advantages to the *compraventas* made by the peace judges over those made by the *tenientes*, but they may be only marginally beneficial in practice, such as in rare cases of litigation. According to Peruvian civil law the *compraventas* prepared by peace judges are deeds considered ‘public documents,’ which, unlike private documents, are given a presumption of authenticity by the law.⁵⁷ These ‘public documents’ also enjoy a fixed-date presumption, i.e., a presumption under the law that the date indicated in them is the true date, which carries legal effects, such as establishing the time for adverse possession (which, in any event, should not apply to farmers occupying forestlands) or for determining the person with a superior claim due to acquiring it earlier (i.e., in a rare case of a conflict between two buyers of the same land). And, although the peace judges’ *compraventas* are formally called

⁵⁶ In a complementary conversation (1 December 2023), the person in charge of the *Oficina Distrital de Apoyo a la Justicia de Paz* (District Support Office for Peace Justice, ODAJUP) later said that they had not included that clause in the template they shared with the peace judges but that, in any event, it is ‘a basic template,’ onto which the peace judges and the contracting parties are free to make adjustments. So, she thought that it was possible that an earlier peace judge had added that clause to the template following capacity-building workshops they had received from the Ministry of the Environment on ‘forest protection’ (likely from the parks service that manages the *Bosque de Protección Alto Mayo*, a national protected area whose buffer zone borders Soritor).

⁵⁷ See Article 17 of the *Ley de Justicia de Paz* (Law of the Justice of the Peace) (2012), and Article 235, 236 and 245 of the *Código Procesal Civil* (Civil Procedure Code) (1992).

escrituras or deeds, like those of the notaries public, they do not have the same legal effects. For example, the legal rules determine that the *escrituras* of the peace judges cannot be recorded in the official Land Registry (Oficina Nacional de Justicia de Paz y Justicia Indígena 2020, p. 41), in practice, making them a deed of a lesser legal value relative to those of the notaries public.

6.4.1. The legal ‘value scale’ of *compraventas*

Some farmers have constructed a legal value scale of the *compraventas* based on the person who makes them. For example, an old resident in Selva Alegre⁵⁸ considered that a *compraventa* from ‘the notary public has...more validity.’ Similarly, the delegated mayor of the town of San Marcos⁵⁹ considered those made by the notary public to be higher up in the value scale, confirming that, ‘of course, a document [made by] the notary public has more [legal] validity.’ The *presidente* of the village of El Lucero⁶⁰ shared that understanding, saying that ‘more legal are the documents of the notary public, [the] public records, because [those people] make you a different procedure...’ In contrast, the *teniente* from El Lucero⁶¹ noted that despite that he makes the *compraventas* by hand and the notary public makes them in print, ‘it’s the same *compraventa*.’

⁵⁸ Interview 10, El Lucero, 13 April 2023.

⁵⁹ Interview 29, town of San Marcos, 10 July 2023.

⁶⁰ Interview 27, town of Soritor, 16 April 2023.

⁶¹ Interview 17, El Lucero, 13 April 2023.

But, he recognised that people had different thoughts about it, and acknowledged that there are cases reserved for the notary public only:

according to the state, the government grants us all the same authority...but some say that [the *compraventa* from] the notary public is more valid, and others say that, no, the one from the *teniente* is more valid. So, as I say to [farmers], “that’s up to you...if you want to go to [the town of] Soritor, go there and make your documents [with the notary public]. And if not, we do them here.” But when it is a titled land, then that’s when I can’t do the [the *compraventas*]. The only one who does that is the notary public.

Contrato de Compra-Venta de un solar

En el Caserio El Lucero, distrito de Corcor, provincia de Mayobamba, Region San Martin, siendo las 7:56 pm del día jueves 15 de diciembre del año 2022, hacemos constar que celebramos un contrato de compra-venta de un solar cuyos deberes se mencionan en las cláusulas a continuación.

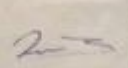
El presente contrato de compra-venta lo celebran por una parte el señor eliseo olivera rafael identificado con DNI: 76018546 con domicilio en el distrito de corcor barrio Jose Galvez y la señorita janelli olivera rafael identificada con DNI: 76018548. los señores actúan en calidad de vendedores, y por la otra parte el señor fernando roaz perez identificado con DNI: 45573325 con domicilio en el caserio el lucero, en calidad de comprador. Ambas partes declaran ser hábiles en el idioma castellano y en pleno uso de sus facultades celebran el presente contrato.


Primero. el vendedor declara ser propietario de dicho solar y mediante el presente documento cede en venta al comprador un aproximado de $30 \times 30m^2$ ($900m^2$) metros cuadrados.

Segundo. el mencionado solar materia de venta se encuentra ubicado en el caserio el lucero distrito corcor provincia de mayobamba region san martin. sus límites son:
 por el norte: con el señor nelson perez y leonides quispe
 por el sur: con el camino al caserio la palma
 por el este: con la señora santos wilcamango - Alcibar pitamirano y el señor juan wilcamango.
 por el oeste: con el señor wilber huaman.

Tercero. el precio pactado en común acuerdo por ambas partes es de 94.000,00 cuatro mil noventa y cuatro colones. suma que el vendedor declara haber recibido en efectivo al momento de firmar el presente contrato.

Al estar en mutuo acuerdo ambas partes, pasamos a firmar en el presente Gobernador del Caserio el Lucero


 Eliseo olivera rafael
 DNI: 76018546
 Vendedor


 fernando roaz perez
 DNI: 45573325
 Comprador

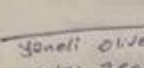

 Janelli olivera rafael
 DNI: 76018548
 Vendedor

Figure 11. A handwritten compraventa made by the *teniente* of El Lucero (pending his signature and the signature of the spouse of the seller) (author's personal photograph, 2023).

The NGO worker and part-time farmer in Selva Alegre⁶² complemented these ideas with a comparison between the *compraventas* of the peace judge and the *escrituras públicas* made by the notaries public, highlighting a price factor. He attached the same legal value to both noting that the main difference was the cost, '[PEN] 60...or [PEN] 100 at most [with the peace judge]⁶³...[but with] the notary public is...more expensive. It's like [PEN] 300, [PEN] 400 that the notary public charges you to make an *escritura pública* or a notarised [*escritura*],⁶⁴ compared to the peace judge that has the same [legal] faculties.' According to him, 'if there exists an *escritura pública*, issued by a [peace] judge or a notary public, you continue with that [for the next transaction] because, in the rural area, to have an *escritura pública* or a notarised [*escritura*], is for [farmers] similar to what an [official property] title would be...this gives them much more tenure security.'

As with the case of the *constancias de posesión*, making *compraventas* is not one of the functions that *tenientes* have by law but they still perform it. In recent years, the former sub-prefect of Soritor⁶⁵, who had overseen *tenientes* in the past, had urged them not to make *compraventas* because, just like with the

⁶² Interview 35, city of Rioja, 17 April 2023.

⁶³ Approximately £12 and £20, respectively.

⁶⁴ Approximately £60 and £80, respectively.

⁶⁵ Interview 38, town of Soritor, 18 April 2023.

constancias de posesión, it falls outside their legal purview. But these instructions not to deviate from the written law are not always straightforward or they have been tempered in order to fit the expectations of farmers. For example, the *teniente* of the village of Nueva Galilea⁶⁶ recalled this instruction of the sub-prefect not to do *compraventas* unless they are for small amounts, ‘but not because it is not within our purview,’ this *teniente* pondered. Other *tenientes* said they had received warnings not to carry out *compraventas*, but because farmers still expect this service from them, they continue to perform it. Refusing may upset farmers, who would criticise the *tenientes* in their villages for failing to fulfil what people understand is one of the *tenientes*’ main duties. The former sub-prefect of Soritor acknowledged this situation, explaining that ‘[*tenientes*] are told [not to do *compraventas*], but they do not obey,’ in part because they are admonished by the people in the community who confront them, questioning ‘how did such and such do it, and you didn’t?’

People with more exposure to the law also criticised the *tenientes* for making the *compraventas*. The expert on notary public issues from Soritor⁶⁷ was succinct and stern in her criticism. According to her, the *compraventas* of the *tenientes* simply ‘have no legal value.’ The peace judge of the town of San

⁶⁶ Interview 42, Nueva Galilea, 17 April 2023.

⁶⁷ Interview 44, town of Soritor, 13 April 2023.

Marcos⁶⁸ echoed this idea. He regretted that the *tenientes* engaged in these practices: ‘legally they are not recognised as valid documents because the law, what does it say? The only ones tasked with making a...*compraventa*, or any other notary act, are the peace judges and the notaries public...the *tenientes* are not authorised to do that...but even today those types of infractions are still being committed...’ The person in charge of the *Oficina Distrital de Apoyo a la Justicia de Paz* (District Support Office for Peace Justice, ODAJUP)⁶⁹, the office of the Superior Court of San Martín that coordinates the work of peace judges in the jurisdiction, also criticised this situation. She offered an explanation based on the farmers’ and their village leaders’ ignorance about the law:

The thing is that...according to the legal norm, regulated by the Law 29824⁷⁰, only peace judges should have the notary public function, according to article 17... But, regrettably, one of the issues we’ve identified at the level of rural areas is the lack of information about the functions that each of the [village] leaders have...There is a lack of capacity building by the government agencies that oversee [*tenientes*]...The way that [farmers] think if the peace judge does not help them [make a land document is this:] “I’ll go to the *teniente gobernador*, I’ll go to the mayor, and I [go to] any [authority]...even the *rondero*⁷¹ so they make me the document I need and want.”

⁶⁸ Interview 13, town of San Marcos, 22 November 2022.

⁶⁹ Interview 28, city of Moyobamba, 11 July 2023.

⁷⁰ She is referencing the *Ley de Justicia de Paz* (Law of the Peace Justice) (2012). See also footnote 19 in this chapter on the notary public functions of peace judges.

⁷¹ *Rondero* is a member of the *ronda campesina*. In this context the interviewee is referring to the president of the *ronda campesina*, another leader in many rural communities.

Interestingly, she later conceded that this problem lies not solely, or inherently, on the farmers' side (who 'lack capacity', or proper legal knowledge), but on what she perceives as legal and policy contradictions of a dysfunctional government. She⁷² elaborated with an example:

Sadly, when the ministries put out regulations...these are too broad. [Those regulations allude to] the "competent authorities" or the "communal authorities." So...the engineers who work in these areas for issues concerning land acquisition,⁷³ accept these [local land] documents from farmers...[and] obviously, by accepting them they are giving an approval that these [village] leaders can issue them.

This example highlights an even more important theme discussed in this chapter: the fact that the state not only does not disregard completely the local ordering that gives rise to land documents like *compraventas*, but that it finds itself in need to engage with it. That is, what this interviewee sees as a bug in the regulations that implement governmental policies involving rural land, is in fact a feature of the application of the law in this frontier context. The practice of accepting *compraventas* by representatives or contractors of the Peruvian state through this seemingly open-ended legal rule she alludes to, serves the practical purpose of allowing the state to implement its development policies on the ground. It provides a good example of Scott's argument that the 'formal

⁷² Interview 28, city of Moyobamba, 11 July 2023.

⁷³ She is referring to staff from construction companies that are government contractors working in infrastructure projects and public works, such as roads, electricity or telecommunications.

schemes of order are untenable without some elements of the practical knowledge that they tend to dismiss' (1998, p. 7), which in this case is the local practices of private law embedded in the *compraventas*.

6.4.2. Defaulting to the local: why do farmers continue to rely on *tenientes* for *compraventas*?

Despite the fact that *tenientes* are making *compraventas* contrary to their official legal functions, and that farmers have different perceptions of where the *tenientes'* *compraventas* are placed in a legal value scale, most farmers in Soritor prefer using their services to make *compraventas*. The reasons are practical: *tenientes* live closer, in the villages, and they already know both parties and the land that is for sale. In fact, *tenientes* most likely already have a copy on file of the previous *compraventa* related to that particular property. And, as confirmed by the account of the person in charge of ODAJUP, some external actors acknowledge these local land documents as legitimate. Also important is that the *tenientes'* service of making the *compraventas* is cheaper or even free. Some interviewees said that *tenientes* charge a fee for doing the *compraventas* (e.g. one⁷⁴ mentioned they charge PEN 50⁷⁵), but one *teniente*⁷⁶ indicated that he does not charge a fee because he sees this as a service to his community. Likely, the

⁷⁴ Interview 30, El Lucero, 13 April 2023.

⁷⁵ Approximately £10.

⁷⁶ Interview 42, Nueva Galilea, 17 April 2023.

most important factor why farmers turn to *tenientes* for their *compraventas* is that all farmers inside the community, as well as those who do not live there, consider these *compraventas* as legitimate and legally valid (even if some perceive them as slightly lower in the ‘legality’ scale relative to *compraventas* made by peace judges).

Moreover, some farmers contest the role of peace judges to make *compraventas* because they see it as an intrusion in village affairs. This was the position of the *presidente* of Selva Alegre⁷⁷ who said that doing *compraventas* ‘is not an attribution of peace judges...the *teniente* is the authority of your community...you have to work with the leaders of your community because if you are going to make a document with the peace judge, he doesn’t know if it’s true, if it’s your land or not.’⁷⁸ He alluded to the fact that some people may take advantage of this lack of village knowledge to make irregular land transactions or claims: ‘there are people that are somewhat sneaky, that hypocritically buy a land, buy two hectares and they go to the peace judge [and ask], “make [the *compraventa*] for three hectares”...and...because they give [the peace judge] a

⁷⁷ Interview 31, Selva Alegre, 22 November 2022.

⁷⁸ This criticism to the peace judge seems to contradict the thinking of the well-known lawyer from the city of Moyobamba and former SUNARP registrar quoted earlier, who thought that peace judges were trusted by the farmers to do these transactions because they knew the rural areas better than the notaries public. Taken together, however, both quotes reveal a perception of a hierarchy of knowledge about landownership: on top are the more knowledgeable *tenientes* who are also neighbours of the farmers (and farmers themselves), in the middle is the peace judge who provides services to various villages, and, at the bottom is the notary public who provides services in the town of Soritor and who mostly deals only with transactions of lands that have official property titles.

little something, he goes ahead and does it,' hinting at the peace judge accepting small bribes. Contrary to what the peace judge of the town of Soritor said about the importance of always checking in with the village leaders, this interviewee argued that 'the peace judge sometimes creates documents blindly, without asking for community certification...' He elaborated by recounting the case of a farmer in Selva Alegre who claimed to own 200 hectares.⁷⁹ According to the *presidente's* account, the peace judge made a land document to that farmer despite the fact that the *teniente* of Selva Alegre had already refused to make the same document because he thought that farmer's property claim was suspicious:

[A farmer] came wanting the *teniente* to sign a document for him so he could be the owner of 200 hectares...maybe taking all the ZOCRE⁸⁰ area...and so the *teniente* tells him: "You know what? Bring me the [*compraventa*] documents of the gentlemen who sold it to you, and... right now I'm going to talk to the sub-prefect of Soritor to see what instructions she gives me." [To which the farmer responded]: "Oh no, no, no...if you don't want to sign[, I

⁷⁹ This case is more thoroughly discussed in section 8.4.3. to highlight an instance of land tenure insecurity in Soritor and its relationship to the enforcement of forest protection laws.

⁸⁰ ZOCRE stands for *Zonas de Conservación y Recuperación de Ecosistemas* (Conservation and Ecosystem Restoration Zones). The ZOCREs are a *sui generis* legal innovation of the regional government of San Martín that registered as its private property in the Land Registry large swaths of 'free' forests located in its jurisdiction. These areas were 'free' in the sense that there were no other formal owners or forest concession holders, but some areas had been settled by *colonos*, who have remained there. The legality of the ZOCREs is questionable because they are not a category recognised by Peru's *Ley de Áreas Naturales Protegidas* (Natural Protected Areas Law) (1997), and the *Ley Orgánica de Gobiernos Regionales* (Organic Law of Regional Governments) (2002) has not given this level of government the competency to make these conservation designations. But, in practice, officials at the regional level and the farmers of Soritor recognize the ZOCREs as areas where deforestation or logging are not authorised, although enforcement is uneven. Section 8.4.2. discusses more at length the role of ZOCREs in driving compliance with some forest protection laws in Soritor

leave]...” [so] he took [his papers elsewhere] ... And [at the end] the peace judge made that document.

As this account also suggests, a *teniente* may be reluctant to do one of these local land documents when he or she doubts the farmer’s claim. The next subsection discusses another instance of this reluctance that highlights the interdependence of the community and the individual—collective work and private property—that is a feature of the co-constitution of community and property in this frontier space.

6.4.3. Private land contracts contingent upon fulfilling communal obligations

In the villages of Soritor the *tenientes* may object to do a *compraventa* in order to make farmers comply with the customary system of *faena comunal* (community work)⁸¹, which further shows how exercising a farmer’s private property right to transfer land, and being part of a collective, are co-constituted. As the *presidente* of El Lucero⁸² put it, ‘you as a citizen need to be fully capable of doing your [share of communal] work in the *caserío*.’ When farmers fail to participate in a *faena comunal* they are given the option to pay a fine of ‘30 soles per day’.⁸³ Sometimes, a farmer may refuse to pay the fine and so, when that

⁸¹ As explained in section 6.2., under the *faena comunal* system, farmers are expected to put some of their time in benefit of the community as a whole by periodically working on collective actions.

⁸² Interview 27, town of Soritor, 16 April 2023.

⁸³ Approximately £6, which this interviewee mentioned was the value of the fine in Soritor at that moment.

farmer wants to sell his or her land, the *presidente* and the *teniente* coordinate to enforce the payment by putting on hold the farmer's request to make a *compraventa* until the farmer has paid. The *presidente* of El Lucero explained it like this:

say you owe from a *faena*...you don't want to pay, and you want to sell your land, what does the *teniente* do? So, he communicates with the *presidente*...to check the community's minutes book, and...in order [for the *teniente*] to make [your *compraventa*] document, [you] first have to pay all [your] dues that [you] have there [in the book].

In fact, they do this for all *compraventas*, explained the *presidente* of El Lucero⁸⁴, where the *teniente* 'picks up the phone, [calls me and says,] "check this guy that's selling his land, see if he owes fines"...[and the *teniente* would tell the seller] "you owe...," say 60 soles⁸⁵ in fines,..."so pay, sir, to make you your document."'”⁸⁶

⁸⁴ Interview 27, town of Soritor, 16 April 2023.

⁸⁵ Approximately £12.

⁸⁶ This is not the only enforcement mechanism to ensure that people comply with their work in a *faena communal* or to paying their fines to the community when they do not. In theory, the community could use the *ronda campesina* as a last resort, which can exert bodily punishment (i.e., thrashing with rope) to a farmer that remains unwilling to pay after being publicly notified several times, as explained by this interviewee, who noted that this was very unusual because 'no one wants to reach that point...' Also, it is likely not used in practice due to the fact the *rondas* are inactive in this area at the moment, as explained by the *teniente* of El Lucero (interview 17, El Lucero, 13 April 2023). The Peruvian State formally recognises that *rondas campesinas* can have customary law (see article 4 of the *Reglamento de la Ley de Rondas Campesinas*, 2003), and, as part of that, these types of bodily punishments have been documented before in several parts of rural Peru, which have been a subject of debate (see e.g., Peña Jumpa, 2016).

This procedure can be analysed in two ways. Firstly, as an enforcement mechanism, it describes a clever and practical way to make sure that people effectively contribute their fair share to the community. It also demonstrates a different instance of inter-legality on the ground: even though the *compraventas* are based on an instrument of private law that exists in Peru's Civil Code (1984), its application in practice is embedded in a larger local context that requires compliance with social norms and practices. Secondly, and more importantly for the purposes of this thesis, it shows the importance of relations in property, between owners and neighbours, emphasizing an 'outside-in' perspective whereby neighbours in the collective provide legitimacy to the property claim of the individual (Rose, 2022). This procedure, part of the social norm of complying with the customary system of the *faena communal*, are effectively the community's 'conditions of service' for all individual property owners who want to use the community's authority to provide legitimacy to their landownership claims.

The fact that private land contracts are contingent upon complying with collective obligations shows the intricate and ongoing nature of the relationship between private property and community, an example of the dynamism of property in enduring relationships that Blandy et al. (2018) noted. This relationship, which begins with the enactment of property that leads to the formation of villages, as explained in Chapter 5, is continuously being re-stated

through normative practices such as the enforcement of the *faena communal* and making *compraventas*. They can also be seen as concrete practices that illustrate Sikor's and Lund's (2009) 'contract of mutual recognition' idea whereby property and authority recursively legitimate each other. In contrast to their view, however, in Soritor, what is co-constituted are the communities at the micro-level rather than the building of state authority.

Making local land documents is not always straightforward due to the different authorities and village leaders involved. During a capacity-building event for peace judges,⁸⁷ an instructor acknowledged the importance of *faenas comunales* and the fact that they could be a source of conflict between peace judges and village leaders that issue land documents. The instructor used an example with a *constancia de posesión* to make a recommendation to peace judges to coordinate with *presidentes*:

So, there are many conflicts that are also occurring when you [peace judges] issue the *constancia* because then the rivalries with the *presidente* appear: "why do you issue [it], if I am [the one] authorised? and, besides, I am the *presidente*..." In order to avoid those types of conflicts, what do I tell the *presidentes* [and peace] judges? "Look, mister peace judge; come here, mister *presidente*: Let's do something practical...Mister [peace] judge, when [farmers] submit the application for the *constancia de posesión*, in one of the requirements also tell [farmers to] bring [you] the document that says that [he is] up to date with all the *faenas*, in all [the] payments and that sort of thing...and if he does not bring this document...then you [peace judge] don't issue [the *constancia*]"... you have to

⁸⁷ Public event 3, city of Moyobamba, 13 July 2023.

do this in conversation with your village leaders, so we avoid duplicity of documentation.

These accounts concerning peace judges' interactions with village leaders show another example of the flexibility that government officials deploy to accommodate the legal rules and prescribed procedures of the state (in this case for issuing land documents by peace judges), with the communities' local practices of private law and social norms related to property. This flexibility is practiced, or at least attempted, by representatives of the state on the ground, like the peace judge of the town of San Marcos.⁸⁸ A reason may be found in the special characteristics of the 'rural sociospatiality'—distance and sparse populations—that, according to Pruitt (2014), 'disables, or tames or limits law's agents,' while also 'manag[ing]...legal actors' expectations of what formal law can accomplish there' (p. 195). Further, the legal flexibility can permeate upwards and spread horizontally through the bureaucracy of the state that implements agricultural land and forest laws and regulations. It does so as informal policies or practical recommendations that are internally disseminated more broadly through the bureaucratic apparatus, as

⁸⁸ In practice, this local level coordination for making local land documents can be hard. The peace judge of San Marcos, for example, seemed to be following the advice of the instructor when he affirmed that he crosschecked with the village leaders before issuing *constancias de posesión* (or making other land-related documents, like a *compraventa*). However, he was likely inconsistent, as demonstrated by the criticism pointed at him by the *presidente* of Selva Alegre who mentioned the case of a land document that the peace judge made despite the fact that the *teniente* from Selva Alegre had previously opposed to making.

demonstrated by the recommendation given by the instructor of the Judiciary at the official capacity-building event for peace judges.

The attempt at reconciling the law with the local property rules and norms used in Soritor ensures that at least some parts of the agricultural land and forest laws and policies of the state can be deployed in practice in the rural areas. This is also the case with the administrative flexibility shown by the director of the Moyobamba office of the DRA that managed to make the government's agricultural support programmes 'run, run,'⁸⁹ by facilitating the issuance of *constancias* to farmers while bending the legal rules and official procedures. As shown in previous examples, the practice of legal flexibility, in this case by an instructor from the government and by peace judges, has also the indirect effect of granting some recognition by the state to the local property arrangements of Soritor. This shows the type of legal contradictions that the person in charge of the ODAJUP, the office that coordinates peace judges' work, was wary about. But it further highlights Scott's (1998) point about the state's ordering laws and policies that, reluctantly, often have to incorporate local knowledge, even as it deviates from the formal law (and likely because it does).

⁸⁹ See section 6.3.2.

6.4.4. The abstraction and materiality of *compraventa* documents, and the making of an informal land registry

Compraventas are multifaceted instruments. The clauses contained in them speak to their character as private contracts that represent a transaction between two parties. More importantly, however, they are seen as an essential proof of ownership. These documents demonstrate how the mechanism of legitimacy of property mutates in the agricultural frontiers of Soritor. It moves from relying solely on the physical practices to enact property during the initial stages of occupation as part of the Amazon Settler social norm—*coger*, *amparar* and *trabajar la tierra* reviewed in Chapter 5—to the more abstract documentary representation of property. These documents are an expression of the legitimacy of ownership given by the community through the service that village leaders provide to making them.

The *compraventa* documents themselves—their material presence on paper—is key, particularly when proof is needed, such as during a land transaction. When asked how people know that a plot of land is owned by someone, farmers often point first to the fact that the person is in possession of the plot of land, and that their *colindantes* and the other people in the community recognise said person to be the owner. In addition to these physical and relational aspects of ownership, both peace judges and *tenientes* also require property owners to submit land documents that prove landownership

before they can prepare a *compraventa*. So, to know if a person owns a land in Soritor, ‘there are two ways,’ as an old resident in Selva Alegre⁹⁰ put it, ‘from the papers, and also from the same owners whom we know here.’

The significance of the materiality of the *compraventas* is better perceived by the way they are stored and used again during a land transaction. Since farmers do not have official property titles and the *compraventas* are not recorded in the official Land Registry, most of the *compraventas* end up ‘living’ quietly in the drawers of farmers’ homes, or in the archives of peace judges or *tenientes*, until they are needed as proof of ownership for the next transfer. The NGO worker and part-time farmer who had recently bought land in Selva Alegre⁹¹ related his experience with a ‘matrix,’ old *compraventas* that involve large plots of land that have been since subdivided into smaller plots after the first stage of occupation. He went to the house of a landowner to discuss buying his land: ‘I asked him to show me the documents he had, right? And he had two documents...[both] were *escrituras*...with [the] peace judge...one from 1993, I think it was from the first owner... and another one that he made with the second owner...from 2007, I believe.’ He explained that the first of these *escrituras* was for a plot of 20 hectares,

⁹⁰ Interview 33, Selva Alegre, 17 April 2023.

⁹¹ Interview 35, city of Rioja, 17 April 2023.

the matrix...now they ask you for the matrix for any [subsequent land] document [you want to make]...if you don't have the matrix, [the village leaders or the peace judge] won't make you a [*compraventa*]...it's kinda like a requisite, so to speak. You have to have it...

The NGO worker and part-time farmer thought that the reason why peace judges were now required to ask for this original *compraventa*, the matrix, was to reduce the risk of new instances of land trafficking, because having this old document meant that the land being transacted was not in a new settlement in the free *montañas*, which was being partitioned. The official guidelines for peace judges provide a complementary explanation that has to do with the risk of land disputes, not an environmental risk of further encroaching free *montañas* and causing illegal deforestation. These guidelines emphasize that 'the transferer [must] turn in all the original documents (not copies) that he or she has about the real estate to avoid the risk that [the same real estate] is also transferred to another person and to allow the new possessor to add the years of possession of the transferer in case [the acquirer] needs to do the adverse possession' (Oficina Nacional de Justicia de Paz y Justicia Indígena 2020, p. 44).

Not only the matrix, but all previous *compraventas* are important documents that are physically required for each subsequent transaction of the land because they help keep track of ownership. Both the peace judges' instructions and the rules practiced by the *tenientes* require them to have these documents in their original forms as a complementary proof of ownership and

to physically pass them on to the next owner. So, the documents, as a farmer in Selva Alegre⁹² explained, ‘start to accumulate, you[, as the buyer, end up with] all of them.’ But sometimes, a farmer may lose the original document of his *compraventa*. In that case, it is likely that the current *teniente* or the peace judge has another copy in their archives that has been passed on to them from the last *teniente* or peace judge, respectively. If they do not have it, the *teniente* of El Lucero⁹³ explained that ‘you can make the old owner sign the *compraventa* again,’ recreating the original document with the original date.

The practice of conserving the *compraventas*, passing them on from one owner to the next, accumulating them, and faithfully reconstructing them if they are lost, show the importance of the materiality of these documents. They echo Latour’s (2010) insight about the state’s deep appreciation of the physical documents in legal proceeding, which in the context of this agricultural frontier of the Peruvian Amazon is replicated in the local practices of private law of the communities. And they also show the existence of what Scott (1998) has described as a ‘shadow land tenure system lurking beside and beneath the official account in the land tenure system’ (p. 49). In the case of Soritor, these practices that rely on the materiality of *compraventas* can be thought of an informal and distributed ‘system’ of land registration; one that is highly trusted

⁹² Interview 1, Selva Alegre, 23 November 2022.

⁹³ Interview 17, EL Lucero, 13 April 2023.

by farmers, and that, in practice, complements the official information in the state's Land Registry.



Figure 12. Office of the peace judge of the town of San Marcos, Soritor (author's personal photograph, 2023). It shows a part of the peace judge's collection of files, some of which are *escrituras*, as well as some old computers (no longer in use) that were part of the equipment that the judiciary provides to peace judges.

Almost by definition, this informal and distributed 'system' of land registration contains different information than the official Land Registry, since

the latter can only record transactions involving official property titles, and the former is exclusively comprised by the aggregate of land transactions of informal properties materialised in each *compraventa*. And, unlike the structured Land Registry of the state, the land information in Soritor is not recorded in a ‘single source of truth’ data management system. Instead, the information is organically spread out through each original copy of the *compraventas* that the *tenientes* and landowners hold in their villages, or in the peace judge’s archive, and brought to light, and passed on, each time that they are needed, particularly during a new land transaction. Despite that this informal and distributed ‘system’ of land registration is not centrally managed under a single structured organisation, it still seems to work with consistency because the information it stores and the ways in which it is maintained and used, follow local practices of private law that are uniform and that ultimately respond to the shared social norms of property discussed in Chapter 5.

Interestingly, even though the state seems to largely abstain from engaging with the documents that are part of this informal and distributed land registration ‘system,’ there are some instances where they can be accepted or even required in the context of procedures concerning agricultural land and forest laws, and the deployment of agricultural policies. This is the case, for example, of the regulations to apply for the *constancias de posesión* issued by peace judges or by the Regional Government of San Martín that explicitly ask

that farmers submit their *compraventas* as proof of possession, and similarly to access a loan from Agrobanco. Further, as Chapter 7 explains, other external actors to the villages, such as the private financial institutions that cater to farmers in Soritor, also accept the *compraventas*. In all these examples, however, submitting a *compraventa* is not enough, as the regulations of the state still require prior on-site visits to corroborate that the locally made land documents correspond with the physical possession of the farmer; that is, that they match the reality on the ground.

These examples of normative interaction, alongside several others seen so far throughout this chapter and before in Chapter 5, reinforce the inter-legality features of this agricultural frontier of the Peruvian Amazon. Far from a coherent or harmonious legal landscape, these interactions create obvious legal tensions, such as the use of contract and property institutions under private law discussed in this chapter that seem to mostly conform with Peru's Civil Code (1984) while violating the agricultural land and forest laws and regulations under public law reviewed in Chapter 4. Moreover, the contradictions manifest also within the state's public policies and laws, as seen by the example discussed in Chapter 5 of the support by the Municipality of Soritor to building roads in new villages while disregarding the legal rules for

environmental impact assessments,⁹⁴ or the national government's provision of subsidies for fertilisers to farmers while they are illegally occupying forestlands mentioned earlier in this chapter⁹⁵. The Peruvian state is not oblivious to these legal tensions and, in some instances, it actively manages them through creative legal fictions, of which the *constancia de productor agrario* that brings official legibility to a person's condition as a farmer but not to his or her landownership claims, is an illustrative example.

6.5. Conclusion

This chapter has examined how farmers in Soritor consolidate their private properties using two land documents that are primarily made by a village leader, the *teniente: constancias* (certificates) and *compraventas* (buy and sell contracts). *Compraventas*, in particular, demonstrate that communities are important to consolidate private property in this frontier space, highlighting their co-constitutive configuration. The communities, constituted by farmers who enacted property in the free *montañas* and began to congregate, turn inwards to provide legal legibility and legitimacy to farmers' private properties through the *tenientes'* legal services of making these land documents. The widespread idea amongst farmers that 'everybody knows who the owners are,'

⁹⁴ See section 5.4.2.

⁹⁵ See section 6.3.2.

alongside the landowners' status as 'citizens' of the village expected to contribute to the *faena comunal* (collective work), further demonstrate that the co-constitutive character of community and private property is continuous. This becomes particularly salient during private land transactions that require that the community, through the *teniente*, make *compraventas*, as well as the community's verification that the landowner is in good standing with the collective (i.e., that he or she does not have pending obligations related to the *faena communal*).

The legitimacy and legibility that communities provide to farmers' properties through these local land documents show interesting relational, abstract and material understandings of property in this frontier space. The common knowledge in the villages about who the owners are, and the way lands are described spatially in the *compraventas* in relation to the landowners' neighbours, further point to the relevance of Rose's (2013, 2022) relational 'outside-in' perspective when studying property. This perspective gives a more rounded understanding of property in Soritor than if we were to look at it only from a classical 'despotic dominion' framework (Blackstone, 1962 [1753], p. *2). In other words, to tell the story of Soritor solely as an individualist model of agricultural land tenure, as the Autonomous Farmer social norm would seem to imply, would forgo the critical role that communities' social norms and local

practices of private law play to enable and support this landscape of private property ownership.

Constancias and *compraventas* documents mark a transition of the source of legitimacy of property in this frontier space, from being physically enacted by individuals in the first stages of occupation, to being represented in documents facilitated by representatives of the collective. This adds time and change as important dimensions of analysis to previous political ecology and socio-legal scholarship that has highlighted how property relies on community for legitimation in similar contexts (see Cronkleton & Larson, 2015; von Benda-Beckmann & von Benda-Beckmann, 1999). In doing this, the chapter provides an interesting and novel example of the dynamic way in which the concept of property changes through time (particularly during relatively short human-scale temporalities), a perspective that some legal geography and socio-legal scholars have been recently advocating for (see Blandy et al., 2018; Valverde, 2014). Importantly, these land documents are not only abstract representations of the land, but also themselves valued in a very material sense. Farmers' and village leaders' deep appreciation for the materiality of the land documents shows that Latour's (2010) insight about the important role of these material artifacts of the law is not exclusive of the state, as they extend to spaces of inter-legality, as well.

Using an inter-legality lens helps to better understand property in this frontier space. This chapter has provided various examples of connections and interdependence between what at first sight looks like antagonistic normative spaces: the farmers' social norms and local practices of private law, and the agricultural land and forest laws and regulations of the state. The examples presented in this chapter add to those in Chapter 5 to show that the law, in fact, manages to permeate this frontier space, but in a diminished or 'tamed' manner, confirming a key feature of the rural 'lawscape' that has been conceived before in legal geography (Pruitt, 2014). Importantly, it is not only the farmers who engage with the law, but also the state that engages with farmers' social norms and local practices of private law. The state does so by bending some of its legal rules, or by acknowledging farmers' local land documents or even by having to accept them in official procedures. I argue that this 'is a feature, not a bug' of the rural 'lawscape' in this frontier. In part, this is because the Peruvian state recognises that the information encoded in these local land documents is needed to deploy its agricultural policies. It shows a good example of Scott's (1998) observation that, in practice, the state's drive to impose its official ordering enterprise is only possible by embracing 'some elements of the practical knowledge that [it] tend[s] to dismiss' (p. 7). The compromise causes tensions within the official laws and policies, which the state and its officials manage by implementing the legal rules with some flexibility, and sometimes

even by devising creative and functional legal fictions, such as the *constancias de productor agrario* that acknowledge farming and farmers, but not their landownership claims.

7. OFFICIAL PROPERTY TITLES IN THE AGRICULTURAL FRONTIERS OF THE PERUVIAN AMAZON: AN INSTRUMENT OF LAW IN SEARCH OF A PURPOSE

7.1. Introduction

This chapter discusses the marginal role that official property titles play in this agricultural frontier of the Peruvian Amazon, in a context where farmers rely on their local land documents to consolidate private property explained in Chapter 6. The analysis presented in this chapter is informed by insights from all my 42 semi-structured interviews, drawing in particular from 21 of them. 11 interviews were with farmers and village leaders of Soritor with whom I discussed how they perceive and use official property titles and agroforestry concessions. And the other eight interviews were with other actors: the peace judge of Soritor, the director of the Moyobamba office of the Regional Directorate of Agriculture (*Dirección Regional de Agricultura*, DRA), a contractor working in a field crew of the land titling programme in a district near Soritor, a legal expert from Moyobamba who was a former official in the Land Registry, an expert on notary public issues in Soritor, and three loan officers from financial institutions that cater to farmers in Soritor. Data from informal

conversations with a farmer and an NGO extensionist both in a nearby district and who had experience with agroforestry concessions contributed to developing the themes discussed in this chapter.

The chapter is divided into six sections. Section 7.1. introduces the main theme of the chapter, the data used for the analysis and the organization of the chapter. Section 7.2 describes some farmers' general interest towards official property titles and the land titling efforts. Despite this stated general interest, in practice, farmers demonstrate that they have little use for official property titles in their daily lives as they enjoy a sense of high tenure security with their local land documents analysed in Chapter 6. This is the focus of attention of sections 7.3. and 7.4. Section 7.3. discusses two indicators that show farmers' apathy towards official property titles: the fact that they largely ignore them to decide where to cultivate, and their perception of low external or internal risks to their landownership claims. Section 7.4. further explains that official property titles are not a major consideration in the land market, and for accessing agricultural credit in most instances. Section 7.5. moves a step further to show farmers' complacency to their status quo of informal land tenure, and even reluctance to being legible by the state through official property titles or the new agroforestry concessions due to material and perceived disadvantages. Section 7.6. concludes by summarising the analysis presented in this chapter.

7.2. Official property titles in the agricultural frontiers of the Amazon

The fact that farmers use local practices of private law to consolidate their land tenure rights with *compraventas*, as discussed in Chapter 6, does not mean that they dislike official property titles or that they do not have any use for them. As explained in Chapter 3, a large majority of farmers in Soritor lack official property titles.¹ The interviews revealed that most farmers in Soritor perceive that official property titles can have a higher legal status relative to the *compraventas*. The *presidente* of Selva Alegre,² for example, suggested a clear hierarchy, by which if

I [had] a *compraventa* document, but now I have [an official] property title...it's another thing...the [official property] title kills everything else. Kills the *compraventa* document [from the *teniente*] and the document from the peace judge, everything. If [I have] an [old] document and they gave me this document now of the [official] property title, then the rest is worthless.

Further, for others, an official property title is a distinct marker of what is 'legal'. For example, the *presidente* of El Lucero³ equated official property titles and deeds that are in the Land Registry with legality. According to him, 'we call [the *compraventas*] "documents," [but] it's not legal because the legal

¹ See section 3.2.

² Interview 31, Selva Alegre, 22 November 2022.

³ Interview 27, town of Soritor, 16 April 2023.

document is [what's in] the [official Land] Registry, that [says that] you have your land and so on, that no one is going to take it from you.' This did not mean that he thought that the local *compraventas* were not 'valid,' only that they are not 'legal' in the sense that they do not completely fulfil what the state law prescribes for a proper official land title.

Farmers' reception of the government's current land titling efforts in a nearby district⁴ also signal a general interest in official property titles, especially in instances of potential conflict from land tenure uncertainty. Asked about farmers' reactions to the prospect of getting official property titles in that district, an individual contractor working in one of the field crews of the programme⁵ said that 'most of the people are interested because [this] land titling [programme] is coming...for those who don't have a[n official property] title but who are inside a plot that has [already] a[n official property] title.' This explanation is worth unpacking to understand those farmers' positive attitudes towards official property titles in that particular context. Due to poor inter-agency coordination between SUNARP (the agency in charge of the official Land Registry) and the land titling programmes of the 1990s and 2000s, the farmers

⁴ This is the 'PTRT3' programme funded via a loan with the World Bank and directed by the national government, in coordination with the Regional Government of San Martín. As explained in Chapter 4, this land titling programme is different from the land titling tasks run directly by the Regional Government of San Martín with their own funds and their own separate, and much smaller, target areas (see section 4.3.2.). Importantly, neither was targeting the district of Soritor.

⁵ Interview 8, city of Moyobamba, 29 November 2023.

targeted by those programmes received official property titles on official cardstock⁶, but they had not been previously registered in the official Land Registry.⁷ Those farmers further subdivided⁸ and transacted their lands using the local practices of private law explained in Chapter 6 instead of going through the notary public and the official Land Registry. In the words of the individual contractor of the land titling programme,⁹ ‘everything [about those later transactions] was illegal,’ so the person that has his or her name in the official property title ‘is still the owner, not in possession [of the land] but yes in legal name...only when we are there...we get to know the [new people],’ stressing that there are many cases like this and that the actual possessors ‘are at risk...’ As a result, the current land titling programme is solely focusing on updating the cadastre. That is, the programme is only going back to the areas that had previously received official property titles, to give new ones—now properly

⁶ Just like with the *compraventas*, the materiality of these documents is also very appreciated by farmers who have them. The individual contractor of the land titling programme gave a personal account that is illustrative of this point by saying that ‘for the farmer it’s an excitement to have a *cartón* (cardstock or paper document), something very valuable. I see that my dad takes care of it to this day, he has it under lock and key’ (interview 8, city of Moyobamba, 29 November 2023). This, despite the fact that the official property titles are arguably less materially important since the information they represent is also recorded elsewhere, such as in the official cadastres (even if in this particular case they had not been registered in the Land Registry yet).

⁷ Titling and registering are effectively two different legal procedures before two different government agencies. So, the government only did the first, without facilitating the second one, under the assumption that the newly titled farmers would go on to do the registration procedure themselves. In practice, however, most did not, likely because they were not familiar with the procedure or did not find it useful. The latter further gives another indication of farmers’ perception of indifference to official property titles relative to *compraventas*.

⁸ For example, to divide them between their children in the context of inheritance, or to sell them to various other farmers.

⁹ Interview 8, city of Moyobamba, 29 November 2023.

registered in the official Land Registry—to the present true owners. Despite that most farmers would likely receive official property titles ‘with great pleasure’, as the *teniente* of Alto Peru¹⁰ had put it to me in a previous interview, the case of the land titling programme in the nearby district shows how it can be even more appealing to farmers who could perceive risk to their landownership claims, not so much because the local land documents are not enough on their own, but because these overlap the previous owners’ official property titles (which some perceive as ‘more legal’).

The discourse of this individual contractor of the land titling programme reflects the Peruvian state’s ordering enterprise that underlies land titling policies. As discussed before with the examples of the *composición de tierras* mechanism used during the Spanish colonial period,¹¹ or the old statutes that asserted the government’s authority to grant land in *montañas*,¹² ordering the frontiers as a grand state project is not new. All of them exemplify Scott’s (1998) larger point about the states’ goal of making people and space under their jurisdictions legible. As the individual contractor clearly pointed out,¹³ it is ‘only when we are there,’ implementing the state’s ordering system of land titling that

¹⁰ Interview 22, Alto Perú, 9 July 2023.

¹¹ See subsection 4.2.1.

¹² See section 5.3.

¹³ Interview 8, city of Moyobamba, 29 November 2023.

‘we get to know,’ that is, that the state gets to make farmers and their properties legible. This ordering enterprise of the state is constant. As seen in this example, farmers used again their social norms and local practices of private law resulting in the area falling back into a land tenure ‘disarray,’ in the eyes of the state, which now needs to go in once again to re-title. Similar observations about rural people falling back into their local property norms after the state’s ordering efforts have been noticed before in other places in Peru and Ecuador (Cronkleton & Larson, 2015; Putzel et al., 2015).

The following sections discuss why, in practice, most farmers’ show an attitude of apathy towards official property titles, which in some cases transforms into reluctance, despite the perception of informal landownership as precarious in the concerned eyes of the interviewee from the land titling programme, or the fact that many farmers perceive official property titles as being at the top of the scale of property documents.

7.3. Investment decisions and risk perceptions suggesting indifference towards official property titles

As explained in Chapter 4, farmers in Soritor generally do not attach much importance to official property titles because they do not significantly alter the economic use of the land in the area. Interviews consistently revealed that landowners do not base their decisions regarding land use, such as where to

deforest or what crops to grow, on the legal status of their land. The majority explicitly stated that official property titles, or the lack thereof, ‘do not matter’ when making these decisions.

7.3.1. Cultivating the land without official property titles

Two examples illustrate the extent of the farmers’ idea that official property titles are not considered in practice when deciding how to use the land. The first is the case of the *presidente* of Selva Alegre¹⁴ who owns two plots of land, one with an official property title and the other with a *compraventa* only. When asked if he preferred to cultivate in the former over the untitled one, he stated without hesitation that it made no difference to him; it was the same. According to him, the reason is that

because inside the community we all know that we are [all] landowners, then to cultivate a parcel of land, to do a *chacra*, it’s not necessary that you have a document that authorises you, because it’s your land. You do whatever you want inside your property.

The second example has to do with farmers’ decisions about the types of crops they choose to cultivate, between perennial crops like coffee or cocoa, and annual crops like maize or rice. Farmers consistently asserted that they were not concerned about investing in planting coffee, a perennial crop, on their

¹⁴ Interview 31, Selva Alegre, 22 November 2022.

untitled lands. As the old farmer in El Lucero¹⁵ put it when asked if having an official property title mattered to decide where to plant coffee: ‘it’s all the same...having [an official property title] doesn’t have anything to do with [the decision] to cultivate.’

These perceptions appear to challenge the notion in development studies that willingness to invest in the land and having official land titles are closely linked. The idea has been prominently put forth by de Soto (2000), and further analysed empirically in different parts of the world. For example, in a systematic review of several studies, Lawry et al. (2017) found that, with some regional variances, a majority report gains in productivity from official land recognition, theorising that it may be due to heightened perception of tenure security. However, the authors recognise that none of the studies they reviewed had considered the alternative property arrangements that farmers may had under local practices (Lawry et al., 2017). As they argue, ‘[i]t is unclear how recognition of individual tenure might compare with recognition of customary rights,’ thus acknowledging that ‘[f]urther research should examine this alternative, given its increasing prevalence’ (Lawry et al., 2017, p. 76). In fact, some scholars from rural development and deforestation have been arguing for some time to considering non-state land tenure arrangements more seriously

¹⁵ Interview 10, El Lucero, 13 April 2023.

(see, for example, Aldashev, 2009; Bromley, 2009; Burnod et al., 2012; Deininger & Feder, 2001).

The perceptions of farmers contradict the premise in many economics studies of deforestation reviewed in Chapter 2 that assume that an official property title provides greater land tenure security for farmers.¹⁶ According to this scholarship, those without official property titles and, thus, assumed to lack tenure security, would make only short-term investments in the land. For example, they would not be incentivized to make investments in perennial crops (or in timber plantations, or even in conserving standing forests) (see, for example, Liscow, 2013; Mendelsohn, 1994). In Soritor, however, farmers are comfortable cultivating perennial crops on lands without official property titles because, for most purposes in their daily lives, farmers do not perceive that they give them significant tenure security advantages.

The farmer who had a contested claim to 200 hectares in Selva Alegre¹⁷ conveyed the sole opposing opinion to the general indifference of farmers towards official property titles. He contrasted growing coffee with having a timber plantation, the later needing a longer timespan to reach maturity for

¹⁶ See section 2.3.1.

¹⁷ Interview 34, Selva Alegre, 23 November 2022.

harvesting and, thus, a longer-term economic investment than coffee. To him, the lack of an official property title

is taking away [farmers'] willingness to cultivate in a more efficient, technical manner. For example, I cultivate, I cut down one hectare of *montaña*, plant coffee, but with the motivation of [an official property] title, thinking about the forest resources, I'd feel motivated to plant trees for timber in that plot. But since I don't have that benefit, I plant my coffee, I [harvest it] as much as I can, and then I abandon it, and I cut down another piece of *montaña* and I do the same and I keep abandoning it. At the end of the day, we're abandoning *purmas* but full of weeds, with no hope of improvements for later.

This farmer's account is in fact more closely mirroring the theory in classical studies on forest governance that posit that tenure security, provided by official government recognition, should lead to better conservation outcomes. But looked upon more closely, this interviewee's discourse likely reflects an outlier perception due to the *sui generis* circumstances surrounding his land claim. As previously explained in Chapter 6, this farmer's land claim is unusually large and it is contested by the rest of the community in Selva Alegre.¹⁸ He is also involved in a legal dispute with the municipality of Soritor because the land that he claims as his, overlaps a section of the ZOCRE¹⁹ that the regional government has given to the municipality for a tourism project. Thus,

¹⁸ See section 6.4.2. This case is further analysed in section 8.4.3. to highlight an instance of land tenure insecurity in Soritor and its relationship to the enforcement of forest protection laws.

¹⁹ ZOCRE are the acronyms of *Zona de Conservación y Recuperación Ecológica* (Ecological Restoration and Conservation Zone). See footnote 80 in Chapter 6 for additional information on this special protection zone.

it is reasonable to assume that lacking support from the rest of the community, and being enmeshed in litigation, this farmer's sense of tenure security without an official property title is tenuous. Chapter 8 further elaborates how the government's conservation laws and policies in this particular case heightened this farmer's sense of tenure insecurity.²⁰

7.3.2. Farmers' perceptions of low risks to their land tenure

In general, most farmers in Soritor do not think that an official property title significantly enhances their sense of land tenure security because they do not perceive any meaningful internal or external challenges to their land ownership claims. When asked about land tenure disputes within their communities, which could reasonably increase farmers' perceptions of land tenure risk, interviewees said that, for the most part, they did not have such problems; everyone knew where property boundaries were and who owned what. In many villages, this is evident from the inactive status of the *rondas campesinas*. Farmers claimed that they did not need them because conflicts like cattle rustling or local boundary disputes between neighbours are very rare. The *teniente* from El Lucero²¹, for example, alluded to the overall harmony in the community, echoed by several other interviewees in other parts of Soritor.

²⁰ See section 8.4.3.

²¹ Interview 17, El Lucero, 13 April 2023.

‘In these times, because peace has too much prevailed, I would tell you that the *ronda* has disorganised...but occasionally there are thefts, [when] sometimes they steal a chicken, now we the people here get upset, because we’re not used to it,’ he explained. And, while interviewees recognized occasional instances of encroachment on their lands by neighbours’ activities (e.g., stray livestock), these were rare, temporary, or easily resolved among neighbours. The peace judge of the town of San Marcos²² confirmed that boundary disputes like this that are brought before him are ‘minimal... maybe two or three cases a year.’

Furthermore, farmers do not see a significant risk of invasion from outsiders who might want to take away their lands. This contrasts with the early days of settlement when farmers say that *amparar* (staying around) was a key part of the process of enacting property. After the community is formed, and the place has been settled for some time, farmers reported that they no longer feared that someone would come and take away their lands because ‘everyone knows [who owns what]’ as an interviewee from the village of Alto Perú²³ clearly put it. The *teniente* of El Lucero²⁴ alluded to the fact that official property titles were not relevant for tenure security because ‘no one invades, [so then] there is no difference’ between having them or not. As evidence of this, the

²² Interview 13, town of San Marcos, 22 November 2022.

²³ Interview 19, Alto Perú, 24 November 2022.

²⁴ Interview 17, El Lucero, 13 April 2023.

presidente of Selva Alegre²⁵ gave the example of a farmer who no longer lived there but owned uncultivated land that was essentially a *montaña*, which nobody touched.²⁶ Farmers also believed it was unlikely that the government would impose sanctions, seize their land, or forcibly evict them. As explained in Chapter 4, the government rarely, if at all, sanctions deforestation, especially if it occurs outside spaces legally designated as protection areas under the *Ley de Áreas Naturales Protegidas* (Natural Protected Areas Law) (1997). An example of an extremely rare case that proves the rule was the forced eviction of a handful *colonos* who had settled inside the nearby Alto Mayo Protection Forest (see Greenfield, 2023), an eviction that only occurred because it was done inside a natural protected area under heightened government control.

These empirical observations support the idea that official property titles are not needed in practice to defend against land tenure risks. A basic function of the state in granting a title that recognises a property right is to be able to back it using coercion (e.g., the courts system, and other institutions of the law) or, as Bromley puts it, for the titleholder ‘to have the ability to command the agents of government...to come to your aid’ (1991; 2009, p. 21). Thus, in the

²⁵ Interview 31, Selva Alegre, 22 November 2022.

²⁶ This case is further analysed in section 8.5.2. to highlight forest protection practices as an alternative expression of the Autonomous Farmer social norm.

context of weak institutions of the Peruvian state, in frontier spaces like this,²⁷ and where farmers' perception of external or internal risks to their landownership claims is low, it seems only reasonable that tenure security is not derived from official property titles. Importantly, tenure security in this landscape cannot be understood only by default, as it is the social norms and local practices of private law analysed in Chapter 5 and Chapter 6 that are continually supporting it.

7.4. The marginal importance of official property titles in the land market and in the financial system

Farmers do not seem to value official property titles too highly when buying land. Interviewees and informants said that when farmers look for land to buy, they do not care much whether the land has an official property title or not. Instead, it is more important for them to know if the land is good for agricultural production. This was well-exemplified by a farmer from the village of Jericó²⁸ that, despite thinking that official property titles were regarded by some as legally superior, explained that they were irrelevant when deciding to buy land. He said that, if he were to buy a land '[yes] of course it's important' to pay attention to whether it has an official property title, but he shared most people's

²⁷ See Chapter 4, section 3.1. for a discussion of the institutional problems of the state and the weak overall forest governance in the Peruvian Amazon.

²⁸ Interview 41, Jericó, 12 July 2023.

indifference, saying that he would still buy land that lacked one because, ‘in [that] event..., well, it must have some other document...,’ in reference to *compraventas* or *constancias de posesión*. Land prices would seem to reflect this attitude of indifference because, as this interviewee mentioned, ‘with or without an [official property] title, the price is the same,’ a claim made by other farmers, as well. What matters to farmers are the factors that drive agricultural productivity in the land, ‘which you can see in the plants, right?’ as this interviewee put it. That also includes geographical features like the closeness to roads (more expensive near a road and cheaper if it is in a ‘*montaña* very far...’), or the slope of the terrain (‘because you can’t clear the land if it’s too steep’), or if it has easy access to water (for cattle ranching, especially, ‘...[and] more expensive also’).

The farmer from Jericó²⁹ pointed to a legal factor that was important to review when deciding to buy land: pending debt obligations. He said that this is part of checking that ‘the land is good and that [it]...didn’t have any problems...for example, that it doesn’t have any [outstanding] financial accounts, right? That [the owner] had taken out a loan in the name of that property and that person didn’t pay [it].’³⁰ His concern points to the larger fact

²⁹ Interview 41, Jericó, 12 July 2023.

³⁰ This interviewee’s concern with a pending debt obligation could only be relevant if the land had been mortgaged. This is unusual, however, as it can only be done when the land has an official property title that is registered in the official Land Registry, which most farmers in my field site do not have.

that getting loans is widespread amongst farmers because it facilitates the cycles of agricultural production in these frontiers, which in turn drive more deforestation, as seen in many other tropical forest contexts (e.g., Busch & Ferretti-Gallon, 2023, p. 232).

7.4.1. A socio-legal perspective of landownership deployed by financial institutions

Several interviewees considered that official property titles helped access credit more easily. For example, when I proposed the idea that farmers seemed largely indifferent to official property titles in their daily lives, the individual contractor working as part of a field crew of the land titling programme in a nearby district³¹ responded that ‘yes, but that is superficial what you have seen...when, for example, they work to expand their farms...that’s when one needs a[n official property] title because they go to a bank and want to get a loan...’. The old farmer from El Lucero³² had the same idea, saying that ‘the [official property] title is only useful here...when [people] want to take out a loan’. The delegated mayor of the town of San Marcos³³ likewise said that some farmers ‘don’t consider [official property] titles too much unless they want to take out a

³¹ Interview 8, city of Moyobamba, 29 November 2023.

³² Interview 10, El Lucero, 13 April 2023.

³³ Interview 29, town of San Marcos, 10 July 2023.

loan'. The reason, according to a farmer from Jericó,³⁴ is that official property titles gave farmers 'more credibility in the financial systems', an idea shared by the director of the Moyobamba office of the DRA³⁵, who said that they are 'a guarantee for credits...to obtain loans'. In fact, as the legal expert from Moyobamba put it to me³⁶, 'if I don't give you credit, it's for nothing that I give you an [official property] title,' while highlighting the relevance of the official Land Registry, which 'is associated with other things, like [mortgages]'.

In practice, however, most farmers can, and indeed do, access credit without them, because it is not a requisite of the public and private financial institutions that cater to farmers. In the words of a loan officer from the Moyobamba office of Agrobanco³⁷, 'with or without an [official property] title, it's the same.' He explained that if farmers do not have official property titles, the bank's directive allows farmers to submit *constancias de posesión* issued by peace judges, alongside a copy of the *compraventa*. The peace judge of the town of San Marcos³⁸ confirmed that, in fact, this is one of the two reasons people come to him to get *constancias de posesión*, the other one being to access

³⁴ Interview 41, Jericó, 12 July 2023.

³⁵ Interview 37, city of Moyobamba, 25 November 2022.

³⁶ Interview 36, city of Moyobamba, 19 April 2023.

³⁷ Interview 4, city of Moyobamba, 19 April 2023.

³⁸ Interview 13, town of San Marcos, 22 November 2022.

Fertiabono, the financial support programme from the government that subsidised farmers' acquisition of fertiliser.³⁹ Similarly to Agrobanco, a loan officer from the Cooperativa de Ahorro y Crédito Santo Cristo de Bagazán⁴⁰ (Cooperativa Santo Cristo, for short), one of the few private financial institutions with a branch in Soritor, said that

no, [we don't require official property titles]... Here in the high zone,⁴¹ which is basically our [geographical area of] strength where many [financial] entities do not reach due to the [long] distance, we work with a *compraventa* document. It's sufficient [to] have a *compraventa* document [and] we can serve the [farmer]...[And] in case some landowners don't have this document, we ask only for a *constancia*, a *constancia de posesión*...issued by the *teniente*.

The accounts provide another instance where outsiders to the communities, in this case governmental and private financial institutions, accept these local land documents. They show that the landownership claims that these documents embody, and their perception of legitimacy, transcend the inner lives of the communities. And they also add another indicator that these

³⁹ Not all farmers are aware of this, however. For example, the *alcalde delegado* of the town of San Marcos thought that Agrobanco and other financial institutions catering to small-scale farmers in the area did not accept *constancias de posesión* to provide credit, which is an incorrect idea likely because he may have not applied to credit personally or recently (Interview 29, town of San Marcos, 10 July 2023).

⁴⁰ Interview 32, town of Soritor, 30 November 2023.

⁴¹ The interviewee talked about the '*zona de altura*' (high zone) in reference to the areas in the district that are in a higher altitude, where the coffee is grown and where my field site is located.

local land documents are effective in providing tenure security in the agricultural frontiers of the Peruvian Amazon.

Notwithstanding the recognition of the local land documents, these financial institutions require their loan officers to always do on-site visits to verify who is on the land in real life and the conditions of the crops. In fact, these two factors have a greater bearing on evaluating credit risk than any type of land document. In part, this is because issuing these documents, especially the *constancias de posesión*, ‘can lead to many things, [they can] be fake⁴²,’ as the loan officer from the Cooperativa Santo Cristo said can occur. The branch manager of Caja Piura⁴³, another financial institution in the city of Moyobamba, confirmed that ‘of course,’ they too visit the field every time, regardless of the type of land document that a farmer submits. The fact that loan officers do field visits, and the ways they do them, reveals a type of ‘socio-legal lens’ they use when examining landownership that stems from their awareness that land documents, even those issued by the government like an official property title, may not always reflect what is happening on the ground. As the branch manager from Caja Piura⁴⁴ said,

⁴² The interviewee was alluding to the fact that although some documents may not be entirely false, as they could correctly name the landowner, they may portray some incorrect or false data, such as the size of the plot (i.e., indicating a larger plot in order to try to get a larger loan).

⁴³ Interview 16, city of Moyobamba, 12 July 2023.

⁴⁴ Interview 16, city of Moyobamba, 12 July 2023.

[maybe the farmer] takes you to see another land that is not his...[or] there may be others [on the land]. [This is why] we must bring GPS [devices], right? So we can pinpoint the coordinates and check that the plot [matches the official property title]...Or maybe the landowner can also rent his land, right? And he can [say] "...I cultivated [this] and it's mine," when [in fact], it may be that he rented the harvest to somebody else.

This is why during the field visits loan officers 'ask for references,' as the interviewee from Cooperativa Santo Cristo⁴⁵ said. This is a practice that also does Caja Piura, as explained by the manager of their Moyobamba branch⁴⁶:

'[we] inquire also in the community if the plot belongs to the client, right? Because...the *tenientes* [sometimes] also collude [with the farmers] to fabricate the documentation, right?...That's why we are forced to go look [in the field], right?...I won't ask [about landownership] right there [near the farmer's plot], but I will go further along [the trail] on my motorcycle, enter a store and ask if [it is true that] that person has a *chacra*, yes or no.

7.4.2. Creditworthiness as a function of land management rather than land documents

These field visits are even more essential to check how the crops are being managed, e.g., if they are healthy and if they will be productive. The reason is that in order to determine creditworthiness, financial institutions consider more important to evaluate the risks involved in agriculture as an activity rather than the type of land document that each farmer has. For example, the

⁴⁵ Interview 32, town of Soritor, 30 November 2023.

⁴⁶ Interview 16, city of Moyobamba, 12 July 2023

loan officer of Cooperativa Santo Cristo⁴⁷ stressed that agriculture ‘has a lot of risk. Why? The rust⁴⁸ comes due to the climate issues, [or] an erosion comes, everything went down, and everything is lost...’ The branch manager of Caja Piura⁴⁹ similarly confirmed that ‘the agricultural credit is high risk,’ considering that crops

are mostly dependent on climatic factors. If, maybe in the middle of the flowering stage there is no rain, [or] there is too much temperature, there won’t be good production. And let’s suppose that we know that in Colombia there’s pest X...for sure that it will reach Peru in the next harvest campaign, as well.

These accounts show that, similarly to farmers’ decisions about what properties to buy, credit is also evaluated in terms of the physical characteristics of the land (and the crops), and not so much in terms of the abstraction that the land documents represent. This seems to align with Lawry et al.’s (2017) systematic review of the effects of land titling that found that, despite the predictions in de Soto’s theory (2000), land titling presented mixed or not significant effects on credit uptake. Their argument is that ‘bankability of the landholders, and the transaction costs of extending credit through formal channels may be unaffected by a change in tenure status’ (Lawry et al., 2017, p. 76, referencing Philip, 2003). This is precisely the case in Soritor, where financial

⁴⁷ Interview 32, town of Soritor, 30 November 2023.

⁴⁸ A type of disease typical of coffee plants.

⁴⁹ Interview 16, city of Moyobamba, 12 July 2023.

institutions are effectively unconcerned with the type of land document a farmer holds, which manifests also in loan officers always performing field visits irrespective of the land documents, thus partly explaining the high transaction costs involved in agricultural credit.

Even the state, that prizes the legibility brought by its technological and legal instruments like cadastres and official property titles, is concerned with the physicality of space. This is evidenced by the state's only partial acknowledgement of local land documents in some procedures related to land tenure and agricultural policy, such as to grant *constancias*, which are always conditioned to corroborating what is happening on the ground through the on-site visits that officials are supposed to make (and sometimes fail to do because they bend the rules for practical purposes, as seen in Chapter 6). In other words, for many important land tenure issues in this frontier area, what matters to farmers, financial institutions and even the state, are the physical aspects of property, not only, or not always, the land documents, local or official.

7.4.3. When official property titles matter: the limits of local land documents to access credit

For agricultural credit, the only real difference between having an official property title and not having one is the amount that a farmer can borrow. 'When you have [an official property] title...they lend you a larger quantity...30,

40 [thousand soles]⁵⁰... they give you a loan faster...and with document [of *compraventa*] they do give you small loans, but not a lot...if they know you, they can give you [more, as well],’ explained to me the old farmer from El Lucero⁵¹ who has official property titles. This is not because official property titles are perceived as more legitimate or intrinsically providing more tenure security, but rather because they can be easily used as collateral in the financial system, unlike the local land documents. The branch manager of Caja Piura in Moyobamba⁵² confirmed that ‘with a *constancia de posesión*, my maximum limit is 10,000 soles,’ or even up to 20,000 soles⁵³ if the farmer already has good credit history with them. For larger amounts, ‘30,000, 40,000, 50,000,⁵⁴ [the farmer] has to leave me something as collateral...[where] it’s indispensable to have an [official] property title, and a mortgage is made,’ he elaborated. Cooperativa Santo Cristo had a similar policy: ‘after 15,000 soles⁵⁵...we request a mortgage,’ said their loan officer⁵⁶. And this collateral does not need to be the agricultural

⁵⁰ Approximately £6,000 and £8,000.

⁵¹ Interview 10, El Lucero, 13 April 2023.

⁵² Interview 16, city of Moyobamba, 12 July 2023.

⁵³ Approximately £2,000 and up to £4,000.

⁵⁴ Approximately £6,000, £8,000 or £10,000, respectively.

⁵⁵ Approximately £3,000.

⁵⁶ Interview 32, town of Soritor, 30 November 2023. This interviewee also clarified that for lower amounts, even though they do not ask for an official property title that can be mortgaged, they ask for personal guarantors: ‘[they get] their neighbours, his friend, an acquaintance.’

land, it can be any other real property owned by the farmer that has an official property title registered in the official Land Registry. ‘It can be a *solar*⁵⁷ here in [the town of] Soritor, [or in the city of] Moyobamba, no problem,’ said this loan officer, something that the branch manager from Caja Piura in Moyobamba said he ‘actually prefers.’

The theoretical possibility of mortgaging a land with an official property title to obtain credit may not realise in practice everywhere in Peru, however, also raising questions about how some economists understand tenure security. For example, in a study of small farmers in a district in the highlands of Cusco⁵⁸ with the suggestive title ‘Propertyless in Peru, even with a government land title’ Kerekes and Williamson (2010) found similar evidence to the systematic review in Lawry et al. (2017) questioning the relationship between official property titles and access to credit, in this case due to official property titles not being sufficient collateral assets for loans. Perhaps more importantly, Kerekes and Williamson (2010) also note that property rights’ enforcement in that context did not come as a result of the legibility of the state (e.g., access to courts), but rather from what they call ‘private mechanisms,’ namely, ‘trust and respect among individuals’ (p. 1021). They argue that these features ‘suggest that

⁵⁷ *Solar* is a plot of land usually in an urban area, e.g., for housing. This interviewee mentioned that, apart from their agricultural plots in the villages, many farmers also own *solares* in the town of Soritor.

⁵⁸ The highlands of Cusco are not only far from Soritor geographically, but also in socio-economic terms, which can make direct comparisons difficult.

government land titling may not be the guarantee to achieve secure property rights institutions' (Kerekes & Williamson, 2010, p. 1014). Both arguments are in line with those posed in Chapter 6 about the key role that relationships in the community play in legitimising property and the low utility of official property titles discussed in this chapter. But the authors' framing of the issue also highlights the existence of a bias in many economics studies towards equating non-state property arrangements with lack of tenure security (or even with lack of property at all, as the study's title would lead us to believe). If anything, this chapter and the overall thesis argue the opposite: that despite lacking full legal recognition from the state, farmers in Soritor enjoy a sense of high tenure security due to their social norms and local practices of private law that allows them to enact and use private property.

7.5. Complacency with the *status quo* and reluctance towards obtaining official property titles

In our conversations, farmers appreciated official property titles but since their significance to farmers' day-to-day life was limited, they appear to have acquiesced to the unofficial *status quo* of their land tenure. Several interviewees acknowledged that they would like to have official property titles if they were to be granted by the government. However, farmers in Soritor, and their village leaders, do not actively seek them out. Farmers indicated that the communities had not recently asked their *tenientes* or their *presidentes* to submit petitions to

the national or the regional governments for this purpose. Only after I inquired about this specifically, for example, the *teniente* of Alto Perú⁵⁹ mentioned that '[official] property titles would be [received] with great pleasure, but in [these] higher areas we still don't have them...It'd be good to look into it.' At the same time, he seemed to be complacent about the current situation saying that the past village leaders cared little about this and that under his tenure he and the *presidente* had yet to make *gestiones*⁶⁰ for that, as well.

In a few cases, this apathy can be explained by the fact that farmers are aware that they would not be able to receive official property titles anyway due to the location of their farms in areas that the regional government had designated for conservation. This was the case of an old resident near Selva Alegre⁶¹ who said that 'around here no one gives us an [official] property title because the regional government declared it as ZOCRE.' Her neighbour is in a similar problem, as mentioned by the peace judge⁶². He explained that

[about] 12 or 14 years ago, [the regional government] created the ZOCRE Urcuyacu, and that ZOCRE overlaps the lands of various citizens that settled several years prior...now they are litigating with the regional government over this issue...and so, the regional government, what do they say? "How can I give you an

⁵⁹ Interview 22, Alto Perú, 9 July 2023.

⁶⁰ The process of submitting documentation and following up, also known as *trámites*. See footnote 73 in Chapter 5 for a longer explanation.

⁶¹ Interview 10, Selva Alegre, 13 April 2023.

⁶² Interview 13, town of San Marcos, 22 November 2022.

[official] property title if this is a ZOCRE...and you can't demonstrate with documents that you are the owner or the possessor?"...there are about 40 residents who are in this problem.

Past land titling efforts in the area by the Peruvian government were met with a mix of scepticism and complacency. In that same village, Selva Alegre, where a few farmers have official property titles, interviewees explained that there was a time two decades ago when a government programme came to grant official property titles but not everyone wanted one or received one. The *presidente*⁶³ explained that 'here in Selva Alegre it's six people who have [official] property titles that the state gave us in the year 2004.' Asked why others did not get them, he said that 'according to many people, they say that it is not convenient to have an [official] property title...because people say that [as soon as] you have a property title, the state is going to charge large taxes...,' something that, he says, people 'still think to this day.' He recalled that, when the land titling programme came in that year, 'not everyone responded [that they wanted an official property title]. And we did here a village meeting...we told every person that belongs to our community, and several people did not agree...' Another farmer in the community⁶⁴ confirmed that, during that time, 'people didn't want [the official property titles].' Asked why, he shrugged, saying

⁶³ Interview 31, Selva Alegre, 22 November 2022.

⁶⁴ Interview 1, Selva Alegre, 23 November 2022.

that ‘I don’t know...people, you know...the problem was that they didn’t do their part.’⁶⁵

7.5.1. Rejecting land legibility from the state: the disadvantages of official property titles

As the account from the *presidente* of Selva Alegre shows, some farmers indicated reluctance to receiving official property titles. This reveals interesting perceptions of adverse effects in becoming legible to the state in this manner. The reluctance does not seem related to farmers demonstrating a particular anarchist ideology, but rather to farmers’ perception of practical disadvantages that come with owning a land with an official property title. Interviews unveiled three drawbacks. A simple one is that farmers with official property titles must conduct the transfer of land before a notary public if they want to register it in the official Land Registry. This is inconvenient because there is only one notary public in the district, in the town of Soritor, and she charges more than the peace judge and the *teniente*. In fact, the peace judge⁶⁶ was clear that he would not make a *compraventa* if the land had an official property title ‘because that falls outside the scope of my responsibilities.’ This, he said, was also due to a practical

⁶⁵ The *teniente* of Selva Alegre provided an additional account that complemented the story of what seems to have happened: according to him, there was an altercation between a farmer in the upper parts of the village and a staff member of the land titling programme because they had not gone to his land; this led to a halt of the programme in the village with only the lower parts receiving official property titles (interview 24, Selva Alegre, 23 November 2022).

⁶⁶ Interview 13, town of San Marcos, 22 November 2022.

reason that if the farmer wanted to sell only a piece of the land that has an official property title, then he as peace judge

didn't have the legal capacity to do the partition...the notary public can do that...she issues that [document with the] transfer, [and sends it to] the [official] Land Registry. What for? So the original [official property] title can be partitioned...so two titles can come out, one for the buyer and one stays with the original owner. That capacity we peace judges don't have...it's only a notary [public] issue.

The other two problems that farmers with official property titles face are related to taxes. Some farmers think that if they get an official property title, they will be subject to paying taxes, as the *presidente* of Selva Alegre⁶⁷ told me when we discussed why there were only few people who had official property titles in his village, even though the land titling programme had come several years ago to grant official property titles in this area. As mentioned earlier in relation to the land titling efforts cut short in Selva Alegre, the *presidente* of that village said that people think it is inconvenient to have these official property titles

...because people say that [as soon as] you have a property title, the state is going to charge large taxes. But I said, "since 2004 to now, no notification has come, and I've gone to SUNAT⁶⁸ and they have not told me to pay for the right to land."

⁶⁷ Interview 31, Selva Alegre, 22 November 2022.

⁶⁸ SUNAT are the acronyms for the *Superintendencia Nacional de Administración Tributaria*, Peru's national tax agency.

But other farmers who have done more land transactions involving official property titles are aware of the existence of the land tax. For example, the old farmer of El Lucero⁶⁹ mentioned that he knew that he had to pay the *autovalúo*⁷⁰, in reference to the *impuesto predial* (land tax). His son, the *teniente* of El Lucero⁷¹ offered an elaborate justification for this tax that seemed to acknowledge the state's legitimacy to impose it:

the state grants you an [official property] title, right? [And] because it is “on behalf of nation,”⁷²...what does the state say? “You have to pay me for this [official property] title” I mean, in practice you pay for the administration of the land, I imagine...so I don't know how much it is, but you pay...[the] *autovalúo*.

In fact, according to articles 8 and 9 of the municipal tax law (*Texto Único Ordenado de la Ley de Tributación Municipal* [TUO *Ley de Tributación Municipal*], (2004), all landowners with official property titles must pay the land tax annually, but it is the municipality, not SUNAT, that is in charge of collecting it. Because municipalities suffer from low tax collection rates, the Peruvian government enacted the rule that notaries public must certify that the seller is

⁶⁹ Interview 10, El Lucero, 13 April 2023.

⁷⁰ *Autovalúo* is the term that the law uses to refer to the base value used by municipalities to calculate the land tax. Many people colloquially talk about having to pay the *autovalúo* in reference to the land tax.

⁷¹ Interview 17, El Lucero, 13 April 2023.

⁷² *A nombre de la nación* (on behalf of the nation) is a common phrase used in official documents of the Peruvian government. It can be seen in other documents officially granting or recognising something, usually in educational diplomas, such as a university title.

up to date with municipal land taxes prior to allowing a transfer to proceed.⁷³ Since most farmers with official property titles fail to pay the land tax each year, they will need to pay all the accumulated years in a lump sum, including interests, before approaching the notary public to do a land transaction in the town of Soritor. Farmers who are selling lands with official property titles manage this problem by asking the buyers to pay the land tax for them before doing the documentation in the notary public office, and then the sellers deduct it from the total land price.

Apart from the land tax, landowners need to pay income tax during land transactions, which farmers with official property titles avoid by misrepresenting the price information in the *escrituras* before the notary public. Peru's income tax law (*Ley del Impuesto a la Renta*, 2004) considers as taxable income the profits made from selling real property, pointed to me the expert on notary public issues from the town of Soritor⁷⁴. And, similarly to the land tax, the notary public is required by law to certify that this payment has been made during the transaction. Farmers have devised a workaround for this problem. Instead of paying the income tax, they state a false price that is much lower than the actual price paid by the buyer. 'You know what people do now? [Say] you buy a land for 30 thousand, you then put only 5 thousand [in the

⁷³ See Article 7 of the *TUO Ley de Tributación Municipal* (2004).

⁷⁴ Interview 44, town of Soritor, 13 April 2023.

document] so you don't pay a tax there is,' explained the old farmer in El Lucero⁷⁵ who owns land with official property titles. Strictly speaking, this constitutes a crime of tax evasion under the *Ley Penal Tributaria* (Tax Penal Law) (1996)⁷⁶ but it is widely unenforced in the rural context. The expert on notary public issues criticised farmers that did this because, apart from being illegal, they were passing the problem on to the buyer who, at least theoretically, would have to pay a larger income tax when he or she decides to sell the land to another buyer in the future, and the land appreciates in value.

Political ecologists such as Scott (1998) and Li (2007b) have reported on workarounds and avoidance tactics like these by local peoples subject to ordering and development efforts of states in other frontier contexts, such as official land tenure systems and cadastres for legibility and taxation. As argued in the critical literature review, these types of attitudes, characterised by the legal consciousness scholarship as 'with the law' or 'against the law' (Ewick & Silbey, 1998), are particularly distinctive in contexts of frontier spaces and inter-legality.⁷⁷ In this agricultural frontier of the Peruvian Amazon, the way farmers deal with the disadvantages of official property titles shows how they navigate the law of the state when needed. As mentioned before, in the context of Soritor,

⁷⁵ Interview 10, El Lucero, 13 April 2023.

⁷⁶ See Articles 1 and 2.

⁷⁷ See subsection 2.2.4.

rather than an expression of a particular political ideology, the farmers who have official property titles use these tactics to deal with practical problems. Importantly, they do it without fully renouncing the legibility brought by the law to their properties. But their behaviour likely also affects how the other farmers, who lack official property titles, evaluate the trade-offs of being part of the legibility of the state. As Bromley explains (2009, p. 26),

[t]he offer of formal titles to the poor presents them with the need to decide whether to exchange their current embeddedness in one community for an uncertain embeddedness in another community. In the absence of reasonable assurance that the new community (the government) can offer more effective protection than the current one, the switch is not obviously superior.

In the case of Soritor, the avoidance tactics devised by the farmers with official property titles may signal to that vast majority of farmers who lack them, that these official documents are not worth the trouble, especially since, as discussed throughout section 7.3., farmers already get most benefits of land tenure security with their local *compraventas*.

7.5.2. Scepticism towards another official land tenure instrument: the new agroforestry concessions

Farmers illegally occupying forestlands in the Peruvian Amazon have now the possibility of getting agroforestry concessions, and farmers in Soritor and the broader San Martín department are starting to become familiar with them. As explained in Chapter 4, agroforestry concessions are novel administrative land

tenure rights created by the forest legislation (see LFFS, 2011), which are slowly being rolled out.⁷⁸ These legal rules allow regional governments to formalise occupations in forestlands by granting agroforestry concessions to farmers who are not eligible to get official property titles, under the condition that they stop deforesting and adopt sustainable practices. During my fieldwork only a few farmers knew something about agroforestry concessions. The *presidente* of Selva Alegre⁷⁹ spoke about them in passing when discussing how to manage the forest inside properties, saying that he was aware that the government was now promoting the agroforestry concessions. Two other interviewees⁸⁰ mentioned them in more detail because they were part of an association that had partnered with the regional government to help their members apply to get agroforestry concessions so they could eventually be eligible for agricultural support funding from a programme of MIDAGRI.⁸¹ And an informant, a farmer in the neighbouring district of Japelacio who was part of another association,⁸²

⁷⁸ See subsections 4.2.2. and 4.3.2. for a larger discussion on agroforestry concessions.

⁷⁹ Interview 31, Selva Alegre, 22 November 2022.

⁸⁰ Interview 2, Villa Hermosa, 11 July 2023; and interview 3, town of Soritor, 10 July 2023.

⁸¹ As explained in Chapter 4, the government has been trying to incentivise the adoption of agroforestry concessions. One way has been to extend the eligibility criteria of Agroideas, an agricultural funding programme of MIDAGRI, to farmers with agroforestry concessions. The association the interviewees were part of was trying to access Agroideas' funding, and one of the requirements was that they had formal land use rights, so the regional government had recommended they applied for agroforestry concessions (instead of an official property title to which they did not qualify for since they were occupying forestlands).

⁸² Informal conversation with informant 14, Nuevo San Miguel, 16 April 2024.

mentioned that he was also interested in an agroforestry concession for a similar reason.

But not everyone was excited about agroforestry concessions, and some even expressed reluctance. For example, the same informant from the neighbouring district of Jepelacio⁸³ mentioned that some of his neighbours were wary of agroforestry concessions and did not want them because they thought that the government would take away their lands.⁸⁴ The loan officer of Cooperativa Santo Cristo⁸⁵ also had a negative view of agroforestry concessions, albeit for different reasons. One was that he considered that the agroforestry concessions were not at the same level as an official property title to be used as collateral for a loan because, according to him, they ‘are not registered in the [official] Land Registry... When a client fails to pay...a financial entity [can foreclose the property but] it has to be registered in the [official] Land Registry.’ The other reason was related to the environmental obligations attached to agroforestry concessions. He said that if one were to be offered to him,

I wouldn't accept [it] because it restricts me to expand as a farmer...Because it has a commitment to take care of the environment, and cutting down trees is

⁸³ Informal conversation with informant 14, Nuevo San Miguel, 16 April 2024.

⁸⁴ Similarly, another informant from an NGO that provides agricultural support in the same area mentioned that of the 20 farmers that attended a meeting convened by the regional government to promote the agroforestry concessions, none became interested because they thought the government may want to take away their lands if they did not pay taxes (informal conversation with informant 16, Nuevo San Miguel, 16 April 2024).

⁸⁵ Interview 32, town of Soritor, 30 November 2023.

forbidden...As a farmer, to survive, I have to expand my agricultural area, and that is not allowed [under the legal rules of the agroforestry concessions], you know?

This observation reveals the key trade-off for farmers who may be interested in obtaining some legibility from the state while having to accept heightened environmental supervision. In this interviewee's assessment, this drawback is a dealbreaker. Dealing with environmental supervision in the context of enacting or using property is, in fact, something that farmers face in different forms, which is further discussed in Chapter 8.

These accounts about the new agroforestry concessions show farmers' conflicting views about getting an official government document that makes legible their properties before the state, as well as farmers' idiosyncratic understandings about the law. Similarly to other instances related to agricultural land and forest law discussed in Chapter 5 and Chapter 6, farmers' understandings of the law regarding the new agroforestry concessions are a combination of formally correct and incorrect legal interpretations. For example, the law states that farmers who get an agroforestry concession could, in fact, lose it if they do not comply with the conditions (e.g., if they deforest), but this would only lead to the government cancelling their concessions, not to taking away their lands in practice (i.e., basically leaving them in a similar position as today). And the idea of having to pay 'taxes' when getting an agroforestry concession is only partially correct. Farmers who get an

agroforestry concession have to make two or three different types of payments to the government, but the first is only a one-time processing fee, another one is a yearly payment that is not too large and can be waived in some instances, and the third is only if they wish to extract timber. Finally, it is correct that, today, agroforestry concessions cannot be used as collateral for a loan (e.g., a mortgage), but this is not because of a legal prohibition; rather, it is due to an implementation problem (i.e., the regional government's pending task of registering these concessions in a special section of the official Land Registry, which the law allows), and a lack of commercial interest by financial entities, likely due to the novelty of the system.

These examples demonstrate again how the agricultural frontiers of the Peruvian Amazon are not impervious to the state's agricultural land and forest laws and regulations, a process that involves some distortion by farmers about what the legal rules are. They also highlight farmers' wariness towards becoming legible by the state through obtaining official land documents. Farmers convey this ambivalence more in practical than in ideological terms. Rather than expressing a rejection of the state as a central authority, they show a rejection of the day-to-day implications of what the deployment of this authority, through its legal rules about agricultural land and forest, implies.

7.6. Conclusion

This Chapter 7 has discussed how farmers in Soritor perceive official property titles and other similar state efforts to order the space through the law (i.e., the new agroforestry concessions). Although farmers may express a general interest in official property titles, even placing them in a higher position of a 'legality scale' relative to their local land documents, my analysis of the data points to an attitude of apathy and resignation to the *status quo* of informal land tenure, that mutates into reluctance in some instances. I argue that this is because farmers find little upside in having official property titles for their daily lives as they enjoy a sense of high tenure security with their local *compraventas* examined in Chapter 6. For example, farmers do not consider having official property titles an important criterion to decide what lands to buy or where to invest in cultivating perennial crops like coffee or cocoa, nor are official property titles required to access most loans because financial entities give more importance to the phytosanitary conditions of the crops to evaluate credit risk. Further, farmers do not perceive significant internal or external threats to their landownership claims, as evidenced by the low frequency of internal land conflicts, and the government's poor enforcement of its agricultural land and forest laws explained in Chapter 4. Importantly, a closer look at the practicalities of owning land with official property titles and the new agroforestry concessions revealed interesting disadvantages, in particular related to taxes

and heightened environmental supervision, that drive some farmers to be hesitant and even hostile towards these legibility efforts of the Peruvian state.

This finding illustrates how looking at social norms beyond a focus on conflict is relevant to understand local property arrangements. The insightful ideas about the role of social norms around property in Ellickson's (1994) landmark socio-legal study of ranchers in rural California, for example, come from his focus on disputes. But, as Merry (1988) and Peruvian socio-legal scholar Guevara (2009) have previously argued, there are also opportunities to learn from people's use of social norms in their daily lives in non-conflict contexts, as is the case of local property arrangements in Soritor explored in this chapter and throughout this thesis.

This chapter has also unveiled more instances of meaningful intersections between the agricultural land and forest laws of the Peruvian state and the social norms and local practices of private law of farmers in Soritor that further point to a frontier space characterised by inter-legality. The way farmers act when deciding to purchase land, where to cultivate, or how to navigate land titling efforts and owning land with official property titles, reinforces the argument posited in Chapter 6 that farmers are largely uninterested in the state's legibility due to them already enjoying tenure security through their own social norms and local practices of private law. This chapter showed more instances of how the law becomes 'tamed' in this rural 'lawscape' (Pruitt, 2014).

When farmers are faced with different aspects of the agricultural land and forest laws that attempt at making them and their lands legible to the state, some farmers misinterpret parts of it, affecting how they decide to adopt the law, or in some cases even reject it when they fear expropriation or taxation. To deal with the latter, in particular, farmers use avoidance tactics that align with Scott's (1998) argument that this is a consequence of becoming legible to the state's enterprise of ordering the space and the citizenry inside it. I argue that these tactics and attitudes, which the legal consciousness literature would characterise under the archetypes of 'with the law' and 'against the law' (Ewick & Silbey, 1998), are focused on addressing practical problems of the everyday lives of farmers, rather than representing a particular or explicit political ideology. In Soritor, this occurs without farmers' completely abandoning state law, instead navigating inside and outside of it that shows how they consider the trade-offs of legibility in a practical manner.

Finally, this chapter has provided evidence that tenure security is not solely achieved by official documents of the state, an important insight for the scholarship on deforestation and for development studies. As the critical literature review in Chapter 2 shows, many studies on deforestation use official property titles as the proxy for tenure security when evaluating the

environmental effects of private property in tropical forests.⁸⁶ Similarly, they are considered key for allowing credit and investment under de Soto's (2000) influential theory concerning the formalisation of informal land tenure in developing countries. In contrast, the data from Soritor analysed in Chapter 6 and in this chapter provides evidence that farmers enjoy land tenure security without the need of official property titles, adding to a growing scholarship on forest governance and rural development that argues for recognising the important role that informal property arrangements play in forested landscapes (see, e.g., Aldashev, 2009; Bromley, 2009; Burnod et al., 2012; Deininger & Feder, 2001). In Soritor, as in many other similar agricultural frontiers of the Peruvian Amazon, the fact that agriculture has expanded and that private properties have consolidated without official property titles, thus warrants a reconsideration of the significance and impacts of the state's property legibility efforts in future development and tropical deforestation analyses.

⁸⁶ See subsection 2.3.1.

8. PROPERTY, COMMUNITY AND THE ENVIRONMENT

IN THE AGRICULTURAL FRONTIERS OF THE

PERUVIAN AMAZON

8.1. Introduction

This chapter discusses when and how farmers in Soritor protect the forest inside their properties despite a context of low government enforcement of forest protection laws, and despite the local practice of *trabajar la tierra* (working the land) that encourages deforesting for agriculture as part of enacting property in this frontier space under the Amazon Settler social norm. I argue that farmers' conflicting views about the state laws and their social norms to protect forests, as well as the legitimacy conferred to the farmers who decide on their own to conserve their forests, are a reflection of the overarching social norm analysed in Chapter 5 that recognises property owners as the sole decision makers over their lands, the Autonomous Farmer social norm.

The analysis presented in this chapter is informed by insights from all my 42 semi-structured interviews, drawing from 21 of them in particular: 14 with farmers in Soritor and seven with other key actors. Those seven interviews include two with staff from the regional government of San Martín (one from the office in charge of enforcement of forest protection laws, and the other from

the office in charge of agriculture and land tenure issues in the area), an official from the national forest agency who provides support to the regional government, a former sub-prefect of Soritor, an official in charge of the environmental office of the Municipality of Soritor, a judge that handles criminal cases in a nearby district, and a legal expert from Moyobamba who was a former official in the Land Registry.

The chapter is divided into six sections. Section 8.1 introduces the main theme of the chapter, the data used for the analysis, and the organization of the chapter. Section 8.2 provides an overview of how farmers perceive the environmental changes in this agricultural frontier, which is impacted by, and has an impact on, their property practices. Sections 8.3 to 8.5 discuss three situations in which farmers engage in conservation. Section 8.3 discusses the social norm of maintaining forests to protect the water. Section 8.4 discusses how farmers perceive and comply with forest protection laws of the Peruvian state. In both situations, my data shows that farmers engage in forest protection unevenly and reluctantly. Section 8.5 focuses on a different situation of forest protection that, although rare, is widely accepted and seen as legitimate: when farmers decide to voluntarily conserve the forests inside their properties even though it goes against the practice of *trabajar la tierra* under the Amazon Settler social norm examined in Chapter 5. Section 8.6 concludes by summarising the analysis presented in this chapter.

8.2. Navigating environmental change in Soritor

It is difficult to overstate the degree of ecological change that many areas in Soritor have gone through in the past decades, when farmers started settling the area in large waves. An old farmer and one of the founders of the village of El Lucero¹ put it vividly:

...people came in '93, '94, '95, [and] by the 2000's you could not find a single *palo*². We levelled everything to the ground. Not a single tree could be found anymore. Everything was *guabas*³ and coffee, *guabas* and coffee. You could not see a single *monte*⁴...everything was like this, *chacra*⁵...a forest [remained] only high up; there, on a hilltop where you see a small patch. That one is a natural [forest] still. Half a hectare must be...

Most farmers in Soritor recognise that deforesting the *montañas* to convert them into agricultural properties has had a detrimental effect on the environment. The following subsections delve into farmer's perceptions on different aspects of forest degradation, such as timber depletion, loss of wildlife, soil erosion, water scarcity, and changes in the local climate, and their relationship to property norms.

¹ Interview 10, El Lucero, 13 April 2023.

² Meaning stick, the colloquial word for tree.

³ A tree native to tropical forests in Latin America and planted for its fruit.

⁴ Another word for *montaña*.

⁵ The colloquial word for a cultivated plot of land in rural Peru.

8.2.1. Hunting and timber extraction

Valuable timber has become rarer in Soritor. ‘We didn’t think about the future,’ lamented a farmer from Jericó,⁶ confirming that in his property ‘we don’t have [natural] forest anymore.’ ‘We thought that all the time it’s going to be like before, right? That there was timber of all kinds...and [so everyone] started cutting down [the forest],’ he reflected. Farmers used to extract trees for commercial purposes, ‘when there was timber..., but not now since there is no timber anymore...[now people only extract] a bit sometimes,’ said a farmer from the village of Primero de Mayo⁷. Asked whether they are issued permits from the *Autoridad Regional Ambiental* (Regional Environmental authority, ARA) to extract commercial timber, an old farmer near Selva Alegre⁸ whose land overlapped a protected zone said that ‘no, and also [because] there is no [timber], right? People in those times took them out...the first owners, they...cut all the trees that were for timber...there used to be *tornillos*, *cedros rojos*,⁹ all of that they had taken out.’ The *presidente* of the village of Alto Perú¹⁰ answered in the same way, implying that there was not much purpose in requesting a permit

⁶ Interview 41, Jericó, 12 July 2023.

⁷ Interview 30, El Lucero, 13 April 2023.

⁸ Interview 23, Aguas Calientes – Selva Alegre, 14 April 2023.

⁹ *Cedrelinga cateniformis* and *cedrela montana*, respectively, are both valuable timbers used for furniture or in construction.

¹⁰ Interview 19, Alto Perú, 29 November 2022.

to extract commercial timber since ‘there is no timber anymore, [because] the people from before [took it out]...there is some but far away only.’ The *teniente* of the village of Nueva Galilea¹¹ also confirmed that there used to be timber in the forest, ‘but not anymore,’ although some valuable timber like Spanish cedar¹² can still be found inside sections of a nearby ZOCRE¹³ named Urcuyacu, as mentioned by an official of the ARA¹⁴.

Farmers also said that much of the wildlife that roamed Soritor, some of which was once hunted for food, has now largely disappeared. ‘There used to be a lot [of game]...there was *sachavaca*¹⁵, deer, *añuje*¹⁶, *majaz*¹⁷, everything,’ said the old farmer near Selva Alegre¹⁸, explaining that people used to come to that area from the town of Soritor to hunt a lot, even to hunt jaguars. Now, however, ‘there are no [game] animals [left], I mean...a few, a few,’ she said, explaining that the reason is that ‘before, they killed a lot [of animals], and also

¹¹ Interview 42, Nueva Galilea, 17 April 2023.

¹² *Cedrela odorata*.

¹³ As explained before, the ZOCRE is a sui generis conservation designation established by the regional government of San Martín (see footnote 80 in Chapter 6 for more information).

¹⁴ Interview 43, city of Moyobamba, 24 November 2022.

¹⁵ *Tapirus terrestris* (*sachavaca*), known more generally as tapir, a large herbivorous mammal.

¹⁶ *Dasyprocta fuliginosa* (*añuje*), commonly known as agouti, a rodent species.

¹⁷ *Cuniculus paca* (*majaz*), commonly known as lowland paca, a rodent larger than the *añuje*.

¹⁸ Interview 23, Aguas Calientes – Selva Alegre, 14 April 2023.

when you work [the land], the animals go away, higher up.’¹⁹ As an example, she mentioned that she had not seen a *sachavaca* in ‘20 years.’ The farmer from Primero de Mayo²⁰ also remembered that ‘before, there was game...my uncle was a hunter, he hunted tons’ around his village, but now few people hunt because ‘there’s little [game left].’

Today, farmers still occasionally hunt or extract some timber from their properties, but only small game or the few remaining trees, and mostly for their personal use, not for commercial purposes. They do not get permits from the ARA for this, as formally mandated by the forest law (LFFS, 2011),²¹ but the practice is common, and it is largely tolerated. An ex-official of the ARA, now at the *Servicio Nacional Forestal y de Fauna Silvestre* (National Forest and Wildlife Service, SERFOR) and who worked on the ARA’s agroforestry concessions programme,²² said that if a person just wants to extract a tree for ‘self-consumption’ (the technical word in the law for personal use), then he does not need to get a permit, ‘only inform [about it]...but if he tries to sell the [timber

¹⁹ When I presented some of my early findings at a talk convened by the environmental programmes at Oxford in 2024, a wildlife biologist later clarified that this is a common misconception as animals do not easily go elsewhere but likely die out when their habitat is destroyed.

²⁰ Interview 30, El Lucero, 13 April 2023.

²¹ Although article 81 allows hunting and logging for subsistence or ‘self-consumption,’ this is only for indigenous peoples living in native communities and not for other local population living in the Amazon, like these small-scale farmers who would have to apply for a permit. However, even if the farmers of Soritor wanted to get a permit, most would not be able to because the law requires them to have official property titles, which the majority do not have.

²² Interview 20, city of Moyobamba, 30 November 2023.

extracted] for personal use, then that is a little tricky...the personal use is for the zone where they live, for his house, his pole...' A farmer from the village of Jericó²³ had a similar understanding of the law, where 'yes, of course, [we need] a permit from INRENA²⁴ if we want to sell that timber...[otherwise, if we transport it] the police will confiscate it...[but] you can extract when you want it for your house...it's not forbidden.' Likewise, the old farmer near Selva Alegre²⁵ mentioned that she and her husband may occasionally cut small trees for *maderita* (small wood), in reference to wood that can be used for something minor, like for fixing a house, but not for commercial purposes. And a part-time farmer and NGO worker who is a new landowner in Selva Alegre²⁶ told me that, until recently, people in the village went to hunt in what is now his land, because it was a *montaña* and the previous owner let them.²⁷

²³ Interview 41, Jericó, 12 July 2023.

²⁴ INRENA, formally the *Instituto Nacional de Recursos Naturales* (National Institute of Natural Resources), is the name of the national agency that used to be in charge of administering all forests and wildlife in the country, before the devolution process of 2008 that led to the creation of the ARA in the department of San Martín. Interestingly, many people in the countryside continue to identify the defunct INRENA as the competent authority for issues related to logging, instead of the ARA. This fact points to the limitations of the regional government in reaching these frontier spaces of the Peruvian Amazon, a phenomenon noticed in an environmental perceptions survey in a different region years ago (SPDA, 2015, p. 5).

²⁵ Interview 23, Aguas Calientes – Selva Alegre, 14 April 2023.

²⁶ Interview 35, Rioja, 17 April 2023.

²⁷ Also, some people in the community considered that the previous owner did not, in fact, had a proper claim to that land. They thought that he was making a claim to it because it was adjacent to his land and to take advantage of the NGO worker who wanted to buy there. Thus, it seems that the reason the supposedly previous owner was so permissible with other people coming to hunt there was that he was aware of the somewhat dubious nature of his own claim to that land.

8.2.2. Managing rare ‘communal forests’ in a landscape of private properties

Interestingly, the occasional hunting and timber extraction is not only done inside the properties that have some *montaña* left inside, but also in forest that seems to have been set aside for these use cases and that is said to belong to the community. This was mentioned in only two instances, one in Alto Perú, and one in Selva Alegre. In Alto Perú, the *presidente*²⁸ said that they ‘have a *montaña* of the *pueblo*²⁹...from here (in the centre of the village), passing this stream...[we have] 20 hectares...it’s everyone’s, yes.’ He explained that the ‘past village leaders left it [like that]...for the benefit of the people [of Alto Perú].’ This interviewee said that they use it for both getting resources like timber for collective work ‘to benefit the projects [of the community, so when] we need boards, slats, we go [there] to saw wood,’ as well as for the personal use of individual farmers ‘[when they] request it, [because] some don’t have [trees in their properties] to saw wood...[to build or make repairs in] their houses; [so they] come to [me] with their request...and it gets authorised.’ But they are unable to hunt there since ‘there are no animals [anymore], they have pulled back from here...’

²⁸ Interview 19, Alto Perú, 24 November 2022.

²⁹ *Pueblo* is a word in Spanish that has two related meanings: people, and village or town. It is unclear which of the two this interviewee was alluding to, exactly.

The alleged communal area in Selva Alegre that was still a *montaña* is a more contested issue. The *presidente*³⁰ of the village affirmed that ‘we have a *montaña* of approximately 4 hectares...that we keep as forest...it’s communal, it’s a communal *montaña*,’ which they mostly use in the context of collective work or services. According to him, they ‘conserve [that *montaña*], so that the timber [grows] and matures...sometimes you do a communal project, there’s no wood, so then we extract it from the forest of the *pueblo*.’ And they sometimes hunt game there, as well, but also for the collective: ‘we sometimes do *ronda*³¹ hunt there...[or] maybe a *Vaso de Leche*³² hunt; since it belongs to the village, then all the...institutions of the village [can use it].’ This collective area in Selva Alegre seems to be a disputed land, however. Another villager of Selva Alegre³³ refuted the idea that there was some kind of communal *montaña* in Selva Alegre. He said that ‘[the *presidente* is] lying...that forest is not [of the community], it’s mine I have bought it...I don’t know which [forest he’s talking about], all have owners.’ Later, he went on to say that there is, in fact, a *montaña* that has no owner (and thus, could be said to be owned collectively by the

³⁰ Interview 31, Selva Alegre, 22 November 2022.

³¹ In reference to the *ronda campesina*, the community patrol system in rural areas of Peru. See footnote 16 in Chapter 6 for more detail about this institution.

³² *Vaso de Leche*, literally ‘Glass of Milk’, is the name of a well-known and long-running semi-public social programme in Peru that provides food assistance to low-income communities.

³³ Interview 1, Selva Alegre, 23 November 2022.

community): ‘Aguascalientes’³⁴. But, in fact, that area, of around 200 hectares, is claimed by a third farmer who is litigating with the municipality and the ARA because it is inside the ZOCRE.³⁵

These two interviewees from Selva Alegre are likely aware of the conflicting ownership claims they are making so they seem to be choosing to frame those lands as community-held *montañas*—rather a proxy for ‘nobody’s’ land—to weaken the individual property claims of the others who have obtained them in some type of contested fashion. It reinforces the idea that collective ownership of land is not, in fact, usual amongst farmers in this context, highlighting instead farmers’ individualistic notion of property grounded in the Autonomous Farmer social norm that recognises farmers as the sole decision makers over their lands explored in Chapter 5.

8.2.3. Agricultural concerns: soil erosion, water scarcity and a changing climate

Soil erosion is another problem brought by deforestation, which has various impacts. For example, the former sub-prefect of Soritor³⁶ who is a schoolteacher in the village of El Lucero, complained that the school was being kept closed by

³⁴ Literally ‘hot springs’, named as such due to a spring of hot water in that area.

³⁵ The Aguascalientes section of the ZOCRE is a local tourism area that the regional government has given to the municipality of Soritor so it can administer it directly for a tourism project. Subsection 8.4.2. of this chapter explains the case in more detail.

³⁶ Interview 38, town of Soritor, 18 April 2023.

the authorities because of the instability of the soil in a hillside nearby, which she attributes to the excessive ‘cutting down of trees,’ that had already caused two landslides that swept away two houses in the village. Farmers also report that the productivity of the soil has decreased, which is why their crops now need more effort and care than before. For example, speaking about coffee cultivation, the farmer from Primero de Mayo³⁷ complained that

[the soil productivity] has changed a lot...before what [you] did to sow [was to press] a stake [on the ground and just put the bare roots on top]; but now, it has to be very carefully with [with a sapling and] fertiliser. [The reason is that] the lands have become exhausted. It's because there is no more...*montaña*.

People also discussed the change in the local climate of the region. Two interviewees explicitly spoke unprompted about the fact that it is now hotter than before, linking it to the deforestation of the area and the problem of water scarcity. ‘The water springs, for example, we have to protect them because every day it's less the water that exists, it's hotter here where it used to be cold, because now it gets too hot,’ said the old farmer near the village of Selva Alegre³⁸. The director of the Moyobamba office of the *Dirección Regional Agraria* (Regional Directorate for Agriculture, DRA)³⁹ also linked the problem of water scarcity

³⁷ Interview 30, El Lucero, 13 April 2023.

³⁸ Interview 34, Selva Alegre, 23 November 2022.

³⁹ Interview 37, city of Moyobamba, 25 November 2022.

with deforestation and changes in the local climate, but he had a rosier view that farmers are becoming more environmentally aware as they

do not deforest [the hilltops] because they know that they won't have water...I mean, little by little people are gaining consciousness of all this. Look, I came here in 2005 and, I tell you, at this hour [in the afternoon] you walked around in a jacket, right? Because it used to be cold [and now it is hot]...here cocoa didn't grow, I mean, if cocoa is [now] growing is because the zone is getting tropicalised, right?...you can't stand the heat anymore.

These two accounts imply that, chief among farmers' environmental concerns related to deforestation is water scarcity. As a farmer in Villa Hermosa⁴⁰ put it to me, 'you know that forests are the protection of water, [right?]' The next section discusses the social norm in Soritor by which farmers are expected to leave the forest standing in places near water sources and courses in order to ensure the availability of water, which echoes the ecosystem services paradigm in environmental policy.

8.3. Conserving the forest to protect the water

Water scarcity is a particularly important topic amongst farmers because it has a direct and immediate impact in their daily lives, unlike more indirect or medium to long-term impacts, such as changes in the climate, or impacts that involve natural resources that can be mitigated or replaced, such as using fertilisers when the soil has eroded, or obtaining protein from livestock instead

⁴⁰ Interview 2, Villa hermosa, 11 July 2023.

of from hunting. The relationship between the availability of water in adequate quantity and quality, and the existence of vegetation, in particular forests, has been extensively studied in the environmental scholarship and mainstreamed in environmental policy. Despite that more specific scientific work on this connection needs to be done in South America (Jones et al., 2017), in general, it is well-understood that ‘deforestation has a direct impact on the integrity of rivers and streams’ (Cañas, 2019, p. 149). In the high forests ecosystems of the Peruvian Amazon, like Soritor, this ‘results in changes in the hydrology of headwaters...and alterations in water quality’ (Cañas, 2019, p. 149).

The link between forest protection and water availability has also been cemented in environmental policy. For example, goal 6 of the United Nations Sustainable Development Goals on clean water, had an explicit target to ‘protect and restore water-related ecosystems, including...forests...’ (United Nations, 2015b). This falls within the ‘ecosystem services’ conceptual framework that emphasizes the importance of valuing and making visible ecosystem processes as useful to people, such as the storage or purification of water that standing forests can provide to benefit populations downstream. Ecosystem services has become a paradigm central in current environmental discourse (Bell-James, 2019), with the ultimate goal of supporting policy design and interventions on natural environment to benefit humans (Balvanera et al., 2012).

8.3.1. The social norm to maintain the forest to protect the water

In Soritor, farmers speak about a social norm whereby they must conserve parts of the forest to protect water sources and courses. The old farmer in Selva Alegre⁴¹ explained to me, for example, that

before, you did what you wanted with the jungles, not now...now, say near the water source, it's also forbidden...to cut down the forest, because the water dries up

Similarly, asked about any norms in the community related to forests in his village, the *presidente* of El Lucero⁴² named 'the water sources,' saying that 'the rules of the community is to always maintain the water sources.' He elaborated with the more detailed rules of this social norm: 'usually we know it as the water course...so, [people] should not cut down trees from the water course, 5 metres up and 5 metres to the other side.' He explained that the rationale behind the social norm and the specific implementation rule is that

if we cut down the forest till the very edge [of the water course]...then the water will start drying up day by day, and [then] we run out of water...[but] if we keep the forest alive where the water comes from, then that's OK [because] we'll have water all the time and it won't run out.

⁴¹ Interview 33, Selva Alegre, 17 April 2023.

⁴² Interview 27, town of Soritor, 16 April 2023.

Further, acknowledging the devastation of the past, a farmer in the village of Jericó⁴³ explained how they are trying to recover these areas, as a complementary measure to this social norm and its specific rules:

Of course [people know they have to comply with it]. It's important because...it's a rule that we agree in the community and it's complied with, right?...[Now],...the scarcity of the rains is due to, uhm, [the fact that] there is no more forests, right? Everything was cut down [before]. So,...[what] we have been doing is to reforest back again, right? Reforest with timber plantations, now.

8.3.2. 'Blending in' environmental norms of the community with the legal rules of the state

The community rule to protect the forest around areas important for water is also reinforced through some government support. The director of the Moyobamba office of the DRA⁴⁴ mentioned that they raise awareness with farmers to

make them understand that the forest is going to give them water, right? And [actually,] they already know this, they conserve their hilltops...they don't deforest them because they know that they won't have water...I mean, the people kind of...are already aware about this.

The reforestation efforts alluded to by the farmer in Jericó⁴⁵ were, in large part, due to a project implemented by the municipality of Soritor some years

⁴³ Interview 41, Jericó, 12 July 2023.

⁴⁴ Interview 37, city of Moyobamba, 25 November 2022.

⁴⁵ Interview 41, Jericó, 12 July 2023.

ago.⁴⁶ Currently, the municipality is said to have a new project to restore a few riverbank strips in some places of Soritor, supported by a campaign to raise awareness, as mentioned by an official in charge of the environmental office of the municipality⁴⁷.

Interestingly, some farmers considered that protecting water sources by avoiding cutting down the forest nearby was part of the Peruvian state law, not just, or not even, a social norm. For example, the old farmer in Selva Alegre⁴⁸ understood it to be a legal rule that was ‘[enacted] a couple of years [ago], I think only...,’ but then confirmed that a rule in the communities of Soritor to conserve the forest alongside the water courses continues ‘until today...it’s a hectare [of forest that one has to leave standing],’ he specified. And in Nueva Galilea, the *teniente*⁴⁹ mentioned that *tenientes* in Soritor had just received information that a new law has been enacted classifying cutting down the forest in waterheads as a ‘criminal offense.’ He also said that most people in the area are already aware that they should not cut down the forests in these areas, adding that there

⁴⁶ However, that project’s focus seems to have been on timber plantations for commercial purposes, using foreign species that likely do not yield similar water conservation results as restoration with native species.

⁴⁷ Interview 39, town of Soritor, 10 July 2023.

⁴⁸ Interview 33, Selva Alegre, 17 April 2023.

⁴⁹ Interview 42, Nueva Galilea, 17 April 2023.

are rules in the community to not cut down the forest in the hilltops and around the water springs.

In fact, protecting the forest near water sources and courses is part of Peruvian forest law and water law. As explained in Chapter 4, Peruvian forest law allows a person, in certain limited cases, to convert forest to agriculture;⁵⁰ in those cases, according to Articles 122 and 124 of the *Reglamento para la Gestión Forestal* (Regulations for Forest Management) (2015), a person would need to obtain an authorisation that includes the obligation to ‘maintain,...the riverine or protection vegetation,’ which is part of a detailed technical study.⁵¹ And Articles 6 and 7 of Peru’s water law (*Ley de Recursos Hídricos*, 2009) designates the riverine vegetation, the waterheads and the ‘marginal strips’⁵² of the water courses as ‘natural assets of water,’ mandating that ‘any intervention by private citizens that affects or alters [their] characteristics...must be previously authorised by the Administrative Water Authority...’ Finally,

⁵⁰ See section 4.3.

⁵¹ See also the *Lineamientos para el Otorgamiento de Autorizaciones de Cambio de Uso Actual de las Tierras a Fines Agropecuarios en Tierras de Dominio Público* (Guidelines for Granting Authorisations for Changing the Current Land Use to Agricultural Purposes in Lands under Public Domain) (2023). The guidelines define riverine or protection vegetation as ‘natural vegetation associated to water bodies that provides protection from the erosive action of water’ (p. 5).

⁵² These marginal strips (*fajas marginales*) are buffer zones of between 3 to 10 metres for geographic areas like Soritor that run along the banks of water courses or bodies. According to the law, these marginal strips need to be maintained free of interference. So, unless they get a special permit, farmers that plant rows of crops closely bordering a water course, inside the marginal strip, would be doing so illegally. See the *Reglamento para la Delimitación y Mantenimiento de Fajas Marginales* (Regulations for the Delimiting and Maintaining the Marginal Strips) (2016)

according to Article 75 of that law, waterheads, which some of the hilltops in Soritor could be considered to be, are also officially recognised as ‘environmentally vulnerable zones,’ where the central government can restrict the granting of water use rights. This convergence of a social norm and legal rules shows a type of normative hybridity (Freedman, 2013): in Soritor, the law not only manages to reach the frontiers in a weakened, incomplete or distorted fashion, as shown in other instances in Chapters 5, 6 and 7, but also by ‘blending in’ with farmers’ social norms and local rules.

8.3.3. Uneven compliance with the social norm of maintaining the forest to protect the water

Despite the widespread talk about this social norm, its specific rules are not uniform and farmers compliance with them is uneven. For example, some of the accounts mentioned earlier alluded to protecting the hilltops because that is where water is thought to come from, but others thought the norm included the protection of all water courses. And the farmer in Villa Hermosa⁵³ thought that ‘you can’t cut down [the forest] 50 metres, people say, either on the left or the right side...for the protection of waters,’ which does not match the number of metres or hectares that need to be protected mentioned by some of the other

⁵³ Interview 2, Villa hermosa, 11 July 2023.

accounts quoted earlier. Regardless of the specific rules of this social norm, this same farmer acknowledged that, in fact,

people don't really comply with the [social norm]...let's just say that they don't respect it very much...because, if you go to the streams, some will have *montaña*, [but] the rest, well, the *chacras* reach all the way to the banks...the crop fields are side-by-side with the running water...but in the waterheads, yes, you see a little more [compliance]...there's a bit of everything, like you see [there, some] are cut down, those [forests in the hilltop] seem really low, those have been cut down...people, as they begin to need [more land] start cutting down.

Another old farmer, one of the founders of El Lucero⁵⁴ also mentioned the existence of the social norm, while, very candidly, recognising that it was widely unenforced. He remembered that

Soritor used to have a rule that you can't cut down 50 metres from the river. They wouldn't sell that to you...My uncle bought a land near the riverbank and said that only until here you can cut, [and] from here upwards...[but] I remember they gave me a small piece of land alongside the riverbank, I wasn't going to leave that [without using!] We came in need of land...the person who came [to this area], everything he cut down, even against the streams, the waters. They [used to say] "don't cut down [the forest near] the waters," but what did we care?!

Hilltops seem to be of particular importance. A farmer in Jericó⁵⁵ explained that all the forest that we could see from the road or from his house was in fact *purmas*⁵⁶; but, pointing out to a place up in the distance, he said that

⁵⁴ Interview 10, El Lucero, 13 April 2023.

⁵⁵ Interview 41, Jericó, 12 July 2023.

⁵⁶ Secondary forest. See footnote 58 in Chapter 5 for more detailed explanation about this term.

there was one exception, a patch ‘in the high part,...there, in the hilltop...that’s a *montaña* that’s still virgin.’ He described it as a ‘a type of small hills...and from there springs the water, supplying to the *caserío*⁵⁷ [of Jericó].’ The forest the property of one of the farmers in the village, ‘but it is forbidden to cut down that [forest]...[the owner] knows he cannot cut it down now,’ this interviewee clarified. He further confirmed that, ‘of course,’ this was part of a rule in the community about not cutting down the forest in the hilltops ‘[because] that is the protection forest [that] is untouchable; [so] no, no, he cannot cut it down.’ Pressed about whether the rule also encompassed the protection of the forest near other water bodies, he said that, ‘sure, around the rivers, yes...50 metres [to each side],’ coinciding with the rule mentioned by the farmer in the neighbouring village of Villa Hermosa. He added, however, that ‘in practice, people don’t comply with it...[people] know about it, right? Like around streams is 20 metres [to each side], but not really...some people [just] cut it down, you know?...they don’t respect [the rule].’ The *presidente* of EL Lucero⁵⁸ offered a hypothetical case to highlight that specific rules of this social norm were more about protecting the forest in the hilltops rather than the forest around other water courses:

I’m going to give you an example...if a heartless
[neighbour of mine below my property] reduces [the

⁵⁷ Village. See also footnote 65 in Chapter 5.

⁵⁸ Interview 27, town of Soritor, 16 April 2023.

forest] all the way to the stream, what's the important thing according to you? To conserve [the forest] in the upper part or in the lower part?...of course in the upper part. So, I conserved [the forest] in the upper part and the neighbour didn't conserve it in the lower part, but [both] the neighbour and I will always have water because...the water came from the upper part, and [the forest] continues to be conserved there...[So] no, the rule is not [to conserve] all the [water] course network because, as you know, there are people who are [environmentally] conscientious that we recognise [the importance of] nature and there are people who don't realise that. We think that by planting one more row of coffee we're going to progress more, but it's a lie.

Interestingly, this interviewee's framing of the problem and the solution he advances echoes the Law and Economics justification for environmental regulation as a way to solve negative externalities. A negative externality is the environmental impact from an economic activity that benefits a person—e.g., a farmer deforesting his land upstream to do agriculture—while imposing costs or damages to another person—e.g., the availability of water for the neighbours downstream. Following the classic proposition in the Coase Theorem, people can often find the most efficient solutions to externalities by bargaining amongst themselves (e.g., by making contracts) (Fisher et al., 2013, p. 28). In practice, however, contracting may not be the best solution due to market failures such as asymmetries of information or power, or high transaction costs, which justifies the intervention of the state and its environmental regulation (Fisher et al., 2013, p. 464). Something similar could be said for the emergence of this community rule that appears not as part of the government's official legal rules, but within the context of a non-state ordering arrangement (which, is in fact

constantly interacting with the state's laws and its enforcement institutions despite their 'tamed' form in this frontier space).

8.3.4. Calling upon the power of the state to enforce a social norm

In some special cases, such as in hilltops, communities were forced to intervene when a farmer did not want to comply with this social norm of water protection. As seen from some of the accounts before, this shows that communities in Soritor that do not generally seem to strongly or consistently enforce this social norm and its rules, can make farmers comply with them in important circumstances, which may prompt the community to seek out the power of the state in order to convince reluctant landowners. One of these cases occurred in Jericó. The farmer interviewed in this village⁵⁹ said that if a farmer does not want to comply, then 'we call him to a meeting, we give him a warning, and if he persists in cutting down [the forest], then, well, we report him...[to] the prefecture...[or] the Environmental Prosecutor's office can come, too.' He told the story about what happened when the community had to force a landowner to back down from cutting down the *montaña* inside his property in a hilltop:

a person [who lived] in the high parts...where the water springs to [supply] here...he wanted to cut down a *montaña* surrounding the water and we didn't let him, what would have happened if he had cut it down? We wouldn't have water now...and so, [in that occasion] we even brought..., [well,] the prosecutor didn't arrive...it

⁵⁹ Interview 41, Jericó, 12 July 2023.

only came [the sub-prefect],⁶⁰...he arrived to the very place where [the farmer was] and he explained to him [that he couldn't cut down the *montaña*]...[and so the farmer] committed to not continue cutting it down...so that's how it ended.

In another similar case, the *presidente* of EL Lucero ⁶¹ recounted how a farmer did not comply with this social norm in the nearby village of La Unión, affecting the town of Soritor and prompting a uniquely rapid response from the Municipality:

...about 3 years ago, [the town of] Soritor had a problem with a landowner in the high parts...[in] La Unión. So, there was a water stream that...supplied [water to the village of] Nueva Esperanza [and] it seems that to [the town of] Soritor, as well. Then this guy goes on and cuts down like 5 hectares of forest, I believe. So, he teared down the water stream...Then, what did [the Municipality of] Soritor do? As a district and as an authority that has more jurisdiction, it notified the owner and everything [and] they gave him seeds [and] [it was]...reforested immediately. Because that is a water that gives life to lots of human beings...it cannot be lost just due to one person that makes a mess for the other human beings not to have water.

The fact that, in particularly important situations, communities call upon the power of the state to support the enforcement of a social norm, signals yet another way in which inter-legality manifests in this agricultural frontier space. It shows a synergistic relationship of normative spaces that is similar to the

⁶⁰ He didn't explicitly mention this authority, but it was implied, as he tried to remember the proper name of the authority by saying 'in those time there were the *gobernadores*, right?' meaning the *gobernación*, the old name of the office where sub-prefect sits in the administrative centres of the districts.

⁶¹ Interview 27, town of Soritor, 16 April 2023.

examples seen in Chapter 5 and Chapter 6 where farmers reach out to the state for support with their community-building efforts after enacting property with their social norms and practices (e.g., through state laws and policies that legitimise community leaders by giving them official recognition, or that provide material support to build roads and schools).⁶² The implementation or enforcement of the social norm with the support of the state is facilitated by the fact that a version of it is also found in the state's forest and water laws, which some farmers have blended in with their social norm and its rules. The next section will discuss how farmers engage in environmental protection when faced with the state's attempt at enforcing its own forest laws.

8.4. Conserving the forest to comply with state law

Environmental enforcement of forest laws in the Peruvian Amazon, including in Soritor, is lacking, although it is not completely absent. As argued in Chapter 4, the legal framework governing agricultural land and forest laws is cumbersome and its enforcement is complicated by various institutional problems, such as poor interagency coordination and lack of resources. Data from the interviews revealed instances where farmers acknowledged they knew about the substance of legal rules that forbid deforestation or illegal logging inside their properties. They also revealed that farmers feel compelled

⁶² See subsections 5.4.1. and 5.4.2., and section and 6.2.

to comply with these legal rules when they, or an acquaintance, are faced with prosecution, particularly in zones designated for special protection. Sometimes, compliance with these environmental legal rules drives tenure insecurity. But, other times, the legal rules are strategically used by savvy farmers when local land disputes arise. Farmers' experiences with this type of enforcement adds to the examples discussed in previous chapters of the law permeating this agricultural frontier of the Peruvian Amazon, showing how farmers navigate them in their day to day lives.

8.4.1. Getting acquainted with forest protection laws when experiencing enforcement

The sentiment that farmers know about forest protection laws as a result of having experienced enforcement from the government was relied upon by the director of the DRA office in Moyobamba.⁶³ In his habitually optimistic outlook about farmers' environmental behaviour, he stated that 'farmers that are in forestlands are already conscientious...that they can't open up more *monte*.' Asked if he was sure about it, he insisted that 'they are, because they have been stopped [by law enforcement officials] before!' This official was likely exaggerating farmers' environmental disposition and compliance, as is evident from the multiple accounts of forest clearing by farmers presented throughout

⁶³ Interview 37, city of Moyobamba, 25 November 2022.

this thesis and the significant deforestation in the district in the past 20 years (Programa Nacional de Conservación de Bosques para la Mitigación del Cambio Climático 2022). But his statement does signal that the main reason why, when some farmers lean towards complying with the law, it is because they have been exposed to enforcement.

This official's perception about enforcement and compliance with forest protection laws may hold up better in the context of illegal logging rather than deforestation.⁶⁴ The reason is that timber illegally logged for commercial purposes needs to be transported by road from the villages to the larger towns and cities, where people can be stopped by the police or the ARA in checkpoints or during occasional raids. Accounts from several farmers confirm that they understand that, unless they have a permit, the law prohibits logging for commercial purposes, even within their properties.⁶⁵ For example, responding to my question about why people do not cut down trees for timber if there are still some in the *montaña* (e.g., inside the ZOCRE Urcuyacu nearby), a farmer in Selva Alegre⁶⁶ clarified that most people do not, although some might. Then, his

⁶⁴ These two illicit activities are different. Deforestation is the clear cutting of forest, usually to convert it to agriculture. And illegal logging is selective cutting of specific valuable trees for timber.

⁶⁵ As explained in subsection 8.2.1. the law also does not allow farmers to extract timber in a *montaña* inside their properties for their personal use, unless they have previously obtained a permit. But most farmers see this as legal. It is also tolerated by authorities, in part, because farmers do not have to transport the timber outside the villages, which eliminates the possibility of encountering ARA or police enforcement on the roads.

⁶⁶ Interview 1, Selva Alegre, 23 November 2022.

wife briefly intervened with a more straightforward answer, stating that ‘[the reason is that,] now, logging trees is forbidden; that’s why they don’t cut [them] anymore.’ And a farmer from Primero de Mayo⁶⁷ mentioned how some people transport timber knowing that it is an illegal activity: ‘[people] take out sometimes some [timber], but [it’s] contraband [that] they take out there, in hiding.’ In Selva Alegre, when asked about whether farmers applied to get permits from the ARA to extract timber, the *presidente*⁶⁸ said that ‘right now there are no permits...you don’t request them and they’re not available...because logging is forbidden.’

Interviews also revealed specific instances where farmers had been exposed to enforcement procedures related to illegal logging. A farmer from Selva Alegre⁶⁹ commented with another one about the fact that it is not easy to cut timber even inside their own properties for personal use, because ‘[the authorities] as soon as they see you, they’ll be bothering you...if they know that you’re cutting down [timber] even if it’s from your land, they’ll give you trouble.’ In that same village, the *presidente*⁷⁰, commented on a recent experience when the authorities came to confiscate a lot of timber in the *caserío*, where ‘in front

⁶⁷ Interview 30, El Lucero, 13 April 2023.

⁶⁸ Interview 31, Selva Alegre, 22 November 2022.

⁶⁹ Interview 1, Selva Alegre, 23 November 2022.

⁷⁰ Interview 31, Selva Alegre, 22 November 2022.

[the house of a neighbour,] they confiscated 1,200 feet of Spanish cedar...the prosecutor came, the one from the environmental [office], the ARA, whoa!...the police, a lot of authorities.’ He also mentioned that not all farmers comply with the law, as ‘several [cut trees] quietly, [especially because] it’s from your own land, so you [can build] your house or whatever; but to take it somewhere else to sell, well [that’s different], you know?’ He gave an example to illustrate that even if you are not selling the timber, the act of transporting it outside the village would get you in trouble with the police:

Say, for example,...that I will build a house in [the town of] Soritor, OK? I have here [in Selva Alegre] my *montaña*, I take timber from here for the posts, the framework...if the police catch me in the middle of the road [transporting it to the town of Soritor], they take it away...[yes,] that happens...the police is, you know? the police is too much. They will ask you for money.⁷¹ And they will ask you for even more than what the timber is worth, maybe.

Similarly, when discussing his application for an agroforestry concession, a farmer from the village of Villa Hermosa⁷² mentioned that it would help him extract and commercialise timber legally and avoid getting caught by the police, since ‘before [getting an agroforestry concession] you couldn’t at all.’ He said:

⁷¹ He meant that the police are corrupt and would ask for bribes, which is not uncommon throughout Peru. Extra-legal practices in informal property have been previously linked to corruption (see, e.g., Smart et al., 2014, de Soto, 2000). de Soto (2000), for example, argues that corruption in this context becomes a form of taxation that the poor account for when deciding whether to pay them or engage in the complicated process of trying to become formal (p. 139).

⁷² Interview 2, Villa Hermosa, 11 July 2023.

[The officials from ARA] have explained to us what is it that we have to do; [for example] if we have timber, we can cut it down...we will be able to take it out with their permits...but [that's] only...when we get the document in our hands, the [agroforestry concession]. Of course [we're interested] because there are many people that have plenty of timber⁷³...today, if we cut down a *palo* and take it in a truck, what happens? We arrive to Soritor and if the police have seen you, they will stop you and they'll take the timber away. Without any concern [to the fact that] you planted it, you cut it down, [you] had to pay for the transportation, nothing. [The police would just say,] "bring the timber here because it's contraband!" But with the [agroforestry concessions]...things would be different. [I could tell the police,] "no sir, you want to take away my timber but here you go, here's my permit." Because this is OK with a permit. "You cannot take my timber away because I have a right to benefit from this."

Farmers' sense of heightened enforcement around illegal logging is justified, as it is, in fact, the only type of environmental offense that its subject to criminal prosecution in practice. As discussed in Chapter 4, in practice, environmental prosecutors only focus on illegal logging, despite that deforestation is also classified as a grave offense under Peruvian forest and criminal law, carrying high fines and even imprisonment.⁷⁴ This is further corroborated by an example from a nearby province, where a judge in the town of Nueva Cajamarca in charge of environmental crimes⁷⁵ confirmed that prosecutors only bring cases regarding illegal logging to her court. Most of these

⁷³ Most of it from small plantations of non-native species, like eucalyptus.

⁷⁴ See subsection 4.3.3.

⁷⁵ Interview 12, town of Nueva Cajamarca, 30 November 2023. These judges also deal with other types of criminal cases, not only environmental.

cases come from an important national protected area nearby, the *Bosque de Protección Alto Mayo*, under heightened government surveillance. She mentioned that ‘here, there’s a...it’s not [properly a military] base, but it’s like a police post but focused on environmental matters, “Venceremos”⁷⁶, and since it’s just on the road Fernando Belaúnde Terry⁷⁷, the [police] interventions are made when [people] are trying to transport timber to the different areas of Peru.’

8.4.2. Dealing with the law inside zones designated for special protection

As the account from the judge implies, environmental enforcement is more salient in areas that are legally designated as special protection zones by the government. The legal designation of a zone as ‘protected’ can be confusing because that term is used in different sections of Peruvian conservation, agricultural land and forest laws to mean different things. For example, the *Bosque de Protección Alto Mayo* mentioned before is an official national protected area, administered by SERNANP, the national agency that oversees Peru’s system of protected areas for nature conservation. This system includes the administration of national parks, reserves and other categories of protected

⁷⁶ The name of the police post is Spanish for ‘We will win’.

⁷⁷ This is the name of the main road in northern Peru connecting the large coastal cities with the cities in the Amazon, like Moyobamba.

areas, which are guarded by hundreds of specially trained park rangers.⁷⁸ In addition, as discussed in Chapter 4, Peruvian forest law already considers all forests a type of ‘protected’ natural resource in the sense that its use is closely controlled by the state (hence, the need for the many permits and authorisations). Finally, under the ‘best use capacity’ legal standard explained in Chapter 4, lands classified as *tierras forestales* (forestlands) and *tierras de protección* (protection lands) are also protected against land use change (i.e., prohibited for being converted to agriculture) and not subject to private property.⁷⁹

Farmers in Soritor do not know of this intricate legal typology of forest ‘protections’⁸⁰ but most are aware of at least one that matters to them: the *Zonas de Conservación y Restauración de Ecosistemas* (Conservation and Ecosystem Restoration Zones, ZOCREs). As first explained in Chapter 6, ZOCREs are a type of special conservation zones that are legally protected by the regional

⁷⁸ There are three national protected areas administered by SERNANP in the department of San Martín. None of them are located inside Soritor, but the southern tip of the *Bosque de Protección Alto Mayo* is close by. Also, as part of Peru’s protected areas system for nature conservation, regional governments like the Regional Government of San Martín, can administer some of them under a special category called Regional Conservation Areas. There are two Regional Conservation Areas in San Martín, and they are located in other districts of the department, not in Soritor.

⁷⁹ See subsection 4.2.2. and section 4.3. for a detailed explanation on the protected status of all forest resources and on the ‘best use capacity’ legal standard for land classification.

⁸⁰ To be fair, even Peruvian lawyers would find it difficult to discern these confusing subtle distinctions in legal terminology regarding forest ‘protections.’

government of San Martín.⁸¹ The reason why ZOCCREs are directly relevant to farmers in Soritor is because two of them are located next to, or overlapping, some of the villages in the district. And, despite that much of the deforestation in the district has occurred inside of them (Reyes et al., 2020), ZOCCREs are subject to, at least, some environmental enforcement actions.

ZOCCREs are a *sui generis* type of protection designation that only exist in the department of San Martín. They are not part of Peru's official protected areas system, nor are they designated by a specific mandate of forest or conservation laws. Instead, ZOCCREs were identified first as free areas without formal owners that were a priority for conservation, as part of the process of establishing San Martín's *Zonificación Ecológica y Económica* (Ecological and Economic Zoning, ZEE).⁸² Then, in what can be said to be a legal innovation, the regional government decided to adjudicate these areas to itself in property, registering them in its own name in the official Land Registry.⁸³ Two ZOCCREs

⁸¹ See also footnote 80 in Chapter 6 for a longer explanation of ZOCCREs.

⁸² As explained in Chapter 4, regional governments have a mandate to develop ZEEs for their jurisdictions, which are used mostly as non-binding reference information for the state's attempts at land use planning. The *Reglamento para la Aplicación de la ZEE del Departamento de San Martín* (Regulations for the Application of the ZEE of the department of San Martín) (2009), had a specific provision mandating the identification of ZOCCREs 'in order to establish legal guarantees through its registration [in the official Land Registry].' See also the *Reglamento de Zonificación Ecológica y Económica (ZEE)* (Regulations of the Ecological and Economic Zoning, ZEE) (2004).

⁸³ Using the land adjudication functions that regional governments have under several laws and regulations. See article 6.a of the *Ley Orgánica de Gobiernos Regionales* (Organic Law of Regional Governments) (2002), article 23 of the *Ley General del Sistema Nacional de Bienes Estatales* (General Law of the National System of State Assets) (2007), and article 18 of its regulations (2008).

occupy 68% of the district of Soritor: the ZOCRE Ochque-Indoche (36,854.61 ha), and the smaller ZOCRE Urcuyacu (3,804.45 ha) (Reyes et al., 2020).



Figure 13. View of the ZOCRE Urcuyacu from the village of Selva Alegre (author's personal photograph, 2023). Some patches of deforestation can be seen in sections of the mountains.

Various accounts cited in this and in other chapters of the thesis refer to farmers' engagement with the ZOCREs in Soritor.⁸⁴ They are especially relevant in some villages that are nearby them, or where some of the farmers claim to have properties overlapping them. One of these villages is Selva Alegre, located

⁸⁴ See subsections 6.4.2. and 7.3.1.

on the east side of the district of Soritor. In this village, farmers are particularly aware of the ZOCRE Urcuyacu because several of them have properties inside, and because of a unique controversy between two families and the rest of the village, that also involves the Municipality of Soritor and the ARA. One of the farmers that has his property inside the ZOCRE is the *teniente* of Selva Alegre⁸⁵. He explained that the ZOCRE was done without consultation with the people who had enacted property there first:

we as landowners haven't signed any document that says that that is a ZOCRE area...I don't know how they made the [village] leaders [of that time] sign [documents]; I think that they made them sign a blank piece of paper...and we as landowners don't have any signature that says that we are donating [our] lands in the area...The ZOCRE comes out in 2005, 2008. [And] there are citizens that [have been owning] those lands before, [even] before me...they are here [since] the 1990s [and] it didn't matter, the ZOCRE was put on top of them anyway.

Other families are occupying lands inside the ZOCRE that they say they enacted before the ZOCRE was registered as a property of the Regional Government of San Martín. A farmer⁸⁶ who is the head of one of those families confirmed that the designation of the ZOCRE was done

without consulting with the possession holders or the community people...[the regional government] puts out a norm in which all this area becomes a ZOCRE...but without respecting the rights of each citizen...why don't

⁸⁵ Interview 24, Selva Alegre, 23 November 2022.

⁸⁶ Interview 34, Selva Alegre, 23 November 2022.

[they] think that I'm [here] since the 1980s...That has generated, and continues generating, a big problem.

8.4.3. Environmental laws driving land conflicts and tenure insecurity

Importantly, this interviewee⁸⁷ then implied that the situation gives him a feeling of tenure insecurity that makes him understand why other people deforests land, a link that is at the core of several deforestation studies reviewed in Chapter 2 (see, e.g., Araujo et al., 2009; Liscow, 2013; Mendelsohn, 1994)⁸⁸. 'I think that this is leaving me [with the idea that]...the possession holder that does not think like us to protect the environment, tries to cut everything down quickly because he knows that, at the end of the day, he can't become an owner,' he reflected, arguing also that lack of official property titles lowers the incentives to conserve. As his accounts implies, this farmer seems to be very conscientious about protecting the forest. He argues that it is this environmentalist drive that led him to get and conserve an unusually large amount of land (in what later became a section of the ZOCRE), instead of parcelling it into smaller plots to sell them⁸⁹, which, as seen in Chapter 5,⁹⁰ is

⁸⁷ Interview 34, Selva Alegre, 23 November 2022.

⁸⁸ See subsection 2.3.1. for the literature review on this point.

⁸⁹ Interestingly, since this farmer did not engage in the practice of dividing up the early large plot, according to his account, he seems to be comfortable in naming that practice as 'land trafficking', a term that is associated with a crime (see footnote 30 in Chapter 5). He was likely trying to convey the idea that he behaved like a law-abiding and responsible citizen, while others committed crimes.

⁹⁰ See subsection 5.3.1.

what most people eventually did (driving the creation of communities alongside increasingly more rapid deforestation). In this interviewee's words:

from a long time ago, I used to always come to the meetings in representation of the village as one of the village leaders, [and] a thing I hear in one of them, which I liked very much, was the conservation of the forest. That's how I have an approximate of 200 hectares in possession for approximately 30 years...of which about 95%, we could say all of it, is primary forest...one of the few...in the entire district. [I'm one] of the few with this keenness to conserving [the forest]. Because what generally happened is that people here entered [the *montaña*] and...a large majority took advantage to come and take lands and sell them, I mean, land trafficking. In my case that didn't happen and that's why I maintain this area. That [land trafficking] didn't only happen in this *caserío*, but at the level of all of [Soritor].

However, this account is contested in the community. The *presidente* of Selva Alegre⁹¹ considered that the farmer had an illegitimate claim because he does not have a proper document to support all the land he asserts is his, which the *presidente* thinks is an exaggerated amount. It was compounded by what the *presidente* believes is the farmer's hypocritical conservationist stance that he thinks is not out of a true environmental concern. The *presidente* explained it in this way:

I tell you one [case about a person trying to get a document for more land than what he owns]...That area there [that he's claiming,] all of the [*Piscina de los Reyes*], he does not have a document from here in the community...but he has a document that the [peace] judge made for him. So, the [peace] judge does not know

⁹¹ Interview 31, Selva Alegre, 22 November 2022.

the problem the plot has here. Sure, we know that it's his plot. Sure, he's conserved it; [although he first] deforested it for 30 years and, after 30 years, he has just begun to reforest. He took all the timber out, all [of it], because he has been a timber trafficker. And so, he's reforesting now, after he took everything out [first.] So, [before going to the peace judge] he came wanting the *teniente* to sign him a document so he [becomes] the landowner of 200 hectares [which the *teniente* refused to do]...a lot [of land], you know? likely taking all the ZOCCRE section.

Apart from a lack of community support to this farmer's land claims inside the ZOCCRE, another, likely more pressing problem that the farmer and his family face is the ongoing litigation with the government. That farmer's family, alongside another family, have formed an association with the goal of exploiting the eco-tourism attractions that can be found in this section of the ZOCCRE. These touristic places are the *Piscina de los Reyes* (Pool of the Kings), and *Aguas Calientes* (Hot Springs), where visitors can come and spend the day swimming in scenic natural waterfalls. The dispute with the regional government arises not directly after the establishment of the ZOCCRE Urcuyacu and its registration in the official Land registry as a property of the regional government, but later when the regional government ceded this section of the ZOCCRE to the Municipality of Soritor. The objective of this transfer was that the municipality could implement its own tourism project, thus clashing with the association's goals of using the same space for their private tourism initiative. Between 2021 and 2022 these families received official letters from the Municipality of Soritor warning them about their status as illegal occupants,

and there was at least one attempt to forcibly evict them with support of the police, which was eventually not carried out. Since then, one of the families has sued the regional government in a civil court requesting that it recognises them as the rightful owners of the land, a case that is pending but that one interviewee, the lawyer from Soritor who used to be a registrar at the official Land Registry and who happens to be the family's lawyer in this case,⁹² was confident of its success.⁹³

The litigation in which these families in Selva Alegre are involved, and the legal advice they have received from a lawyer, has shaped their understanding of what the legal rules are concerning forest protection and agricultural land inside ZOCRES as special areas of heightened presence of the law and the state, through the regional and municipal governments. This means that these farmers, in particular, are more cautious when dealing with the law, but also that they can see other ways in which to use the law in favour of their own goals, in this case their association's tourism venture. For example, the farmer quoted earlier who is the head of one of the families that formed the

⁹² Interview 36, city of Moyobamba, 19 April 2023.

⁹³ The lawyer was optimistic in part because the laws currently in force regarding forest and agricultural land that highly restrict formal property in these forestlands, and that were explained in Chapter 4, did not exist in this form when these farmers first occupied the lands more than 30 years ago. Thus, he thought he could successfully argue that they had acquired property rights to these lands through adverse possession.

tourism association⁹⁴ asserted that he is forbidden from trying to sell the 200 hectares he claims to own inside the ZOCRE ‘because within the state policies it says that if you’re in a [land] that is from the state, [a] ZOCRE, [and] without an [official property] title, the activity of selling to others turns into a crime, that is called trafficking of state lands.’⁹⁵

This case is particularly interesting because, apart from highlighting some farmers’ higher level of awareness of, and compliance with, forest protection laws of the state when being exposed to enforcement, it helps frame how two key themes discussed in Chapter 6 work when conflict arises. One is the importance of local land documents, such as the *compraventas*, and the legitimacy of the person in charge of making them. This case helps to show that documents, not only the physical possession of the land, matter to enact property in a legitimate manner, especially when communities are consolidated. It also shows how the local practices of private law under which these documents are produced, is in need of legitimate authorities or village leaders, who sometimes get themselves into conflict with each other (like between the peace judge and the village leaders, as mentioned by the *presidente*

⁹⁴ Interview 34, Selva Alegre, 23 November 2022.

⁹⁵ As explained in footnote 30 in Chapter 5, there is not properly a crime of land trafficking under Peru’s criminal law, but members of mafias engaging in this activity could be charged with related crimes.

of Selva Alegre)⁹⁶. The other theme discussed in Chapter 6—and foregrounded by this conflict—is the extent, and the limits, of the tenure security that farmers enjoy through their local practices of private law. When conflict arises around property claims, people become subject to land tenure uncertainty that can drive farmers to seek certainty in the law, through a heightened desire to obtain official property titles and appeals to courts for formal property recognition, something that farmers are otherwise mostly unconcerned with in their daily lives as has been shown in Chapter 7. As anticipated by Blandy et al. (2018), during enduring property relations, ‘formal rights...are privileged, perhaps particularly when the relationship is in crisis’ (p. 90).

8.4.4. Seeking strategic refuge in the law in the context of land disputes

Farmers are not only passive receivers of the forest protection laws, which they have to ‘deal with’; they also learn how to actively use the law in an instrumental way for their own benefit. This is the case of the same farmer in Selva Alegre that is litigating with the Regional Government of San Martín and the Municipality of Soritor in a part of the ZOCRE. Due to his closer exposure to the law, he has acquired more legal knowledge that he is now using against a

⁹⁶ See a discussion on the importance of the legitimacy of authorities who make local land documents in Chapter 6. Interestingly, a comparison could be drawn between this type of coordination conflict at the local level, and the problem of lack of interagency coordination inside the government, which has been highlighted as a key aspect of the poor forest governance in the Peruvian Amazon (see subsection 4.3.1.).

*colindante*⁹⁷ with whom he has a different, unrelated dispute. The *colindante* is the *teniente* of Selva Alegre⁹⁸ who complained that the farmer had called the authorities on him when the *teniente* was clearing parts of his own land to cultivate it. According to the *teniente*,

I bought a land near the *Piscina de los Reyes* [but] these were *purmas*⁹⁹...and I converted them to grassland and, what happened? A citizen...reported me [with the authorities]...so I went and I explained in the Prosecutors Office...that this land is *trabajable*¹⁰⁰...and then [people] from the municipality were sent, they [visited the land], and they [reported back confirming that] there is no deforestation here, because it's *purmas*.

The *teniente*'s account highlights two key insights about the inter-legality of this frontier space. First, by stating matter-of-factly that *purmas* are *trabajables*, this interviewee shows another example of how, as forest protection laws permeate the frontier, they become adapted in a way that fits farmers' social norms of land ownership and agricultural production. Strictly speaking, forest naturally regenerated in a forestland is still a natural resource under the law, thus under government control explained in Chapter 4; that is to say, under the letter of the law, the practice of (illegal) agriculture in a forestland may change reality, but not legality. In practice, however, farmers consider that

⁹⁷ Spanish for adjacent neighbour.

⁹⁸ Interview 24, Selva Alegre, 23 November 2022.

⁹⁹ Secondary forests. See footnote 58 in Chapter 5 for more detailed explanation about this term.

¹⁰⁰ The literal translation is workable, meaning that it is a land where it is suitable and legal to do agriculture.

purma management is not illegal. Interestingly, this interviewee's account also speaks about how the government officials in charge of enforcement interpret the law in a similar manner as him, likely because it is a pragmatic way of drawing a clear line between what is allowed and what is not for enforcement purposes, even though it does fit perfectly with the law. Thus, the frontier 'lawscape' in the Peruvian Amazon is not only characterised by having a 'taming' effect in the law in Pruitt's (2014) terms, but also by convergence between the law of the state with the norms of the inhabitants on the ground, and inter-legality context that can also be analysed on its own as a new 'legal situation' (Palombella, 2019, p. 378), or a normative 'hybridity' occurring in a 'third space' (Freedman, 2013).

A second insight from the strategic use of the law of this farmer against the *teniente*, his *colindante*, is the *teniente's* disappointment at his neighbour's behaviour of calling the authorities on him. The *teniente's* sentiment stemmed from what he saw as an intromission in another farmer's legitimate land use decisions, effectively a violation of the Autonomous Farmer social norm under which farmers are recognised as the sole decision-makers inside their properties. 'The [farmer] there wanted that area to remain an area that is not

trabajable, left as a forest...but he was not [trying to] conserve what is his but what is another [person's land],’ expressed the *teniente* in clear frustration.¹⁰¹

On another occasion, this farmer went further with his opportunistic usage of the law against the *teniente*, this time using the state’s water regulations. The farmer had obtained rights from the *Autoridad Nacional del Agua* (National Water Authority, ANA) that gave his tourism association more control to help enforce the legal rules for conserving the *fajas marginales* of a stream that runs between his land and the *teniente*’s land. Unsurprisingly, the *teniente* saw it as another violation against the Autonomous Farmer social norm. He complained about this, saying that

I have [another] problem here. [That farmer] has made himself be appointed [guardian of] the *faja marginal*...and so he’s taking over all my land...How am I going to allow that another person comes to conserve [in my land] if I’m there as the owner? I can also conserve [it]...what bothers me is that another person comes and does what he wants, you know?...If he has his land by the water course, that’s fine, he can conserve the [side] that’s his property [but not my side]. No one has coordinated [with me]. If the ANA had come and convened a meeting in the village and would have said, “listen, we’re delegating in the president of the association [the conservation of the *faja marginal*,” then that would be one thing]. Or if the people [in the village] had wanted it...

¹⁰¹ He further commented on the fact that that farmer was hypocritical, with a similar accusation of engaging in illegal logging as the one brought up earlier by the *presidente*, stating that ‘to the contrary, he was deforesting, cutting down timber!’

The next section delves into the Autonomous Farmer social norm discussed in Chapter 5 that considers farmers as the sole decision-makers in their lands in order to show how some outlier farmers engage in conservation practices, the one instance of forest protection that seems to be universally respected and accepted as legitimate by everyone in the communities in Soritor.

8.5. Conserving the forest as an alternative expression of landownership

There are a few farmers in Soritor who do not deforest their properties for reasons that are different than to comply with the social norm of water protection or as a result of being exposed to the government enforcement of forest protection laws. In a context where the expectation in the villages is that farmers use their lands for agriculture, the fact that these outliers engage in forest conservation highlights the significance of the Autonomous Farmer social norm that underlies all landownership in Soritor. Farmers bring up a form of Blackstone's (1962 [1753], p. *2) 'despotic dominion' approach to property to explain why there are largely no social norms or local rules that direct or constrain farmers' actions inside their properties (except for water protection). It is precisely due to the Autonomous Farmer social norm that bestows in farmers the power to do as they see fit inside their properties, that they also have the right not to use their properties for agriculture at all, leaving the *montañas* standing. This is what some outliers do.

As discussed in Chapter 5, in the early stages of taking land (*coger tierra*) in free *montañas* under the Amazon Settler social norm, farmers are expected to engage in the practice of *trabajar la tierra* (working the land doing agriculture), that also complements the practice of *amparar* in order to maintain a property claim. It highlights farmers' connection of property and labour, a Lockean (1948 [1689]) understanding of ownership that is especially important at the beginning of the occupation of forestlands in these frontiers of the Peruvian Amazon. The link between property and labour remains after the villages are formed and consolidated, but in a weakened form, becoming more of a social expectation of what is normal rather than part of a norm about what a property owner ought to do. This is because, as shown in Chapter 5 and Chapter 6, farmers start relying on the abstract representation of locally-made land documents to provide legitimacy to property—the *constancias* and the *compraventas*—and less on the materiality of *amparar* and *trabajar la tierra*.

8.5.1. 'As long as I live, this forest won't be cut down'

Apart from the family conserving the forest in their property that overlaps the ZOCCRE discussed in the previous section, interviews with farmers revealed unexpected instances where at least two other families in the villages voluntarily conserved the *montañas* inside their properties. One of these

families was in the village of El Lucero. The *presidente* of that village¹⁰² mentioned the case of a farmer that only used a small part of his property to cultivate coffee, and was conserving the rest, ‘about 10 hectares of natural forest.’ He said that in the entire village, ‘he is the only one who has a natural forest.’ And it was not a marginal piece of land where it would be unsuitable or too expensive to cultivate, like a hill with a steep slope or with a rocky soil. As the *presidente* of El Lucero said, the farmer is conserving it ‘...despite the fact that it is a beautiful land to work [for agriculture]...[to give] a good production for coffee.’ Moreover, ‘if you look for him, [and ask him,] “my friend, sell me a *palo*¹⁰³ for timber,” he won’t sell it to you,’ the *presidente* said, highlighting this farmer’s commitment to conserving the forest inside his property. According to the *presidente*, the farmer knows that ‘people need [the timber],’ but, the farmer would say, ‘think about it... in ten years [from now] do you think that that *palo* that I sell to the person now I am going to see [one] of the same thickness? Never again...so as long as I live, this forest won’t be cut down.’ That farmer, who is ‘a founder, an older person [and] a teacher,’ arrived in the 1980s, according to the *presidente*’s recollection, who thought that part of the reason why the farmer may not use all of his land is because ‘he does not need to expand so much

¹⁰² Interview 27, town of Soritor, 16 April 2023.

¹⁰³ Meaning stick, colloquial name for tree.

anymore...his children are professionals, he has three children in the University of San Marcos¹⁰⁴.’

8.5.2. ‘No one will be bothered...because it’s your property’

In Selva Alegre, apart from the families involved in the conflict with the regional government and the municipality discussed in the previous section, there is another family that is purportedly protecting the forest inside their property, which does not appear to be related to the ZOCRE. ‘For example, the Gaslac have like 20 hectares of a forest, here...[it’s] a beautiful forest’ said the *presidente* of the village¹⁰⁵, mentioning that that family also have some *chacras* inside their property. ‘[The] father bought one part of [the land] in 1983, and the other part in 1986...most of it was *montaña*,’ explained the *presidente*, mentioning that they are ‘engineers’, likely implying that the family no longer lives permanently in Selva Alegre, nor are they full-time farmers. He elaborated on that family’s rationale for conserving their *montaña*:

I mean, their motto is to conserve the forest...they won’t sell you a single tree; they have tons of timber...they had made *chacras* in a section and they maintain that by managing the *purmas* and grasslands, [in the section where] they had deforested before. And they have agreed not to cut down the forest more [than that]. That forest

¹⁰⁴ To put this comment into context, the *Universidad Nacional Mayor de San Marcos*, in the capital city of Lima, is the oldest public university of Peru (and the Americas) and is the most selective amongst the public universities of Peru. So, to mention it is a sign of prestige (although not necessarily of wealth, as the middle or upper classes usually prefer sending their children to private universities that have better infrastructure and resources).

¹⁰⁵ Interview 31, Selva Alegre, 22 November 2022.

they will save it there, moreover, they will reforest some parts, said to me his brother...so it remains for the third generation, and then they'll see [if] they keep on conserving it [or if] they work it.

When asked if this was a normal behaviour, the *presidente* of Selva Alegre¹⁰⁶, instead of discussing the question in terms of how frequent it was, he took it to mean whether it was acceptable in the community. He responded clearly that conserving the forest in one's own property was completely acceptable because 'that's why it's your land.' He elaborated:

for example, you have a property...you're autonomous in what you can or cannot do in [it], [so] if [a farmer] says, "you know what? I don't want to touch or cut down a single *palo*," he [of course] can conserve them...no one [is going to criticise that] because it's yours, it's your property...no one will be bothered [by that decision]...because it's a property, right? It's a property and, you know, as an owner, you do what you want, you are autonomous...there are no rules of the community about this, because it's known that it's property, right? And that's what the law says.¹⁰⁷ So, it's not that the community has agreed to, for example, "let's conserve there, or you, don't use [your land] like that"

¹⁰⁶ Interview 31, Selva Alegre, 22 November 2022.

¹⁰⁷ It is interesting that this interviewee brings up the law to support the individualistic view on property under the Autonomous Farmer social norm. By placing private property above all else, it shows another example of how inter-legality works in this area to form a frontier 'lawscape' that 'blends in' the local ordering with the law.

8.5.3. 'At the beginning...if you abandon your land [other people] would enter...but not anymore'

An interview with a farmer from Jericó¹⁰⁸ about the relative importance of *amparar* to enact property helped clarify why farmers can feel untroubled of leaving the forest standing inside their properties. As discussed in Chapter 5, to enact property initially, the physical practices of *amparar* and *trabajar la tierra* under the Amazon Settler social norm are very important. 'At the beginning, yes, of course [it's necessary]! If you abandon your land, right away [other people] would enter, make [a] *chacra*, and they would stay there [taking the land for themselves],' explained this farmer. 'But not anymore,' this farmer confirmed, saying that, currently, you can go away years, leaving your land behind without cultivating it, and 'when you come back, your land would be there...nobody would take it...because it has an owner...and we respect that.' Not only that; according to him, it would also be unlikely that someone would come to that land for hunting or logging, '[maybe they would enter to hunt] a bird around there...or [to cut down] a *palo*, perhaps...but not to take possession [of the land], of course,' he explained. This shows how land tenure security eventually becomes detached from using the land for agriculture, another

¹⁰⁸ Interview 41, Jericó, 12 July 2023.

example of the dynamic ways in which private property changes through time in enduring property relations (Blandy et al., 2018; see also Valverde, 2014)

The three accounts of what can be called ‘autonomous conservation’ reviewed in this section are interesting not only, or mainly, because they seem to be uncommon, but because they reflect a widespread understanding amongst the fellow villagers that these outliers’ actions are entirely legitimate. To be sure, conserving the forest in Soritor for reasons other than to comply with the social norm to protect the water or when exposed to forest protection laws, is not especially favoured by farmers, nor is it expected. However, as the accounts in this section show, fellow villagers not only tolerate but also validate and even endorse the autonomous conservation practices of these outlier farmers. To put it in Rose’s (2013, 2022) terms, these accounts of the outlier farmers that conserve their forests are interesting because of what they say about the non-owners¹⁰⁹ (‘an outside-in’ perspective), even more so than what they say about the owners (the classical ‘inside-out’ perspective). The discourse of these non-owners’ that validates the practice of autonomous conservation is relevant as it provides legitimacy to alternative ways of using private properties in these frontiers. And the others’ rejection of the idea that someone that is not the owner could use those lands, taking them by force, for example, provides more

¹⁰⁹ Non-owners of that specific land being conserved, but owners themselves of other neighbouring lands, which likely has a huge bearing in how they conceive ownership rights in these forest frontiers.

evidence of the strength of the tenure security provided by the social norms and local practices of private law to enact and transact property in Soritor studied in Chapter 5 and Chapter 6.

8.6. Conclusion

This chapter has explored three situations in which farmers, who normally convert the forest inside their properties into agricultural plots causing significant environmental impact, engage in conservation. In this context of environmental degradation, farmers can engage in forest conservation practices inside their own properties in three main circumstances: to comply with a social norm to protect the water, to comply with forest protection laws and regulations from the state (in particular inside zones especially designated for environmental protection), and, in a few cases, as part of autonomous decisions of outlier farmers. The analysis of my data suggests that farmers are reluctant towards forest protection rules from the community and the state. In contrast, farmers deeply respect the outlier farmers that autonomously decide to conserve the forests inside their properties, even though it runs contrary to the expectation that farmers will use their lands for agriculture (e.g., *trabajar la tierra*). The reason is that these forest conservation actions, although rare, fit well with the overarching social norm discussed in Chapter 5 that recognises farmers as the sole decision makers over their properties, the Autonomous Farmer social norm.

The findings discussed in the chapter point to two important aspects of inter-legality in this frontier space in the context of environmental rules. The first aspect is that, in important cases, the communities of Soritor find it necessary to call upon the enforcement power of the state to implement their social norm of maintaining the forest to protect the water, adding to other examples in Chapter 5 and Chapter 6 whereby the communities seek out the state to be able to function and to provide services, including those related to consolidating private property through local land documents. The second aspect is that the law of the state does not only permeate the frontier space in a weakened form (Pruitt, 2014), but also that there is a ‘blending in’ effect where farmers’ and government officials’ understandings of the rules converge, such as in the case of the protection of the water sources or the legality of clearing the *purmas* for agriculture, even if they are inside areas designated for environmental protection. This ‘hybridity’ points to a normative ‘third space’ that can be analysed as a ‘legal situation’ on its own (Freedman, 2013; Palombella, 2019).

Finally, the fact that some outlier farmers autonomously decide to conserve the forests inside their properties points to two important considerations for deforestation studies. One, and perhaps the least important because of its rarity, is the acknowledgement that in the highly deforested agricultural frontiers there are some people who wilfully decide to maintain the

forest standing, going against their own economic interests. Two—and the most important due to its potential for improving our understanding of deforestation processes—it provides more evidence to the argument put forth in Chapter 6 that property in this frontier dynamically changes, a temporality dimension that matters for socio-legal studies and legal geography (Blandy et al., 2018; Valverde, 2014). After a community has been established, the strength of tenure security, and the legitimacy of property, originates less from the materiality of possession (i.e., through the practices of *amparar* or *trabajar la tierra*) and more from the communities themselves, through its local land documents, such as the *compraventas*, and the relational idea that ‘we all know who the owners are.’ This provides a more nuanced understanding of the mechanisms of enacting property in the agricultural frontiers of the tropical forests, which several deforestation studies reviewed in Chapter 2 assume largely involves clearing the land (e.g., as a signal to others, or to physically defend landownership) (see, e.g., Araujo et al., 2009; Liscow, 2013; Mendelsohn, 1994).

Importantly, the same empirical observation demonstrating the dynamism of private property in this frontier space should also make us wary of assuming that the current widespread respect to autonomous conservation will remain static. It would be reasonable to question, for example, whether there will come a time when a farmer starts to slowly encroach on the forest of a neighbour who has been (too) long gone. Moreover, we could also speculate

whether the legitimacy of property would be affected if the state changes its current land titling laws in order to grant official property titles in forestlands (as it is attempting to do with the legal modifications, partially prompted by the EUDR, which are currently on hold pending judicial review)¹¹⁰. Further, if in the future most of the lands in Soritor were to become legible to the state through the granting of official property titles, it may prompt more outsiders to buy land in the villages, which could change their internal cohesion or common understandings around property, thus diluting or changing the social norms and local practices of private law related to property explained throughout this thesis. These questions and speculations are helpful to recognise more seriously that the dynamic dimension of property is an ongoing condition in a frontier space like Soritor and many other parts of the Peruvian Amazon that are actively in flux.

¹¹⁰ See footnote 19 in chapter 4.

9. CONCLUSIONS

9.1. Introduction

The objective of this thesis is to understand how property and deforestation are interrelated in the agricultural frontiers of the Peruvian Amazon, by studying how state law and non-state norms are applied in practice. I carried out a case study of small-scale farmers who illegally occupy the forestlands of Soritor, a district in the *selva alta* (high jungle) ecological zone of the Peruvian Amazon, using local private property arrangements. These farmers migrated from the impoverished Andean highlands looking for available land to improve their livelihoods. They are part of a larger process of migration and occupation throughout the Peruvian Amazon that involves almost half a million small-scale farmers (Robiglio et al., 2015) and that is considered the most important direct driver of deforestation in the country (Ministry of the Environment of Peru 2016).

To address the broader research question of how state law and non-state norms surrounding private property are implicated in the deforestation of the Peruvian Amazon and its transformation into an agricultural frontier the thesis was guided by more specific questions. These concern how farmers in Soritor enact and use private property on the basis of state law and non-state norms, how those state law and non-state norms are implemented in practice, how they

interact and are understood by farmers, and how they are linked to the formation of communities and a deforested landscape that configures an agricultural frontier in the Peruvian Amazon. Building on the literature reviewed in chapter 2, these questions have been addressed throughout chapters 4 to 8 of the thesis that present the analysis of my empirical data. They produced findings that help fill the gaps explained in chapter 2, which arise from the legal and socio-legal scholarship on property and from environmental studies on tropical deforestation. These areas of scholarship have overlooked rural private property dynamics in frontier spaces in the Global South, such as the Peruvian Amazon, especially lacking qualitative research that can provide contextual understanding of private property operates on the ground and interacts with tropical deforestation.

This concluding chapter 9 sets out the overall argument of the thesis, which is that property and community are co-constituted in a context of inter-legality, configuring the agricultural frontier of the Peruvian Amazon. The chapter is divided into five sections. Section 9.1. briefly revisits the research problem and questions, and it explains the organisation of the chapter. Section 9.2. synthesises the key findings of my research. Section 9.3. elaborates on the contributions of the thesis to socio-legal studies on property and environmental studies on tropical forest governance. Section 9.4. discusses the possible

implications of my findings for deforestation policies. Finally, section 9.5. reflects on the limitations of the thesis, and the potential for future research.

9.2. Main research findings: co-constitution and inter-legality in the agricultural frontiers of the Peruvian Amazon

The thesis has produced a novel contextual understanding of property in the context of tropical deforestation in Peru. The findings from this research point to a frontier landscape where private property is enacted in a co-constitutive manner with community and deforestation through an interplay of state and non-state norms. The following subsections synthesise both findings—the co-constitution of property, community and deforestation, and inter-legality—which together configure this agricultural frontier of the Peruvian Amazon.

9.2.1. The co-constitution of property, community and deforestation

In Soritor, migrant farmers act according to individualistic social norms of property. One of these social norms allows persons that reach ‘free’ *montañas* (virgin forests) to claim private property to a large plot of land. I call this the Amazon Settler social norm. Farmers follow three practices to implement this social norm: *coger tierra* (taking land), *amparar* (staying around) and *trabajar la tierra* (working the land for agriculture). All of them imply performing physical actions that respond to the conditions of the space itself, such as demarcating with trails the boundaries that need frequent maintenance due to

the fast tropical forest regrowth, maintaining semi-continuous presence in order to be able to come and go frequently because of lack of supplies in the forest, and only partially farming a few sections of the initial large plot as clearing the tropical forest and cultivating it is resource-intensive.

The Amazon Settler social norm shows the important ways in which property norms are deployed spatially. In this context, having a legal geography ‘disposition,’ helps shed light into the co-constitutive nature of norms and space (Blomley, 2021, p. xvii; see also Braverman et al., 2015). The practices involved in the Amazon Settler social norm constitute a distinct space, creating private property in what was, in practice, seen as a *terra nullius*, while, at the same time, the Amazon forest shapes the concrete physical actions that are integral to the Amazon Settler social norm. And these social practices of the Amazon Settler social norm also provide concrete examples of key concepts in the legal scholarship of property regarding possession and legitimacy. Rather than attempting to communicate an entitlement to property to the ‘entire world,’ the physical actions of possession to enact property in this frontier area of the Peruvian Amazon are directed specifically at other farmers, who have a shared understanding and respect of the Amazon Settler social norm, thus highlighting Rose’s (1985) concept of possession as a tailored communication device. And, the practice of *trabajar la tierra* that is also part of this social norm, closely follows Locke’s (1948 [1689]) idea of the legitimacy of property emanating from

labour in the form of cultivation, which in this context does not immediately involve complete land clearing, but rather a progressive expectation of active use of the land for agriculture.

Enacting private property in this way, and then using it, is shaped by an overarching social norm whereby farmers are the sole decision-makers on their lands, the Autonomous Farmer social norm. According to this social norm, farmers see their properties as their ‘despotic dominion’ that reflects a Blackstonian (1962 [1753], p. *2) understanding of property and, thus, largely not subject to any possible social norms or local rules in the community about, for example, how to use it, whom to sell it to, or whether to deforest it and to what extent (except in a few circumstances such as to protect the water as further discussed in Chapter 8).

However, what at first sight looks like a very individualistic ethos of ownership (and agricultural production), is only made possible by the collective actions of the communities that begin to emerge as part of the increasing occupation of the frontier space. They take the form of collective work, organised by newly elected village leaders, to develop useful infrastructure like roads and schools that help make the properties more productive by allowing farmers to sell their agricultural commodities, and to bring their entire families and having a full-time presence in the area, spending more time and resources cultivating their plots. At the same time, these collective actions further

encourage more immigration and deforestation, leading to the consolidation of villages. In these villages, farmers claim a common knowledge in the community about who owns what, that speaks to a relational approach to property where it is the rest of the community who are very important in legitimising each owner. This relational approach to property provides a good example of Rose's (2013, 2022) 'outside-in' perspective, which challenges the more traditional view of property as solely a bundle of rights under a 'despotic dominion' where the owners are the lead actors in property arrangements.

Further, the community also provides legal services that become instrumental in legitimising farmers' private properties and that demonstrate a co-constitutive relationship between property and community. Using local practices of private law, village leaders make land documents, such as the *compraventas*, that are perceived as legally valid and legitimate by farmers transacting land. The documents themselves become particularly valuable in a material form, as they are accumulated and conserved by each subsequent owner and are required during the land transactions. As an old resident in the village of Selva Alegre¹ put it to me: '[to know who owns land] there are two ways...from the papers, and also from the same owners whom we know here.' In Soritor, the co-constitution of property and community also involves the

¹ Interview 33, Selva Alegre, 17 April 2023.

making of authority in the form of the village leaders. As Sikor and Lund (2009) noted in a different context, property and the political authority of the state engage in a ‘contract of mutual recognition.’ In Soritor, instead of serving to configure the political authority of the Peruvian state, the reciprocal legitimacy between the property claimants and the authority is located principally at the micro-level of the villages and its leaders.

To better comprehend how property is understood and conceived of in Soritor, it is important to consider a temporal dimension (Valverde, 2014), analysing property through a dynamic approach where the enduring relationships that support and legitimise it, change over time (Blandy et al., 2018). In Soritor, the *compraventas* signal an understanding and legitimising mechanism of property that transits from the materiality involved in the practices to enact property under the Amazon Settler social norm during the first stages of occupation, to a more abstract representation in land documents. The dynamism and transformation of the understanding and legitimacy of property, from relying mostly on the physical possession to a system grounded in documents, can also be appreciated by the fact that the properties of the outlier farmers who do not follow the *trabajar la tierra* practice anymore, and conserve the *montañas* (primary forests) inside their properties, are nonetheless deeply respected in the community.

As the properties and the communities consolidate, the forested landscape slowly but surely changes. What was once a lush tropical forest, formally under government control but in practice considered a *terra nullius*, gives way to an agricultural landscape of private property owners. Only few patches of *montañas* in hilltops can be seen near the villages, wildlife has ‘[gone] away, higher up,’² and most of the valuable timber has been cut down, replaced by rows of coffee and cocoa plants, temporary forest regrowth in the *purmas* (secondary forest), and some non-native timber plantations of trees like eucalyptus. As the next subsection explains, a new place has been configured by the interconnection of state and non-state norms related to property: an agricultural frontier in the Peruvian Amazon.

9.2.2. Inter-legality in the agricultural frontiers of the Peruvian Amazon

Inter-legality is deeply woven into the co-constitution of property, community and deforestation in Soritor. The *colonos* that initially reach the free *montañas* enact private property using the Amazon Settler social norm, disregarding the cumbersome Peruvian agricultural land and forest laws studied in Chapter 4. According to these legal rules, private property rights can only be recognised in lands classified as agricultural, as forestlands are deemed natural resources under the control of the State, where land use change, i.e., deforesting the land

² Interview 23, Aguas Calientes – Selva Alegre, 14 April 2023.

to convert it to agriculture, is forbidden. Farmers' disregard for these legal rules is facilitated by the law's characteristic tameness in the rural 'lawscape' (Pruitt, 2014), which in Peru is particularly salient by a state incapable of enforcing its agricultural land and forest laws at the national and regional levels of government.

But farmers cannot completely escape the law, and in fact necessitate and call upon it and the support of the state in various instances. One is to get the support of the municipality or the environmental prosecutor to enforce their own water protection social norm by which farmers are expected to leave standing the *montañas* near water sources and courses. Another instance is to legitimise their own village leaders, the *presidente* and the *teniente*, who, under the laws and regulations concerning municipalities and the Ministry of the Interior,³ are elected through a specific procedure and then are formally accredited through a resolution of the Municipality of Soritor and the Ministry of the Interior, respectively. It is only once they get 'their stamps as accredited [village leaders]'⁴ that they can make petitions that further help consolidate the community, such as to get financial support for building a road or getting a schoolteacher, for example. This official accreditation is also perceived by

³ See *Ley Orgánica de Municipalidades* (Organic Law of Municipalities) (2003), and the *Reglamento de Organización y Funciones de las Autoridades Políticas* (Regulations of Organisation and Functions of the Political Authorities) (2007).

⁴ Interview 30, El Lucero, 13 April 2023.

farmers as important to provide them with the legitimacy to produce the local land documents, such as the *compraventas*, that consolidate farmers' properties.

The *compraventas*, a prime example of the tight recursive relationship of property and community in Soritor, also showcase the flexible way that farmers engage with the law. The land transactions using the *compraventas* mirror the basic legal rules of Peru's private law on contract and real property, although with adaptations that deviate from the state law, including the fact that making these local land documents falls outside the purview of the *tenientes*. In the eyes of a doctrinal lawyer, they would be seen as invalid, and *tenientes* have been instructed not to make them by government officials, but these warnings are reinterpreted, or they are largely not heeded due to pressure from fellow farmers in the community who see it as an inherent task of the *tenientes*.

Compraventas contain information that provides legibility to landownership that is useful for farmers but also the state. The *compraventas* made by the *tenientes*, or the *compraventas* with more complex legal language made by the peace judges called *escrituras*, cannot be registered in the official Land Registry of the Peruvian state, which is exclusively for land transactions involving official property titles. Despite this (or in part because of it), the original copies of the *compraventas* are closely kept and preserved by farmers, the *tenientes* and the peace judges, creating an informal and distributed 'system' of land registration, containing information that is highly trusted by farmers.

Importantly, in some instances, the Peruvian state uses the information in this 'system,' which effectively complements the one in its official Land Registry, to accomplish some of its development and ordering policy goals in the frontier space, such as when government officials require farmers to submit their *compraventas* to access government agricultural loans, or before issuing *constancias de posesión* (certificates of possession) as part of the land titling process.

As previously argued by Scott (1998) in other frontier contexts, when states deploy their ordering efforts in these spaces they eventually find themselves in need of 'some elements of the practical knowledge that [they] tend to dismiss' (p. 7), which in the case of the Peruvian Amazon frontier is the local land documents and the information they store. The effort of ordering the rural space through property legal rules is an ongoing project in Peru, from the colonial land regularization system of the *composición de tierras*, to the *montañas* laws of the early republic at the turn of the 20th century, and the current land titling laws, regulations and the on-going programmes setup to implement them. Trying to make legible the space to the state seems like a never-ending project as in some cases re-ordering has become necessary because of the 'stubbornness' of the non-state norms of property, such as in an area neighbouring Soritor where farmers had previously received official property titles. There, the state is deploying a titling programme again because

the area fell back into 'disarray' after farmers kept using their *compraventas* instead of legal rules of the state for their land transactions that include using the notary public and the official Land Registry.

Farmers navigate and manage an inherent normative tension in this frontier space. Farmers perceive that their local *compraventas* are legally valid and provide tenure security in their daily lives. But, at the same time, they acknowledge that official property titles may be placed higher on a legality scale. And some are reluctant to accept the legibility of the state with its legal rules of property, including showing scepticism towards the new agroforestry concessions that formalises their land tenure subject to complying with environmental conditions, which some believe may put them at risk of physical expropriation. Even the few farmers who have official property titles display workarounds and avoidance tactics in relation to some of the consequences of this state legibility in order to not pay land and income taxes; political ecologists have previously reported similar tactics in other frontier contexts, as well (see Li, 2007b; Scott, 1998).

The state and its officials too perceive and navigate the normative tensions, displaying creativity and the flexibility to accommodate to the realities of property on the ground (and the social norms and local practices of private law that enable them). The state's creation of a special kind of official certificate, the *constancia de productor agrario* (certificate of agrarian producer), a legal

fiction that officially acknowledges farmers and farming, but not their land ownership claims, is a good demonstration of how the state creatively manages the normative tension. This is accompanied by flexible implementation of legal rules, such as when the medium-level official at the regional government handles requests for *constancias de posesión*. Instead of always doing the prior on-site visits legally required, he makes some exceptions for the people whose lands he is already acquainted with in order to help poor farmers avoid paying unnecessary administrative fees or to get an agricultural support programme ‘running’⁵ faster. The peace judge applies a similar flexible approach to the on-site visits he is mandated to do to make his land certificates, but he is faced with coordinating with the *presidentes* and the *tenientes* in the villages so as to avoid confusion with the local land documents. This local coordination is not required by the legal rules, but it is a practical solution recommended by officials from the Judiciary that coordinate peace judges’ work.

‘Blending in’ and convergence of legal interpretations are also characteristics of inter-legality in this agricultural frontier of the Peruvian Amazon. Farmers’ water protection social norm and its local rules, which are similar to the environmental rules in the forest and water laws of the state that restrict cutting down forests in waterheads and alongside water courses, show

⁵ Interview 37, city of Moyobamba, 25 November 2022.

how both sets of norms blend in in the frontiers, where farmers sometimes are unsure of their state or non-state origin. And inter-legality is also demonstrated by convergence of understandings of the legal rules, as in the case of how the *purmas* (secondary forests) are perceived to be ‘fair game’ for cultivation by both officials and farmers, despite the fact that this does not strictly follow the letter of Peru’s forest law that considers forestlands, even those currently deforested, as protected and not subject for cultivation

In this agricultural frontier of the Peruvian Amazon, all of these dynamic ways in which the state and non-state norms interconnect reveal a characteristic inter-legality context (de Sousa Santos, 1987; Twining, 2012). In it, farmers demonstrate different attitudes towards the state law such as (re)interpretation, tactical avoidance, or flexibility, exercising some agency in navigating it and taking advantage of the porosities and interconnections of the state and non-state norms (Walker, 2022). But, somewhat reluctantly, the state also finds itself in need of engaging with the farmers’ non-state norms of property, and thus collaborating in creating a hybrid ‘legal situation’ in a ‘third space’ (Bhabha, 2012; Freedman, 2013; Palombella, 2019; Young, 1995), where the state and non-state norms on property and the environmental are best comprehended and apprehended at their intersection, rather than independently.

9.3. Contributions to scholarship

These empirical findings contribute to the socio-legal scholarship on property by providing an in-depth account of how private property in land is enacted, consolidated, transferred and used in a modern frontier space in a rural area of the Global South. Specifically, this thesis makes three main contributions to socio-legal studies:

9.3.1. Applying a relational and dynamic approach to studying private property in a frontier area of the Global South

First, this thesis demonstrates the value of using a dynamic and relational approach to studying property (Blandy et al., 2018; see also Rose, 2013; Rose, 2022), alongside a legal geography disposition in the rural 'lawscape' (Blomley, 2021; Pruitt, 2014), to better understand how a new place, the agricultural frontier in Soritor, is configured through the interactions of state and non-state normative practices of property. In doing so, it responds to the calls from legal pluralism scholars to look at social norms beyond contexts of disputes (Guevara, 2009; Merry, 1988), such as those of 'property,...[and] contracts...in everyday life' (Guevara, 2009, p. 62). This has allowed to uncover social norms, such as the Autonomous Farmer, that share similarities to those in other rural contexts, such as the 'live and let live' norm in Ellickson's (1994) study of ranchers in faraway Shasta County, California, although with a different focus: not on how this norm helps manage disputes without the law, but on how it underlies the

enactment of private property in the first place, and how it helps co-constitute property and community, configuring a distinct place.

9.3.2. Introducing new geographies of rurality into socio-legal studies and legal geography

Second, this thesis enriches the socio-legal and legal geography scholarships that had been less preoccupied with studying rurality (Pruitt, 2014). And it expands on the newer work that has started to look at property in rural areas through historical and critical lenses, based on analyses of common law jurisdictions (see, e.g., Byer, 2023; Clark & Page, 2022; Graham & Shoemaker, 2023), by focusing on a contemporary case study in a developing country with a civil law tradition where the state has a powerful position to enact detailed legal rules to control natural resources, such as forests. In doing so, the thesis has also expanded the Peruvian socio-legal scholarship into a different geography and thematic interest by studying non-indigenous peoples' land practices in the Amazon context.

9.3.3. Furthering connections between law and economics and socio-legal studies

Third, and resonating with Ellickson's interdisciplinary ambition in 'Order Without Law,' (1994), this thesis also brings together insights from socio-legal studies and from economics, in this case related to forest governance, showing

interconnections that are brought to light especially in frontier contexts of the Global South. They include the broader theme of this thesis, private property and deforestation in spaces of inter-legality. More specific themes studied in this thesis that are key in the law and economics and law and development scholarship (see, e.g., de Soto, 2000) regarding land titling, also show these interconnections, and challenge presumptions about what constitutes tenure security, and what may be its economic effects in terms of access to rural credit or disposition to invest in the land. The thesis also contributes to related issues important in economics, such as international trade, particularly in the context of the new zero-deforestation rules of the EUDR (2023) that incorporates requirements about legal land tenure of the farmers who produce commodities like coffee destined to the European Union market. As argued elsewhere (see Peña Alegría, 2024), international trade rules like these should look beyond the state law and consider the socio-legal realities of rural property in the countries they are targeting, such as Peru.

In addition, the thesis makes three contributions that are particularly useful for the environmental studies on tropical deforestation:

9.3.4. Foregrounding private property arrangements in tropical forests based on non-state norms and inter-legality

First, this thesis adds to the existing literature that has been advocating for paying attention to non-state norms as a source of land tenure security (see, e.g., Aldashev, 2009; Larson, 2012; Robinson et al., 2014), and thus de-centring the official property titles and the state law as the sole source of it, which some socio-legal scholars have also been arguing for when analysing informal urban settlements (see, e.g., Van Gelder, 2010). This helps provide more nuance to the empirical studies that seek to understand the causality between private property and tropical deforestation using econometric methods that assume property in binary terms (having it or not, using official property titles as the proxy of ownership and tenure security). Further, this thesis provides a view of social norms and local rules in the context of private property arrangements in forests, contrasting with the more prevalent Ostrom (1990) framework of considering them mostly as part of common-pool management systems. To be sure, I find that the non-state norms studied in this thesis are part of an occupation of the Amazon forest that has negative environmental consequences (except in a few outlier cases), unlike Ostrom's (1990) examples that highlighted how non-state norms in common-pool resource arrangements can lead to sustainable outcomes. But, perhaps precisely because of these environmental trade-offs, it is important to put the focus on understanding non-state norms

and inter-legality in forest contexts that shape property arrangements beyond common-pool regimes, such as private property.

9.3.5. Enriching property studies in political ecology using a socio-legal lens

Second, the emphasis on non-state norms and inter-legality in this thesis finds common ground with the political ecology scholarship on land tenure and tropical deforestation, by complementing it. Many of the qualitative empirical studies on this topic have been instrumental in providing better understanding of the relevance of non-state norms (see, e.g., Cronkleton & Larson, 2015; Larson, 2012; Shanee & Shanee, 2016) or power asymmetries, including land dispossession by the state and corporations (see, e.g., Dammert, 2017; Lund, 2021). Driven by the same overarching inquiry of ‘what people...are actually doing?’ (Li, 2007a, p. 280), this thesis focuses the attention on normative arrangements in practice in deforestation contexts but maintaining an eye towards how the law is supposed to work in a particular place that is only possible by a thorough understating of the particularities of the legal framework, for which legally trained scholars can be well-suited (Bennett & Layard, 2015).⁶ Using this approach, this thesis went beyond the land dispossession narrative to unveil a complex inter-legality context, driven by

⁶ While remaining cautious not to fall into a ‘law first’ approach, which has been identified as a challenge for legally trained socio-legal scholars interested in property law (Blandy, 2015).

small-scale farmers with some agency over the property norms, which is also tied to the making of a deforested agricultural frontier.

9.3.6. Adding new empirical knowledge on how deforestation operates in agricultural frontiers of tropical forests

Third, this thesis contributes concrete empirical knowledge that had not been previously presented in environmental studies related to tropical forest governance. It shows that, in this type of agricultural frontier, enacting private property precedes substantial deforestation; that is to say, that the small plots of deforestation in a new agricultural frontier observed in satellite imagery, are in fact patches of cultivation within much larger plots of private property that have been already enacted in the *montañas*. The thesis also found that, to a large extent, access to formal credit by farmers does not necessitate official property titles, as *compraventas* are accepted. Importantly, to assess creditworthiness, financial institutions consider both types of land documents, official and local, as secondary to the farmers' physical presence on the land, and the collective knowledge in the community about who the owners are, as well as secondary to the phytosanitary conditions of the crops. Finally, the thesis unveils property social norms, practices, and local rules that play a major role in configuring a deforested landscape, which had not been explicitly reported before as such: the Amazon Settler social norm and its *coger tierra*, *amparar* and *trabajar la tierra* practices; the social norm to protect the water and its specific rules for

hilltops and water courses; and, the overarching Autonomous Farmer social norm.

9.4. Policy implications

All of these findings and scholarly contributions pave the way for better evidence-based environmental policies to tackle the problem of tropical deforestation in the Peruvian Amazon. They show that some policy expectations, such as that tenure security stems (only) from the state's legibility through official instruments such as property titles or the new agroforestry concessions, is misguided. As is considering that farmers will be drawn to them because it is the only way in which they can access credit. Or that farmers see only upsides in obtaining official legibility.

Most importantly, the findings of this thesis point towards questioning the public law approach of the Peruvian government towards trying to curb deforestation exclusively through more stringent regulation and supervision. Discussions around increasing penalties or putting more strict legal rules seem fruitless in a context where those legal rules seem unenforceable in practice, if only because of the impossible magnitude of the task where, today, almost half a million farmers practice agriculture in what formally constitutes illegal occupations of forestlands. In light of the findings of this thesis, Peru's environmental policy should look more seriously at how non-state norms

related to agricultural land and forests are used on the ground in the Peruvian Amazon today in an inter-legality manner, to meet farmers on their own spatial and normative terms. The state could formally allow broader administrative discretion to government officials on the ground and re-design the law in a way that incorporates or recognises farmers' non-state norms and local practices of private law and help reorient them towards more sustainable goals. It could also entail recognition and support to farmers who engage in sustainable practices on the ground, with subsidies or financial incentives, even if they lack official property titles or agroforestry concessions.

9.5. Limitations and future research opportunities

The limitations of this research have been addressed in the methodology chapter.⁷ They concern the sampling criteria, practical constraints during fieldwork such as weather conditions or time availability of interviewees, and the extent to which the findings can be generalisable to the rest of the Peruvian Amazon, considering the particularities of Soritor. As discussed in the methodology chapter, the potential for direct generalisation is impacted by three specific factors that differentiate Soritor from other parts of the Peruvian Amazon, namely: (1) the absence of indigenous peoples' collective lands and the lower deforestation rates compared to other deforestation hotspots where it is

⁷ See section 3.6.

currently rising, (2) the absence of criminal activities related to mafias that are more meaningful deforestation drivers in some other areas (i.e., illegal mining or coca cultivation), and (3) the ecological configuration of Soritor, a mountainous *selva alta* (high altitude jungle), that is not amenable to large-scale mechanised farming for crops related to deforestation such as oil palm, unlike other regions of the Peruvian Amazon in the flat, low-lying *selva baja* (low altitude jungle).

However, the findings from this case study have potential to offer important analytical generalisations (Yin, 2018) related to the idea of co-constitution of property, community and deforestation in a context of inter-legality, which are useful to improve our understanding of how agricultural frontiers in the Peruvian Amazon come to be. As shown in the discussion about my field site in the methodology chapter,⁸ the context of occupation of forestlands in Soritor by migrant small-scale farmers is widespread throughout the Peruvian Amazon, and it is the main driver of deforestation in the country. Further, researchers studying different parts of the Peruvian Amazon describe the same migration patterns in search of available land that they take as their private property (Bennett et al., 2018; Robiglio et al., 2015; Shanee & Shanee, 2016), even producing the same local land documents, like the *compraventas*

⁸ See section 3.2.

(Chicchón et al., 1997). Thus, the two analytical categories extensively argued in this thesis, the co-constitution of property, community and deforestation, and its inter-legality context, are very likely also important to help understand better other agricultural frontiers of the Peruvian Amazon that share these underlying characteristics of small-scale agriculture by migrant farmers (or even in other tropical forests of the Global South where agricultural private property is a prevalent type of ownership arrangement on the ground). Put simply, in light of this thesis' results, socio-legal and environmental studies scholars should consider analysing the environmental transformation of this type of rural frontier spaces beyond the lens of lack of enforcement or poor forest governance or unjust capitalist appropriation, but of dynamic private property relations where people are actively navigating the state law and their own non-state norms.

There are various opportunities for future research that builds on the findings and insights of this thesis. Additional case studies or comparative analyses of other agricultural frontiers in the Peruvian Amazon could help confirm or challenge the findings of this thesis or provide nuance to them that correspond to the particularities of those other contexts (such as when indigenous collective lands, or criminal activities are present). Socio-legal research more interested in the inner-workings of the public administration could turn the focus to the practices of the officials in the agricultural frontiers,

to understand further how some features of inter-legality, such as legal flexibility and accommodation to social norms and local rules, operate and are transmitted within the state apparatus. Longitudinal studies in these agricultural frontiers could incorporate questions about property enactment and use, to understand their long-term trajectories and changes, having a more profound look at the dynamic and temporal dimensions of property. Finally, prospective policy analyses concerned with the effects of governmental efforts, such as land titling, or of new international legal rules, such as the incoming implementation of the EUDR (2023), could investigate how they will affect (and be affected by) the non-state norms and the inter-legality features of the agricultural frontiers of the Peruvian Amazon like Soritor.

Epilogue

When I returned to Oxford after field work, the Centre for Socio-Legal Studies had gone through a spatial rearrangement and new ‘hot desks’ had been created. Before, I had been assigned a specific desk with my name tag, but this time I was instructed to use the ‘hot desks’ space, available to anyone affiliated with the Centre in a ‘first come, first served’ basis. As an everyday user of the Centre, I found this somewhat stressful. I started to come early to try to get the same desk, where I placed some books that I did not need, and left a particular mug that I did not quite use. The chairs in that space were not equally comfortable, so I also made sure to always use the well-cushioned one, and to leave a light jacket on its back. As the weeks and months passed, people must have noticed that I was the frequent—and rather only—user of that particular desk and chair, and they began to acknowledge it as ‘my’ place. I later realised that like the farmers I was studying, I was performing physical practices to try to enact a private property right to that specific space, contrary to the stated rule. I confess to this ‘bending’ of the rule not because it makes for a quirky anecdote of PhD life (although it does), but because it opened my eyes to noticing that the dynamic, relational, spatial and inter-legality features of property arrangements can be appreciated everywhere, even at the microcosmos of a graduate socio-legal study area.

I started this thesis using a different anecdote that is more important than this one. In it, I told the story of a *castañera*, a traditional gatherer of Brazil nuts inside a protected area in Peru, who scolded us, a group of conservation practitioners, for ‘not understanding’ that the law did not fit her reality. *Ciro Alegría* (1961), one of Peru’s most notable novelists of the indigenist literary movement (and my mother’s first cousin), raised a similar objection more than 70 years ago:

Peasants¹ no longer fit in their own lands—when they have them—, they remember, litigate, and invade others. Could a landslide be stopped by a lecture about Roman Law? This is what some legal scholars seem to think, but, just in case, they send armed forces. And, as it happens, peasants don’t know about Roman Law, nor are they Romans. They are Peruvians, and the oldest ones. Thus, their conception of law is based on their own historical conscience and their way of understanding life and wanting to live it.

I hope this thesis carries that idea forward.

¹ The original Spanish used the term *indios* (indians), now fallen out of favour, which until the late twentieth century was commonly used to refer to the peasants in the Peruvian highlands, most of whom were (and still are) of indigenous origin.

Appendix 1: Interview guide with questions

ORIGINAL IN SPANISH:

Guía de Entrevista

Para agricultores (y a ser adaptada para otros tipos de entrevistados)

1. ¿Cuál es su nombre?
2. ¿Cuándo vino a esta zona? ¿Hace cuantos años vive aquí o tiene una parcela aquí?
3. ¿De dónde vino? ¿De dónde viene la mayoría de las personas aquí?
4. ¿Qué cultiva y por qué? ¿Siempre ha cultivado lo mismo o ha ido cambiando?
5. ¿Tiene una parcela aquí? ¿Dónde está? *Le muestro el mapa para que la identifique, aproximadamente.*
6. ¿Quién es el dueño de la parcela?
7. ¿Cómo obtuvo la parcela? *Le pido que me cuente todo el proceso o la historia de cómo la obtuvo, los pasos que siguió... sea en propiedad, o sea como posesión, usando normas comunales, por ejemplo.*
8. ¿Tiene un bosque también? ¿Dónde está?
9. ¿Quién es el dueño del bosque?
10. ¿Cómo obtuvo ese bosque? *Le pido que me cuente todo el proceso o la historia de cómo la obtuvo, los pasos que siguió... sea con algún derecho forestal o en posesión, usando normas comunales, por ejemplo.*
11. ¿Cómo la gente obtiene o ha obtenido parcelas o bosques aquí? *Le pido que me cuente todo el proceso o la historia de cómo otras personas de la comunidad los obtuvieron, cómo se repartieron originalmente, y cuáles fueron las reglas para determinar el tamaño, así como los pasos que siguieron... sea en propiedad, o sea como posesión, usando normas comunales, por ejemplo.*
12. Si la gente convierte el monte en chacra, ¿sirve para ser dueño de un predio?
13. ¿Hay alguna diferencia entre ser dueño de un bosque o ser dueño de una parcela agrícola? ¿Tiene más o menos derechos, por ejemplo?
14. ¿Hay reglas de la comunidad sobre cómo las personas deben usar las parcelas o los bosques? por ejemplo, ¿obligaciones o derechos? *Le pido que me explique cómo funcionan esas reglas, de donde vienen y si han ido cambiando en el tiempo.*
15. ¿Qué pasa si alguna persona no cumple esas reglas de la comunidad?

16. ¿Cómo se convierte un monte en chacra? ¿Hay reglas de la comunidad para esto? ¿Hay leyes sobre convertir bosques en chacras? ¿Las personas en su mayoría las cumplen?
17. ¿Alguien en la comunidad tiene títulos de propiedad o derechos formales sobre los bosques otorgados por el Estado? ¿Cómo los obtuvieron? *Le pido que me cuente todo el proceso o la historia de cómo los obtuvieron.*
18. ¿Sabe cómo funcionan esos trámites para titulación de predios o para obtener derechos sobre el bosque? ¿Puede explicármelos? ¿Cómo se enteró de ellos? ¿Qué piensa de estos trámites? Por ejemplo, si son fáciles o difíciles. *También le pido que me indique cuáles son las instituciones públicas que están involucradas y los roles que el/ella les asigna.*
19. ¿Qué significan esos títulos oficiales? En la práctica, ¿hay alguna diferencia entre tener o no tener estos títulos oficiales? ¿Qué pasa si un agricultor no tiene estos títulos oficiales? ¿Siente que los agricultores los necesitan?
20. ¿A las personas les interesa más tener un título oficial dependiendo de qué estén cultivando, o es lo mismo? (por ejemplo, si cultivan café o palma, en vez de arroz o maíz).
21. ¿Las leyes del Estado se aplican en todas partes o hay lugares en donde ya no se aplican? *Le pido que más o menos me lo muestre en el mapa (y le podría pedir que me lo dibuje).*
22. ¿Qué derechos les dan los títulos oficiales sobre los predios o sobre el bosque? *Aquí tendría que poner una lista...*

ENGLISH TRANSLATION:

Interview Guide

For farmers (to be adapted for other types of interviewees)

1. What is your name?
2. When did you come to this area? How many years have you lived here or had a plot here?
3. Where did you come from? Where do most people here come from?
4. What do you grow and why? Have you always grown the same thing, or has it changed over time?
5. Do you have a plot here? Where is it? *I'll show him/her the map so he/she can roughly identify it.*
6. Who owns the plot?
7. How did you obtain the plot? *I ask him/her tell me the whole process or the story of how he/she got it, the steps he/she followed—whether it's ownership or possession, using communal norms, for example.*
8. Do you also have a forest area? Where is it?

9. Who owns the forest?
10. How did you obtain that forest? *I ask him/her to tell me the whole process or the story of how he/she got it, the steps he/she followed—whether through some kind of forest right or as possession, using communal norms, for example.*
11. How do people obtain plots or forest land here? *I ask him/her to tell me the whole process or the story of how others in the community obtained theirs, how it was originally divided, and what the rules were to determine size, as well as the steps they followed—whether through ownership or possession, using communal norms, for example.*
12. If someone converts forest into a *chacra*, does that make them the owner of the land?
13. Is there a difference between owning forest and owning agricultural land? For example, do you have more or fewer rights?
14. Are there community rules about how people should use their plots or forests? For example, obligations or rights? *I ask him/her to explain how those rules work, where they come from, and whether they've changed over time.*
15. What happens if someone doesn't follow those community rules?
16. How is forest converted into *chacra*? Are there community rules about this? Are there laws about converting forest into *chacras*? Do people generally follow them?
17. Does anyone in the community have land titles or formal rights over forests granted by the state? How did they get them? *I ask him/her to tell me the whole process or story.*
18. Do you know how the procedures work to get land titles or forest rights? Can you explain them to me? How did you learn about them? What do you think of those procedures? For example, are they easy or difficult? *Also, I ask him/her to tell me which public institutions are involved and what roles they believe they play.*
19. What do those official titles mean? In practice, is there a difference between having or not having them? What happens if a farmer doesn't have them? Do you think farmers need them?
20. Are people more interested in having official titles depending on what they grow, or is it the same? *(e.g., if they grow coffee or palm, instead of rice or maize)*
21. Do state laws apply everywhere, or are there areas where they no longer apply? *I ask him/her to, more or less, show me on the map (and maybe I'll ask him/her to draw it for me).*
22. What rights do official titles grant over plots or forests? *(Here I'd need to include a list...)*

Appendix 2: Script for the oral consent (in Spanish)

GUIÓN DE CONSENTIMIENTO ORAL

- ¡Hola! Nuevamente, gracias por participar en esta entrevista. Mi nombre es Pablo Peña y estoy haciendo mi investigación de doctorado en la Universidad de Oxford, en el Centro de Estudios Socio-Legales.
- Antes de hacer la entrevista, le voy a contar algunos detalles de mi investigación para que usted sepa de qué se trata y qué significa que usted participe.
- Como ha leído en la Hoja de Información, y como le expliqué antes, esta investigación es sobre las leyes y normas comunales para tenencia de la tierra y del bosque en las fronteras agrícolas de la Amazonía peruana, y cómo esas normas y leyes se relacionan con la deforestación. Me interesa la opinión de los agricultores y de los funcionarios que implementan estas leyes y normas comunales. Si participa en mi proyecto de investigación, esto es lo que vamos a hacer:
 - o Vamos a tener una conversación de 1 hora, aproximadamente, en la que le voy a hacer varias preguntas sobre las leyes o las normas comunales para obtener y usar la tierra y el bosque, y las prácticas para limpiar el monte para diferentes propósitos, como la agricultura. Podemos hacer la entrevista aquí o donde sea más cómodo para usted. Si después tengo más preguntas, lo contactaré de nuevo para hacer otra entrevista.
 - o Las respuestas que me dé van a formar la base de mi tesis de doctorado y de otras publicaciones y presentaciones relacionadas. Voy a hacer anónimas todas las entrevistas, incluida esta. Así que no se le va a poder identificar en mis investigaciones.
 - o Guardaré todos mis datos de una forma segura y confidencial en mi computadora y en una carpeta digital en la nube de mi universidad. Guardaré mis notas de campo en mi universidad en un cajón con llave, y las grabaciones de audio y transcripciones en un almacenamiento digital que también me da la universidad y que solo es accesible por mí. Mantendré mis datos de investigación por 3 años después de publicar la investigación y después de eso los destruiré.
- Con su permiso, me gustaría *grabar esta conversación / tomar notas de nuestra conversación* para asegurar que tengo un registro preciso de esta entrevista.
- También quiero su permiso para mantener sus datos de contacto para que lo pueda contactar de nuevo para aclarar alguna información que me dé en esta entrevista.
- No hay un riesgo específico para que usted participe en mi investigación. Entiendo que su participación sí le quita algo de tiempo de sus actividades normales, y le agradezco por ese tiempo. También, si siente alguna incomodidad o dificultad con su tiempo podemos terminar la entrevista en cualquier momento.
- Es importante que sepa que no está obligado a participar en esta investigación. Y me puede hacer cualquier pregunta que quiera antes o durante la entrevista. También puede retirarse de la entrevista en cualquier momento sin dar una razón.
- Después de la entrevista, podrá pedirme retirar su información antes del 1 de marzo de 2023, antes que estimo que finalice haciendo anónimos todos mis datos de mis entrevistas y que comience a analizar estos datos.
- Mi proyecto de investigación será publicado como una tesis, y también podría publicarlo en revistas académicas, libros académicos o páginas web académicas. Depositaré una copia de mi tesis en los archivos de mi Universidad, tanto en físico como en la web.

- Si tiene alguna queja o preocupación, por favor siéntase libre de contactarme. Mi número es [REDACTED]. También me puede escribir a mi email: [REDACTED]. Estos datos están en la Hoja Informativa que usted ya tiene.
- Este proyecto de investigación ha sido revisado y aprobado por el comité de ética de la Universidad de Oxford. El número de referencia de esta aprobación de ética es el R81921/RE001. Si, después de contactarme por alguna preocupación, todavía está descontento y quiere hacer una queja formal, por favor contacte al comité de ética. Su email es: [REDACTED]. Todo esto también está en la Hoja Informativa que usted ya tiene.
 - o ¿Tiene alguna pregunta?
 - o ¿Me da permiso para que lo entrevista y para que *tome notas / lo grabe*? ¿Me da permiso para que lo contacte nuevamente para clarificar información? ¿Me da permiso para que cite algo que usted diga, pero sin identificarlo?
 - o ¿Está de acuerdo en participar en esta investigación?
- Perfecto, comencemos.

Appendix 3: Information sheet (in Spanish)

[Hoja A – ver2]

Nombre de la investigación: Tenencia de la Tierra y Deforestación en los Márgenes del Estado Peruano



HOJA DE INFORMACIÓN PARA PARTICIPANTES

Se le está invitando a participar en un proyecto de investigación. Antes de que decida participar, es importante para usted que entienda por qué la investigación está siendo hecha, y qué involucrará. Por favor, tómese tiempo para leer la siguiente información cuidadosamente y conversarla con otros si lo desea. Pregúnteme si hay alguna cosa que no esté clara o si quisiera más información. Tómese un tiempo para decidir si es que quiere participar.

1. ¿Por qué se está haciendo esta investigación?

Este estudio es sobre cómo los agricultores y los funcionarios públicos aplican en la práctica las normas comunales y las leyes para tenencia de la tierra y del bosque en la Amazonía, y cómo esas prácticas legales facilitan la deforestación o promueven la conservación. La investigación ayudará a comprender el rol de las normas sobre propiedad y tenencia en las fronteras forestales, lo que es importante para atender problemas ambientales derivados de la deforestación como el cambio climático y la pérdida de biodiversidad.

2. ¿Por qué me han invitado a participar?

Lo estoy invitando a participar porque usted es parte de las personas que implementan o usan las leyes o las normas comunales para la tenencia de la tierra y el bosque en la Amazonía. Así que sus opiniones y respuestas son importantes para entender cómo estas leyes y normas comunales se aplican en la práctica. Espero hablar con 30 personas en total, aproximadamente.

3. ¿Tengo que participar en esta investigación?

No. Depende de usted decidir si participa o no. Puede retirarse del estudio sin dar una razón y sin alguna consecuencia negativa, avisándome de esta decisión. La fecha límite en la que puede retirar alguna información que haya contribuido a esta investigación es el 1 de julio de 2023, que es cuando espero empezar a analizar los datos para mi tesis y para otros productos académicos. Si escoge retirar alguna información que ha contribuido, la borraré de los datos que he guardado.

4. Si acepto participar, ¿qué haremos? (¿En qué consiste su participación?)

Lo entrevistaré en un lugar que sea conveniente para usted, como en su chacra o en otro lugar público que sea apropiado para tener una conversación de 1 hora, aproximadamente. Le explicaré la información sobre esta investigación y usted podrá hacerme preguntas sobre ella cuando quiera. Después, le preguntaré si está de acuerdo con participar y si es que está de acuerdo con que lo grabe en audio y/o tome notas. Después de eso, le pediré que firme un formulario de consentimiento para mostrar que está de acuerdo con todo esto; si prefiere, puedo grabar su consentimiento de forma oral, en una grabación de audio.

Estimo que su participación tomará 1 hora, más o menos. Involucra básicamente una conversación. Le haré algunas preguntas sobre su experiencia e ideas de las leyes y las normas comunales para obtener y usar la tierra y el bosque, y sobre las prácticas de deforestación, y cómo ambas cosas pueden estar relacionadas. Puede responderlas en cualquier forma como se sienta cómodo(a), o puede escoger no responder a una pregunta que usted no quiera. Si es necesario, y si usted está de acuerdo, lo podré contactar nuevamente para hacerle más preguntas sobre el mismo tema que puedan ser importantes para la investigación y que no tuve oportunidad de preguntárselas antes o que no las pensé antes.

Con su consentimiento, tomaré notas y/o haré una grabación en audio porque así puedo tener un registro preciso de nuestra conversación. Puede pedirme que detenerla o pausarla en cualquier momento.

Si estamos en su chacra o en su bosque, o podemos ir a ellos, le puedo pedir que caminemos por allá para que me explique cómo las leyes y normas comunales sobre tenencia de la tierra y el bosque se aplican. Podemos detener o pausar esta actividad de observación en cualquier momento.

5. ¿Cuáles son las posibles desventajas y riesgos de participar en la investigación?

No hay riesgos específicos por su participación en mi investigación. Entiendo que su participación sí le quita un poco de tiempo de sus actividades normales y le agradezco por darme ese tiempo. Además, si siente alguna incomodidad o tiene alguna limitación de tiempo, podemos terminar la entrevista en cualquier momento.

Su participación es anónima, y solo yo conoceré que usted ha participado. Cuando escriba mi informe, tesis o publicación, podré mencionar las cosas que me dijo, pero su nombre no aparecerá.

6. ¿Hay algún beneficio de participar en la investigación?

No hay beneficios inmediatos para las personas que participen en este proyecto de investigación, pero si espero que informe a las personas que estudian y hacen las leyes y políticas ambientales sobre cómo los agricultores o funcionarios, ven las normas sobre la tenencia de la tierra y el bosque y sobre la deforestación, para que puedan tomar en consideración los puntos de vista de ustedes, que son importantes, cuando hagan sus análisis o sus políticas o leyes.

7. ¿Qué información va a ser recolectada y por qué está recolección de información es relevante para lograr los objetivos de la investigación?

Mis notas de campo, las grabaciones de audio, las transcripciones de los audios, y los registros de consentimiento, así como la información pública que pueda recopilar, las guardaré físicamente en mi universidad y digitalmente en el servicio de la nube de la universidad, hasta que se destruya de forma segura luego de 3 años de publicada mi tesis por depósito en el archivo de investigación de la universidad.

Solo yo tendré acceso a todos los datos de investigación. Mi supervisora en la universidad tendrá acceso a los datos que hayan sido convertidos en anónimos.

8. ¿La investigación será publicada? ¿Alguien podrá identificarme?

Escribiré los hallazgos de mi investigación en una tesis, en otra publicación académica, en una presentación en una conferencia, o en un blog académico.

Usted no va a ser identificado en la información que provea y que sea usada en alguno de estos productos de investigación. Es decir, su nombre no aparecerá y nadie podrá identificarlo a usted.

Depositare una copia de mi tesis tanto en físico (impresa), como en línea (en la web), en el Archivo de Investigación de la Universidad de Oxford (<https://www.bodleian.ox.ac.uk/finding-resources/theses/theses>), donde estará públicamente disponible para facilitar su uso en futuras investigaciones.

9. Protección de datos

La Universidad de Oxford es el controlador/regulador de los datos con relación a sus datos personales, y como tal determinará cómo sus datos personales son usados en este estudio, según lo que le he explicado previamente. La Universidad procesará sus datos personales para el propósito de la investigación explicada aquí. La investigación es una tarea que se desarrolla en el interés público. En este [link](#) puede encontrar más información sobre sus derechos respecto a sus datos personales: <https://compliance.admin.ox.ac.uk/individual-rights>.

10. ¿Quién ha revisado este estudio?

El estudio ha recibido aprobación ética del Comité de Ética en la Investigación de la universidad (N°: R81921/RE001).

11. ¿A quién contacto si tengo alguna preocupación sobre esta investigación o si deseo hacer una queja?

Si tiene alguna preocupación sobre algún aspecto de este estudio, por favor contacte a Pablo Peña Alegría, celular [REDACTED], email [REDACTED] y haré mi mejor esfuerzo para atender su inquietud. Tomaré nota de su inquietud dentro de 10 días laborables y le daré una indicación de cómo se la atenderá. Si aún no está satisfecho, o si quiere hacer una queja formal, por favor contáctese con el presidente del comité de ética de investigación de la Universidad de Oxford, quien buscará resolver su tema tan pronto como sea posible:

Presidente, Comité de Ética de Investigación Interdivisional de Ciencias Sociales & Humanidades; email: [REDACTED]; dirección: Research Services, University of Oxford, Boundary Brook House, Churchill Drive, Headington, Oxford OX3 7GB

12. Mayor información y detalles de contacto

Si desea discutir la investigación con alguien previamente (o si tiene preguntas luego), por favor contáctese con:

Pablo Peña Alegría
Centro para Estudios Socio-Legales, Universidad de Oxford
Manor Road Building, Manor Rd, Oxford OX1 3UQ, UK
Teléfono: [REDACTED]
Email: [REDACTED]

Appendix 4: Informed consent sheet (in Spanish)

CENTRO DE ESTUDIOS SOCIO-LEGALES

Pablo Peña Alegría

Email: [REDACTED]

Estudiante de doctorado

Teléfono de la Universidad de Oxford: [REDACTED]

Email de la Universidad de Oxford: admin@csls.ox.ac.uk



[Hoja B_ver2]

CONSENTIMIENTO PARA PARTICIPAR EN EL ESTUDIO:

Nombre de la investigación: Tenencia de la Tierra y Deforestación en los Márgenes del Estado Peruano

N° de Referencia del Comité de Ética en la Investigación central de la Universidad: R81921/RE001

Objetivo de la investigación: comprender cómo los agricultores y funcionarios públicos aplican en la práctica las normas comunales y las leyes para tenencia de la tierra y del bosque en la Amazonía, y cómo esas prácticas legales facilitan la deforestación o promueven la conservación. La investigación ayudará a comprender el rol de las normas sobre propiedad y tenencia en las fronteras forestales, lo que es importante para atender problemas ambientales derivados de la deforestación como el cambio climático y la pérdida de biodiversidad.

Yo confirmo que he leído y que entiendo la Hoja Informativa de esta investigación, y que he tenido la oportunidad de considerar la información, hacer preguntas y que estas sean respondidas satisfactoriamente, incluyendo que entiendo que:

- Mi participación es voluntaria y que soy libre de retirarla en cualquier momento hasta el 1 de setiembre de 2023, sin dar ninguna razón.
- Entiendo quién tendrá acceso a mis datos personales, cómo se guardarán los datos y qué sucederá con los datos cuando el proyecto de investigación termine.
- No seré identificado en ninguna publicación de esta investigación.
- Consiento a que me graben en audio.
- Entiendo cómo los datos de mi participación serán usados en los productos de la investigación.
- Estoy de acuerdo con que se usen citas, sin ser identificado.
- Doy permiso para que me contacten nuevamente para clarificar información.
- Entiendo cómo plantear una preocupación o hacer una queja.
- Estoy de acuerdo en participar en la investigación como entrevistado, sin ser identificado.

_____	<u>dd / mm / yyyy</u>	_____
Nombre del participante	Fecha	Firma
PABLO PEÑA ALEGRIA	<u>dd / mm / yyyy</u>	_____
Nombre del investigador	Fecha	Firma

Bibliography

- Acemoglu, D., & Johnson, S. (2005). Unbundling Institutions. *Journal of Political Economy*, 113(5), 949-995. <https://doi.org/10.1086/432166>
- Aldashev, G. (2009). Legal institutions, political economy, and development. *Oxford Review of Economic Policy*, 25(2), 257-270. <http://www.jstor.org/stable/23607048>
- Alegría, C. (1961, 15 December, 1961). El Indio y la Tierra. *Expreso*.
- Almeyda Zambrano, A., Broadbent, E., Schmink, M., Perz, S., & Asner, G. (2010). Deforestation drivers in Southwest Amazonia: Comparing smallholder farmers in Iñapari, Peru, and Assis Brasil, Brazil [Article]. *Conservation and Society*, 8(3), 157-170. <https://doi.org/10.4103/0972-4923.73805>
- Alvarez, N. L., & Naughton-Treves, L. (2003). Linking National Agrarian Policy to Deforestation in the Peruvian Amazon: A Case Study of Tambopata, 1986–1997. *AMBIO: A Journal of the Human Environment*, 32(4), 269-274, 266. <https://doi.org/10.1579/0044-7447-32.4.269>
- Andersen, L., Andersen, N., Anker, R., & Anker, M. (2022). *Reporte sobre ingresos dignos: zonas rurales y pueblos pequeños de las regiones productoras de café y cacao en Cajamarca, Cusco, Junín and San Martín, Perú* (Living Wage Benchmark Series, Issue).
- Anderson, C. M., Asner, G. P., Llactayo, W., & Lambin, E. F. (2018). Overlapping land allocations reduce deforestation in Peru. *Land Use Policy*, 79, 174-178. <https://doi.org/https://doi.org/10.1016/j.landusepol.2018.08.002>
- Araujo, C., Araujo Bonjean, C., Combes, J.-L., Combes Motel, P., & Reis, E. J. (2009). Property rights and deforestation in the Brazilian Amazon. *Ecological Economics*, 68(8-9), 2461-2468. <https://EconPapers.repec.org/RePEc:eee:ecolec:v:68:y:2009:i:8-9:p:2461-2468>
- Arevalo, E. (2021). *Regulación responsiva: análisis del caso peruano a la luz de las recomendaciones OCDE y los fallos jurisprudenciales en el marco del «enforcement»*. LP. Retrieved 20 May 2025 from <https://lpderecho.pe/regulacion-responsiva-analisis-caso-peruano-recomendaciones-ocde-fallos-jurisprudenciales-enforcement/>

- Arnot, C. D., Luckert, M. K., & Boxall, P. C. (2011). What Is Tenure Security? Conceptual Implications for Empirical Analysis. *Land Economics*, 87(2), 297-311. <http://www.jstor.org/stable/41307215>
- Arribas, G. (2019). Of Mines and Men: Toward a Foundational Theory of the Rise, Evolution and Decay of Property. *Seattle Journal of Environmental Law*, 7. <https://www.googleapis.com/drive/v2/files/1pEZLDZgGaJ2MXrBSyLl2Cyydn0ZEzlvK>
- Arruñada, B., Fabbri, M., & Faure, M. (2021). Land titling and litigation. In: Barcelona Graduate School of Economics.
- Assunção, J., Gandour, C., Rocha, R., & Rocha, R. (2019). The Effect of Rural Credit on Deforestation: Evidence from the Brazilian Amazon. *The Economic Journal*, 130(626), 290-330. <https://doi.org/10.1093/ej/uez060>
- Baaz, M., Lilja, M., & Östlund, A. (2017). Legal Pluralism, Gendered Discourses, and Hybridity in Land-titling Practices in Cambodia. *Journal of law and Society*, 44(2), 200-227.
- Baldovino, S. (2016). *Una primera mirada: Situación legal de la tenencia de tierras rurales en el Perú*. SPDA. <https://repositorio.spda.org.pe/handle/20.500.12823/286>
- Balvanera, P., Uriarte, M., Almeida-Leñero, L., Altesor, A., DeClerck, F., Gardner, T., Hall, J., Lara, A., Laterra, P., Peña-Claros, M., Silva Matos, D. M., Vogl, A. L., Romero-Duque, L. P., Arreola, L. F., Caro-Borrero, Á. P., Gallego, F., Jain, M., Little, C., de Oliveira Xavier, R., . . . Vallejos, M. (2012). Ecosystem services research in Latin America: The state of the art. *Ecosystem Services*, 2, 56-70. <https://doi.org/https://doi.org/10.1016/j.ecoser.2012.09.006>
- Bell-James, J. (2019). Integrating the Ecosystem Services Paradigm into Environmental Law: A Mechanism to Protect Mangrove Ecosystems? *Journal of Environmental Law*, 31(2), 291-314. <https://doi.org/10.1093/jel/eqz010>
- Bennett, A., Ravikumar, A., & Cronkleton, P. (2018). The effects of rural development policy on land rights distribution and land use scenarios: The case of oil palm in the Peruvian Amazon. *Land Use Policy*, 70, 84-93. <https://doi.org/https://doi.org/10.1016/j.landusepol.2017.10.011>
- Bennett, L., & Layard, A. (2015). Legal geography: Becoming spatial detectives. *Geography Compass*, 9(7), 406-422.

- Bernstein, L. (2001). Private Commercial Law in the Cotton Industry: Creating Cooperation through Rules, Norms, and Institutions. *Michigan law review*, 99(7), 1724-1790. <https://doi.org/10.2307/1290478>
- Bhabha, H. K. (2012). *The location of culture*. Routledge.
- Bhandar, B. (2015). Critical legal studies and the politics of property. In *Researching Property Law* (pp. 60-75). Palgrave.
- Blackstone, W. (1962 [1753]). *Commentaries on the laws of England*. Boston : Beacon Press.
- Blandy, S. (2015). Socio-legal Approaches to Property Law Research. In S. B. a. S. Blandy (Ed.), *Researching Property Law*. Palgrave.
- Blandy, S., Bright, S., & Nield, S. (2018). The Dynamics of Enduring Property Relationships in Land. *The Modern Law Review*, 81(1), 85-113. <https://doi.org/https://doi.org/10.1111/1468-2230.12317>
- Blandy, S., & Sibley, D. (2010). Law, boundaries and the production of space. *Social & Legal Studies*, 19(3), 275-284.
- Blomley, N. (2015). Property, law, and space. In *Researching Property Law* (pp. 134-144).
- Blomley, N. (2021). Foreword: What is legal geography? Why, and why now? In R. Bartel & J. Carter (Eds.). Edward Elgar Publishing Limited. <https://doi.org/https://doi.org/10.4337/9781788977203.00007>
- Braithwaite, J. (2006). Responsive regulation and developing economies. *World Development*, 34(5), 884-898. <https://doi.org/https://doi.org/10.1016/j.worlddev.2005.04.021>
- Braverman, I., Blomley, N. K., Delaney, D., & Kedar, A. (2015). Introduction: Expanding the Spaces of Law. In I. Braverman, N. K. Blomley, D. Delaney, & A. Kedar (Eds.), *The Expanding Spaces of Law: A Timely Legal Geography*. Stanford University Press.
- Bromley, D. W. (1991). *Environment and economy: property rights and public policy*.
- Bromley, D. W. (2009). Formalising property relations in the developing world: The wrong prescription for the wrong malady. *Land Use Policy*, 26(1), 20-27. <https://doi.org/https://doi.org/10.1016/j.landusepol.2008.02.003>

- Bruce, J., Wendland, K., & Naughton-Treves, L. (2010). Whom to pay? Key concepts and terms regarding tenure and property rights in payment-based forest ecosystem conservation. *Land Tenure Center Policy Brief*, 15, 1-9.
- Burnod, P., Andrianirina, N., Boue, C., Gubert, F., Rakoto-Tiana, N., Vaillant, J., Rabeantoandro, R., & Rotovoarinony, R. (2012). *Land reform and certification in Madagascar: does perception of tenure security matter and change?*
- Busch, J., & Ferretti-Gallon, K. (2023). What Drives and Stops Deforestation, Reforestation, and Forest Degradation? An Updated Meta-analysis. *Review of Environmental Economics and Policy*, 17(2), 000-000.
- Byer, A. (2023). *Placing Property : A Legal Geography of Property Rights in Land* (1st 2023. ed.). Springer International Publishing.
<https://doi.org/10.1007/978-3-031-31994-5>
- Caldas, M., Walker, R., Arima, E., Perz, S., Aldrich, S., & Simmons, C. (2007). Theorizing Land Cover and Land Use Change: The Peasant Economy of Amazonian Deforestation. *Annals of the Association of American Geographers*, 97(1), 86-110. <https://doi.org/10.1111/j.1467-8306.2007.00525.x>
- Campbell, J. M. (2015). *Conjuring property : speculation and environmental futures in the Brazilian Amazon*. University of Washington Press.
- Cañas, C. (2019). The Impact of Deforestation on the Water and Fish Populations of The Peruvian Amazon. In A. Chirif (Ed.), *Peru: Deforestation in Times of Climate Change*.
[https://www.iwgia.org/images/publications/new-publications/Peru Deforestation in Times of Climate Change Dec 2019 .pdf](https://www.iwgia.org/images/publications/new-publications/Peru%20Deforestation%20in%20Times%20of%20Climate%20Change%20Dec%202019.pdf)
- Capella, J. L. (2008). Enfrentando los desafíos del derecho para alcanzar el desarrollo a partir de los bosques. *THEMIS Revista de Derecho*(56), 101-108.
- Carrera, S. E. (2015). Las composiciones de tierras en los pueblos de indios en dos jurisdicciones coloniales de la Huasteca, 1692-1720. *Estudios de historia novohispana*(52), 29-50.
- Che Piu Deza, H., & Galván, O. (2015). La transformación del bosque.

- Che Piu, H., & Menton, M. (2014). *The context of REDD+ in Peru: Drivers, agents and institutions* (Occasional Paper, Issue).
- Chicchón, A., Glave, M., & Varese, M. (1997). La lenta colonización del Inambari y el Tambopata: Uso del espacio en la selva sur del Perú. In SEPIA (Ed.), *Perú: El Problema Agrario en Debate – SEPIA VI – Cajamarca*. SEPIA.
- Chua, L. J., & Engel, D. M. (2019). Legal Consciousness Reconsidered. *Annual Review of Law and Social Science*, 15(Volume 15, 2019), 335-353.
<https://doi.org/https://doi.org/10.1146/annurev-lawsocsci-101518-042717>
- Clark, C., & Page, J. (2022). *The lawful forest : a critical history of property, protest and spatial justice* (1st ed.). Edinburgh University Press.
<https://doi.org/10.1515/9781474487467>
- Cole, D. H. (2015). The law and economics approach to property. In *Researching Property Law* (pp. 106).
- Coomes, O. T. (2024). El campesinado «bosquecino» de la Amazonía en tiempos de cambio climático. In A. L. Araujo, M. Espinoza, & M. Bravo (Eds.), *Perú: el problema agrario en debate (SEPIA XX)* (pp. 99-149). SEPIA.
- Corderí Novoa, D. (2008). *Deforestation and property rights: a comparison between former british and spanish colonies*.
- Coyle, S., & Morrow, K. (2004). *The Philosophical Foundations of Environmental Law: Property, Rights and Nature* (1 ed.). Hart Publishing.
<https://doi.org/10.5040/9781472562968>
- Craven, R. (2019). Socio-legal studies and economics. In *Routledge handbook of socio-legal theory and methods* (pp. 179-192). Routledge.
- Cronkleton, P., & Larson, A. (2015). Formalization and Collective Appropriation of Space on Forest Frontiers: Comparing Communal and Individual Property Systems in the Peruvian and Ecuadoran Amazon. *Society & Natural Resources*, 28(5), 496-512.
<https://doi.org/10.1080/08941920.2015.1014609>
- Dammert, J. L. (2017). *Acaparamiento de Tierras en la Amazonía: el caso de Tamshiyacu*. WCS.
- Damonte, G. H. (2018). Mining Formalization at the Margins of the State: Small-scale Miners and State Governance in the Peruvian Amazon. *Development and Change*, 49(5), 1314-1335.
<https://doi.org/https://doi.org/10.1111/dech.12414>

- Dancer, H. (2021). People and forests at the legal frontier: Introduction. *The Journal of Legal Pluralism and Unofficial Law*, 53(1), 11-20.
<https://doi.org/10.1080/07329113.2021.1904579>
- Das, V., & Poole, D. (2004). *Anthropology in the margins of the state*. SAR Press.
- de Soto, H. (2000). *The mystery of capital : why capitalism triumphs in the West and fails everywhere else*. New York : Basic Books, [2000] ©2000.
<https://search.library.wisc.edu/catalog/999901040302121>
- de Sousa Santos, B. (1987). Law: A Map of Misreading. Toward a Postmodern Conception of Law. *Journal of law and Society*, 14(3), 279-302.
<https://doi.org/10.2307/1410186>
- De Sy, V., Herold, M., Achard, F., Beuchle, R., Clevers, J., Lindquist, E., & Verchot, L. (2015). Land use patterns and related carbon losses following deforestation in South America. *Environmental Research Letters*, 10(12), 124004.
- Deininger, K., & Feder, G. (2001). Chapter 6 Land institutions and land markets. In *Handbook of Agricultural Economics* (Vol. 1, pp. 287-331). Elsevier.
[https://doi.org/https://doi.org/10.1016/S1574-0072\(01\)10009-5](https://doi.org/https://doi.org/10.1016/S1574-0072(01)10009-5)
- del Castillo, L. (2016). Prologue. In S. Baldovino (Ed.), *Una primera mirada: Situación legal de la tenencia de tierras rurales en el Perú*. SPDA.
<https://repositorio.spda.org.pe/handle/20.500.12823/286>
- Dourojeanni, M., Barandiarán, A., & Dourojeanni, D. (2009). *Amazonía peruana en 2021. Explotación de recursos naturales e infraestructura:¿ Qué está pasando?¿ Qué es lo que significa para el futuro?* Sociedad Peruana de Derecho Ambiental.
- EIA. (2015). *Deforestation by definition*. E. I. Agency. https://content.eia-global.org/assets/2015/04/Deforestation_By_Definition.pdf
- Ellickson, R. C. (1994). *Order without Law*. Harvard University Press.
<https://doi.org/doi:10.4159/9780674036437>
- Ellsworth, L. (2002). *A Place in the World: Tenure Security and Community Livelihoods: A Literature Review*. Forest Trends Washington, DC.
- Environmental Investigation Agency. (2024). *Carving up the Amazon: How questionable companies bought and cleared vast tracts of the Peruvian Amazon with government complicity*. <https://us.eia.org/wp->

[content/uploads/2024/02/EIA-US Carving-up-the-Amazon_final-report.pdf](content/uploads/2024/02/EIA-US_Carving-up-the-Amazon_final-report.pdf)

- Esty, D. C. (2017). Red lights to green lights: from 20th century environmental regulation to 21st century sustainability. *Environmental law (Portland, Ore.)*, 47(1), 1-80.
- Ewick, P., & Silbey, S. S. (1998). *The common place of law: Stories from everyday life*. University of Chicago Press.
- Falla, G. (2021). Tenientes gobernadores del Alto Huallaga: entre el gobierno nacional y la comunidad rural. *Investigaciones Sociales*, 44, 215-228. <https://doi.org/https://doi.org/10.15381/is.v0i44.19569>
- Farzin, Y. H. (1984). The effect of the discount rate on depletion of exhaustible resources. *Journal of Political Economy*, 92(5), 841-851. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-84927458381&partnerID=40&md5=8d935ff4fe986b0c55754a0040df3849>
- Fisher, E., Lange, B., & Scotford, E. (2013). *Environmental law: text, cases & materials*. Oxford University Press.
- Fitzpatrick, D., & McWilliam, A. (2013). Bright-Line Fever: Simple Legal Rules and Complex Property Customs among the Fataluku of East Timor. *Law & Society Review*, 47(2), 311-343.
- Freedman, R. (2013). 'Third Generation' Rights: Is There Room for Hybrid Constructs within International Human Rights Law? *Cambridge journal of international and comparative law*, 2(4), 935-959. <https://doi.org/10.7574/cjicl.02.04.134>
- Gálvez Rivas, A. (2015). De la antropologización del derecho a la recaída dogmática: balance de los estudios sobre pluralidad legal y administración de justicia en el Perú (1964-2013).
- Garcés, K., & Echevarría, J. (2009). Entre propietarios y migrantes: los encuentros y desencuentros entre colonos y aguarunas en el Alto Mayo. *Revista Jangwa Pana*, 8(1), 50-73.
- Geist, H. J., & Lambin, E. F. (2002). Proximate Causes and Underlying Driving Forces of Tropical Deforestation: Tropical forests are disappearing as the result of many pressures, both local and regional, acting in various combinations in different geographical locations. *BioScience*, 52(2), 143-150. [https://doi.org/10.1641/0006-3568\(2002\)052\[0143:Pcaudf\]2.0.Co;2](https://doi.org/10.1641/0006-3568(2002)052[0143:Pcaudf]2.0.Co;2)

- Geobosques. (2025). *Bosque y Pérdida de Bosque*. Retrieved 23 April 2025 from <https://geobosques.minam.gob.pe/geobosque/view/perdida.php>
- Gilbert, A. (2002). On the mystery of capital and the myths of Hernando de Soto: what difference does legal title make? *International development planning review*, 24(1), 1-19.
- Glave, M., & Borasino, E. (2019). *Gobernanza Forestal y Sostenibilidad en la Amazonía: Avances y Desafíos de Políticas en el Perú* [Project Report]. https://www.grade.org.pe/wp-content/uploads/CIES_MG_2018.pdf
- Global Coffee Report. (2013). *Peru's coffee boom*. Retrieved 18 June 2024 from <https://www.gcrmag.com/perus-coffee-boom/>
- Global Forest Watch. (2023). *Primary Forest Loss (ha)*. https://gfw2-data.s3.amazonaws.com/country-pages/country_stats/download/gfw_2023_statistics_summary.xlsx
- Gobierno Regional de San Martín. (2024). *San Martín marchará en defensa de la Amazonía* <https://www.gob.pe/institucion/regionesanmartin/noticias/904526-san-martin-marchara-en-defensa-de-la-amazonia>
- Goldstein, R. J. (2003). *Law and Geography*. In (Vol. 5). Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199260744.003.0024>
- Google Earth. (2025). *District of Soritor (3D view)*. Google. <https://tinyurl.com/yc2cfjvy>
- Graeber, D., & Wengrow, D. (2021). *The dawn of everything: A new history of humanity*. Penguin UK.
- Graham, N. (2011). *Landscape : property, environment, law / Nicole Graham*. Routledge.
- Graham, N., Davies, M., & Godden, L. (2022). *The Routledge Handbook of Property, Law and Society*. Taylor & Francis.
- Graham, N., & Shoemaker, J. A. (2023). Property rights and power across rural landscapes. In N. Graham, M. Davies, & L. Godden (Eds.), *The Routledge Handbook of Property, Law and Society* (1 ed., Vol. 1, pp. 426-440). Routledge. <https://doi.org/10.4324/9781003139614-40>

- Greenfield, P. (2023). 'Nowhere else to go': forest communities of Alto Mayo, Peru, at centre of offsetting row. *The Guardian*.
<https://www.theguardian.com/environment/2023/jan/18/forest-communities-alto-mayo-peru-carbon-offsetting-aoe>
- Grinlinton, D. (2016). The functions of rights of property in environmental law. In *Research Handbook on Fundamental Concepts of Environmental Law*. Edward Elgar Publishing.
- Grisel, F. (2021). *The Limits of Private Governance: Norms and Rules in a Mediterranean Fishery* (Hardback ed.). Hart Publishing.
- Guevara, A. (2009). *Diversidad y complejidad legal: aproximaciones a la antropología e historia del derecho*. Fondo Editorial PUCP.
<https://books.google.com.pe/books?id=UC4VSQAACAAJ>
- Guevara, A. (2014). How Does the Water Right Work 3300 Meters above Sea Level. *Derecho Pucp*, 73, 289.
- Guevara Gil, A. (2012). La propiedad agraria en el Derecho colonial. In (pp. 265-282).
- Guevara-Gil, A. (2010). Water Rights and Conflicts in an Inter-Andean Watershed: The Achamayo River Valley, Junín, Peru 1. In A. Guevara-Gil, D. Getches, & R. Boelens (Eds.), *Out of the Mainstream: Water Rights, Politics and Identity* (1 ed., pp. 183-196). Routledge.
<https://doi.org/10.4324/9781849774796-12>
- Hardin, G. (1968). The Tragedy of the Commons. *Science*, 162(3859), 1243-1248.
<http://www.jstor.org/stable/1724745>
- Herzog, T. (2015). Did European law turn American? Territory, property and rights in an Atlantic world. *New Horizons of Spanish Colonial Law: Contributions to Transnational Early Modern Legal History, Frankfurt*, 75-95.
- Holder, J., & Harrison, C. (2003). Connecting Law and Geography. In *Law and Geography*. Oxford University Press.
- Holland, T. G., Coomes, O. T., & Robinson, B. E. (2016). Evolving frontier land markets and the opportunity cost of sparing forests in western Amazonia. *Land Use Policy*, 58, 456-471.
<https://doi.org/https://doi.org/10.1016/j.landusepol.2016.08.015>

- Home, R. (2013). 'Culturally unsuited to property rights?': colonial land laws and African societies. *Journal of law and Society*, 40(3), 403-419.
- Huacasi, W. (2025). Jueza declara inaplicable disposición final complementaria de la ley antiforestal del Congreso. <https://hytimes.pe/2025/03/24/jueza-declara-inaplicable-disposicion-complementaria-de-la-ley-antiforestal-del-congreso>
- Instituto Nacional de Estadística e Informática. (2012). *IV Censo Nacional Agropecuario* [Census data]. <https://censos.inei.gob.pe/cenagro/tabulados/>
- Instituto Nacional de Estadística e Informática (2018). *Directorio Nacional de Centros Poblados*. https://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1541/index.htm
- Ireland, P. (2021). Chapter 15: Property law. In E. Christodoulidis, R. Dukes, & M. Goldoni (Eds.), *Research handbook on critical legal theory*. Edward Elgar Publishing.
- Jaramillo, C., & Kelly, T. (1997). *Deforestation and Property Rights in Latin America*. IUCN.
- Jones, J., Almeida, A., Cisneros, F., Iroumé, A., Jobbágy, E., Lara, A., Lima, W. d. P., Little, C., Llerena, C., Silveira, L., & Villegas, J. C. (2017). Forests and water in South America. *Hydrological Processes*, 31(5), 972-980. <https://doi.org/https://doi.org/10.1002/hyp.11035>
- Jung, S., Dyngeland, C., Rausch, L., & Rasmussen, L. V. (2022). Brazilian Land Registry Impacts on Land Use Conversion. *American Journal of Agricultural Economics*, 104(1), 340-363. <https://doi.org/https://doi.org/10.1111/ajae.12217>
- Jurado, M. C. (2022). Baldíos, derechos posesorios y tierra realenga en el primer proceso de composición en el distrito de Charcas. Virreinato del Perú, 1591-1597. *América Latina en la historia económica*, 29(1), 1-24.
- Kerekes, C. B., & Williamson, C. R. (2010). Propertyless in Peru, Even with a Government Land Title. *The American Journal of Economics and Sociology*, 69(3), 1011-1033. <https://doi.org/https://doi.org/10.1111/j.1536-7150.2010.00734.x>
- Killeen, T. J. (2022). Land: The Ultimate Commodity. In *A Perfect Storm in the Amazon Wilderness: The Conventional Economy and the Drivers of*

- Change* (Vol. 1, pp. 325-484). White Horse Press.
<http://www.jstor.org/stable/j.ctv2k057xz.6>
- Klabbers, J., & Palombella, G. (2019). Introduction: Situating Inter-Legality. In J. Klabbers & G. Palombella (Eds.), *The Challenge of Inter-Legality* (pp. 1-20). Cambridge University Press. <https://doi.org/DOI:10.1017/9781108609654.001>
- Lange, B. (2017). An Eco-Socio-Legal Perspective on Property Rights in Natural Resources. Retrieved 20 April, 2022, from <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199935352.001.0001/oxfordhb-9780199935352-e-36>
- Larson, A. M. (2012). *Tenure rights and access to forests: A training manual for research*. Center for International Forestry Research. https://www.cifor-icraf.org/publications/pdf_files/Books/BLarson1201.pdf
- Larson, A. M., Mausch, K., Bourne, M., Luttrell, C., Schoneveld, G., Cronkleton, P., Locatelli, B., Catacutan, D., Cerutti, P., Chomba, S., Djoudi, H., Ihalainen, M., Lawry, S., Minang, P., Monterroso, I., Myers, R., Naito, D., Pham, T. T., Reed, J., . . . Stoian, D. (2021). Hot topics in governance for forests and trees: Towards a (just) transformative research agenda. *Forest Policy and Economics*, 131, 102567.
<https://doi.org/https://doi.org/10.1016/j.forpol.2021.102567>
- Latour, B. (2010). *The making of law : an ethnography of the Conseil d'Etat*. Polity.
- Lawry, S., Samii, C., Hall, R., Leopold, A., Hornby, D., & Mtero, F. (2017). The impact of land property rights interventions on investment and agricultural productivity in developing countries: a systematic review. *Journal of Development Effectiveness*, 9(1), 61-81.
<https://doi.org/10.1080/19439342.2016.1160947>
- Layard, A. (2020). Property as socio-legal institution, practice, object, idea. In J. Přibáň (Ed.), *Research Handbook on the Sociology of Law* (pp. 271-282). Edward Elgar Publishing. <https://doi.org/10.4337/9781789905182.00030>
- Legal Information Institute. (2022a, April 2022). *doctrine of discovery*. Cornell Law School. Retrieved April 30, 2024 from https://www.law.cornell.edu/wex/doctrine_of_discovery
- Legal Information Institute. (2022b, April 2022). *terra nullius*. Cornell Law School. Retrieved April 30 2024 from [https://www.law.cornell.edu/wex/terra nullius](https://www.law.cornell.edu/wex/terra_nullius)

- Li, T. M. (2007a). Governmentality. *Anthropologica (Ottawa)*, 49(2), 275-281.
- Li, T. M. (2007b). The will to improve. In *The Will to Improve*. duke university Press.
- Liscow, Z. D. (2013). Do property rights promote investment but cause deforestation? Quasi-experimental evidence from Nicaragua. *Journal of Environmental Economics and Management*, 65(2), 241-261.
- Liu, S. (2015). Law's Social Forms: A Powerless Approach to the Sociology of Law. *Law & Social Inquiry*, 40(1), 1-28.
<https://doi.org/https://doi.org/10.1111/lsi.12105>
- Locke, J. (1948 [1689]). *The second treatise of civil government and A letter concerning toleration*. Oxford : B. Blackwell, 1948.
<https://search.library.wisc.edu/catalog/9910095262102121>
- Lund, C. (2021). *Nine-Tenths of the Law*. Yale University Press.
<https://doi.org/doi:10.12987/9780300255560>
- Mastrangelo, J. P. S., & Gori Maia, A. (2021). Impacts of land tenure security on deforestation: evidence for the Amazon rainforest.
- Mattei, U., & Quarta, A. (2018). *The turning point in private law*. Edward Elgar Publishing.
- Mendelsohn, R. (1994). Property rights and tropical deforestation. *Oxford economic papers*, 750-756.
- Merino, R. (2014). Descolonizando los derechos de propiedad: Derechos indígenas comunales y el paradigma de la propiedad privada. *Boletín mexicano de derecho comparado*, 47(141), 935-964.
- Merino, R. (2015). Coloniality and Indigenous Territorial Rights in the Peruvian Amazon: A Critique of the Prior Consultation Law. In: Centre for Development Studies, University of Bath.
- Merino, R., & Gustafsson, M.-T. (2021). Localizing the indigenous environmental steward norm: The making of conservation and territorial rights in Peru. *Environmental Science & Policy*, 124, 627-634.
- Merry, S. E. (1988). Legal Pluralism. *Law & Society Review*, 22(5), 869-896.
<https://doi.org/10.2307/3053638>

- Merry, S. E. (2020). An Anthropological Perspective on Legal Pluralism. In P. S. Berman (Ed.), *The Oxford Handbook of Global Legal Pluralism*. Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780197516744.013.20>
- Milner, E. L. (2020). Enacting propriety: property, planning, and the production of settler colonial geographies. *Settler Colonial Studies*, 10(2), 278-293. <https://doi.org/10.1080/2201473X.2020.1751567>
- Ministerio de Justicia del Perú. (2025). *Sistema peruano de Información Jurídica (SPIJ)* <https://spijweb.minjus.gob.pe/>
- Ministry of the Environment of Peru (2016). *Estrategia Nacional sobre Bosques y Cambio Climático*. (Supreme Decree No 007-2016-MINAM). Lima: MINAM
- Mnookin, R. H., & Kornhauser, L. (1978). Bargaining in the shadow of the law: The case of divorce. *Yale LJ*, 88, 950.
- Monterroso, I., Cronkleton, P., Pinedo, D., & Larson, A. M. (2017). *Reivindicación de derechos colectivos: Reformas de tenencia de tierras y bosques en el Perú (1960-2016)* (Vol. 227) [Working Paper]. CIFOR. <https://doi.org/https://doi.org/10.17528/cifor/006505>
- Nolan, J. M., & Wallen, K. E. (2021). Social Norms and Persuasion. In B. van Rooij & D. D. Sokol (Eds.), *The Cambridge Handbook of Compliance* (pp. 404-421). Cambridge University Press. <https://doi.org/DOI:10.1017/9781108759458.028>
- Oficina Nacional de Justicia de Paz y Justicia Indígena (2020). *La función notarial del juez de paz* (1 ed.) [Handbook]. Fondo Editorial del Poder Judicial. <https://www.pj.gob.pe/wps/wcm/connect/e7c160004078fc8cb0c6b56976768c74/LA+FUNCI%C3%93N+NOTARIAL+DEL+JUEZ+DE+PAZ+difusi%C3%B3n+web.pdf?MOD=AJPERES>
- Omura, M. (2008). Property rights and natural resource management incentives: Do transferability and formality matter? *American Journal of Agricultural Economics*, 90(4), 1143-1155.
- Open Streetmap Contributors. (n.d.). *District of Soritor* [Map]. Wikimedia Commons. https://commons.wikimedia.org/wiki/Category:Soritor_District#/map/0/10/-6.2638/-77.0659

- Ostrom, E. (1990). *Governing the commons: The evolution of institutions for collective action*. Cambridge university press.
- Ots Capdequí, J. M. (1959). España en América: el régimen de tierras en la época colonial. *Secc. de Obras de Historia*.
- Palombella, G. (2019). Theory, Realities, and Promises of Inter-Legality: A Manifesto. In J. Klabbers & G. Palombella (Eds.), *The Challenge of Inter-Legality* (pp. 363-390). Cambridge University Press. <https://doi.org/DOI:10.1017/9781108609654.016>
- Palomino, M. (2022, December 28, 2022). El prefecto antes que el ciudadano. *La República*. <https://larepublica.pe/opinion/2022/12/28/el-prefecto-antes-que-el-ciudadano>
- Peña Alegría, P. G. (2024). (Mis)Adapting Domestic Law to Meet New International Environmental and Trade Rules: How Peru Changed Its Environmental and Land Use Rights Laws in Response to the European Union Deforestation Regulation. *Journal of Environmental Law*. <https://doi.org/10.1093/jel/eqae019>
- Peña Jumpa, A. (2016). El derecho constitucional a una justicia comunal en el Perú. Una aproximación desde la experiencia de los aymaras de Huancané, Puno. *Derecho & Sociedad*, 47, 187-198. <https://doi.org/https://revistas.pucp.edu.pe/index.php/derechoysociedad/article/view/18882>
- Penner, J. E. (1997). *The idea of property in law*. Clarendon Press.
- Philip, K. (2005). *Rural enterprise: work on the margins*.
- Pirie, F. (2022). Beyond pluralism: a descriptive approach to non-state law.
- Pound, R. (1910). "Law in Books and Law in Action." *American Law Review*, Vol. 44, pp. 12–36.
- Probst, B., BenYishay, A., Kontoleon, A., & dos Reis, T. N. (2020). Impacts of a large-scale titling initiative on deforestation in the Brazilian Amazon. *Nature Sustainability*, 3(12), 1019-1026.
- Programa Nacional de Conservación de Bosques para la Mitigación del Cambio Climático (2022). *Cobertura y pérdida de bosque humedo amazonico 2021*. Retrieved from https://geobosques.minam.gob.pe/geobosque/descargas_geobosque/perdida/documentos/Reporte_Cobertura_y_Perdida_de_Bosque_Humedo_Ama

[zonico_2021.pdf?Fri%20Jan%2027%202023%2015:41:42%20GMT+0000%20\(Greenwich%20Mean%20Time\)](#)

Programa Nacional de Conservación de Bosques para la Mitigación del Cambio Climático. (2024). *Cobertura y Pérdida de Bosque Húmedo Amazónico 2023*.

<https://geobosques.minam.gob.pe/geobosque/view/descargas.php#download>

Pruitt, L. R. (2014). The Rural Lawscape: Space Tames Law Tames Space. In I. Braverman, N. Blomley, D. Delaney, & A. Kedar (Eds.), *The Expanding Spaces of Law: A Timely Legal Geography* (1 ed., pp. 190-214). Stanford University Press. <https://doi.org/10.2307/j.ctvqsdzbj>

Putzel, L., Kelly, A. B., Cerutti, P. O., & Artati, Y. (2015). Formalization as Development in Land and Natural Resource Policy. *Society & Natural Resources*, 28(5), 453-472. <https://doi.org/10.1080/08941920.2015.1014608>

Rasmussen, M. B., & Lund, C. (2025). Scales of dispossession: Institutionalizing resource access at the frontier. *Journal of political ecology*, 32(1). <https://doi.org/10.2458/jpe.5661>

Ravikumar, A., Sears, R. R., Cronkleton, P., Menton, M., & Pérez-Ojeda del Arco, M. (2017). Is small-scale agriculture really the main driver of deforestation in the Peruvian Amazon? Moving beyond the prevailing narrative. *Conservation Letters*, 10(2), 170-177.

Real Academia de la Lengua Española (2023). Diccionario de la Lengua Española. In <https://dle.rae.es/monta%C3%B1a?m=form>

Reydon, B. P., Fernandes, V. B., & Telles, T. S. (2020). Land governance as a precondition for decreasing deforestation in the Brazilian Amazon. *Land Use Policy*, 94, 104313.

<https://doi.org/https://doi.org/10.1016/j.landusepol.2019.104313>

Reyes, M., Cruz, C., & Robiglio, V. (2020). Gobernanza territorial e institucionalidad pública y privada para lograr la “cero deforestación” a nivel local: un análisis en la región San Martín. In S. Vargas & M. Bravo Frey (Eds.), *Perú: El Problema Agrario en Debate - SEPIA XVIII - Puno*. SEPIA. <https://sepia.org.pe/wp-content/uploads/2021/01/Libro-SEPIA-XVIII-2020-FINAL-PARA-WEB.pdf>

Reyes, M., Vergara Rodríguez, K., & Robiglio, V. (2024). *¿Cómo es la deforestación asociada a las carreteras en la Amazonía peruana? Análisis*

y recomendaciones en tres estudios de caso para reducir su impacto (infobrief, Issue).

- Ribot, J. C., & Peluso, N. L. (2003). A Theory of Access. *Rural Sociology*, 68(2), 153-181. <https://doi.org/https://doi.org/10.1111/j.1549-0831.2003.tb00133.x>
- Roberts, S. (2005). After Government? On Representing Law without the State. *The Modern Law Review*, 68(1), 1-24. <http://www.jstor.org/stable/3699110>
- Robiglio, V., Reyes, M., Casalprim, D., Pérez, N., Torres, P., Segura, F., & Zari, L. (2021). *Diagnóstico sobre el otorgamiento y registro de cesiones en uso para sistemas agroforestales*. P. AgroFor. https://www.agrofor.info/wp-content/uploads/2021/06/AgroFor_Informe-1.-Diagnostico-sobre-otorgamiento-y-registro-de-CUSAF_.pdf
- Robiglio, V., Reyes, M., & Castro, E. (2015). Diagnóstico de los productores familiares en la Amazonía Peruana. *ICRAF Oficina Regional para América Latina: Lima, Peru*, 208.
- Robiglio, V., Vargas, R., & Suber, M. (2018). La Cesión en Uso para Sistemas Agroforestales. Los potenciales beneficiarios, distribución geográfica y estimación del potencial de contribución a las metas climáticas del Perú. In C. I. d. d. I. A. (ICRAF) (Ed.), *Apoyo al Desarrollo de Cesión en Uso para Sistemas Agroforestales en Perú*. ICRAF. [https://apps.worldagroforestry.org/sites/default/files/users/admin/Modulo%20Robiglio etal 2018 CUSAF Amazonia Potenciales beneficiarios.pdf](https://apps.worldagroforestry.org/sites/default/files/users/admin/Modulo%20Robiglio%20etal%202018%20CUSAF%20Amazonia%20Potenciales%20beneficiarios.pdf)
- Robinson, B. E., Holland, M. B., & Naughton-Treves, L. (2014). Does secure land tenure save forests? A meta-analysis of the relationship between land tenure and tropical deforestation. *Global environmental change*, 29, 281-293. <https://doi.org/https://doi.org/10.1016/j.gloenvcha.2013.05.012>
- Rodgers, C. (2009). Nature's place? Property rights, property rules and environmental stewardship. *The Cambridge Law Journal*, 68(3), 550-574.
- Rodgers, C. P. (2003). Agenda 2000, Land Use, and the Environment: Towards a Theory of 'Environmental' Property Rights? *Law and Geography*.
- Rose, C. M. (1985). Possession as the Origin of Property. *Property and Persuasion*, 11-23. <https://doi.org/10.4324/9780429303227-3>
- Rose, C. M. (2010). Invasions, innovation, environment. In B. Barros (Ed.), *Hernando de Soto and property in a market economy* (pp. 21-40). Routledge.

- Rose, C. M. (2013). Psychologies of Property (and Why Property is not a Hawk/Dove Game). In J. Penner & H. Smith (Eds.), *Philosophical Foundations of Property Law* (pp. 0). Oxford University Press.
<https://doi.org/10.1093/acprof:oso/9780199673582.003.0012>
- Rose, C. M. (2022). Foreword: Property From the Outside In. In *The Routledge Handbook of Property, Law and Society*. Routledge.
- Rudel, T. K. (1995). When Do Property Rights Matter? Open Access, Informal Social Controls, and Deforestation in the Ecuadorian Amazon. *Human Organization*, 54(2), 187-194. <http://www.jstor.org/stable/44127148>
- Saraf, A. (2020). Frontiers. *Oxford Research Encyclopedia of Anthropology*.
<https://doi.org/10.1093/acrefore/9780190854584.013.145>
- Sax, S. (2020). Invisible territory: mapping land-use change and power in the Peruvian Amazon. *Journal of Land Use Science*, 15(2-3), 290-305.
- Schlager, E., & Ostrom, E. (1992). Property-Rights Regimes and Natural Resources: A Conceptual Analysis. *Land Economics*, 68(3), 249-262.
<https://doi.org/10.2307/3146375>
- Schuurman, F. J. (1979). Colonization policy and peasant economy in the Amazon basin. *Boletín de Estudios Latinoamericanos y del Caribe*(27), 29-41. <http://www.jstor.org/stable/25675047>
- Scotford, E., & Walsh, R. (2013). The symbiosis of property and English environmental law—Property rights in a public law context. *The Modern Law Review*, 76(6), 1010-1045.
- Scott, J. C. (1998). *Seeing like a state : how certain schemes to improve the human condition have failed*. Yale University Press New Haven.
- Scott, J. C. (2009). *The Art of not Being Governed*. Yale University Press.
- Scott Palmer, D. (1998). Relaciones entre los Estados Unidos y el Perú en la década de los noventa: dinámicas, antecedentes y proyecciones. *América Hoy*, 19, 111-123. <https://doi.org/https://doi.org/10.14201/alh.2269>
- Shanee, N., & Shanee, S. (2016). Land trafficking, migration, and conservation in the “no-man’s land” of northeastern Peru. *Tropical Conservation Science*, 9(4), 1940082916682957.

- Sikor, T., & Lund, C. (2009). Access and Property: A Question of Power and Authority. *Development and Change*, 40(1), 1-22.
<https://doi.org/https://doi.org/10.1111/j.1467-7660.2009.01503.x>
- Silbey, S. S. (2001). Legal culture and consciousness. In N. J. Smelser & P. B. Baltes (Eds.), *International Encyclopedia of the Social and Behavioral Sciences* (pp. 8623--8629). Elsevier.
- Silbey, S. S. (2005). After legal consciousness. *Annual Review of Law and Social Science*, 1(Volume 1, 2005), 323-368.
<https://doi.org/https://doi.org/10.1146/annurev.lawsocsci.1.041604.115938>
- Silverman, D. (2020). *Interpreting qualitative data* (Sixth edition ed.). SAGE.
- Smart, A., Zerilli, F. M., & Nonini, D. M. (2014). Extralegality. In *A Companion to Urban Anthropology* (pp. 222-238). John Wiley & Sons, Ltd.
<https://doi.org/10.1002/9781118378625.ch13>
- Soto, H. d. (1989). *The other path : the invisible revolution in the Third World*. Tauris.
- SPDA. (2015). *Encuesta: Percepciones Ambientales en Madre de Dios 2014*.
<http://www.actualidadambiental.pe/?p=28620>
- Tovar, J. G., Monterroso, I., Mora, C., Baldovino, S., Calle, I., Peña, P., & Capella, J. L. (2014). Ley 30230: Efectos para la institucionalidad ambiental y la tenencia de la tierra en Perú. *CIFOR*.
<https://www.cifor.org/knowledge/publication/5206/>
- Tseng, T.-W. J., Robinson, B. E., Bellemare, M. F., BenYishay, A., Blackman, A., Boucher, T., Childress, M., Holland, M. B., Kroeger, T., Linkow, B., Diop, M., Naughton, L., Rudel, T., Sanjak, J., Shyamsundar, P., Veit, P., Sunderlin, W., Zhang, W., & Masuda, Y. J. (2021). Influence of land tenure interventions on human well-being and environmental outcomes. *Nature Sustainability*, 4(3), 242-251. <https://doi.org/10.1038/s41893-020-00648-5>
- Twining, W. (2012). Legal Pluralism 101. In (pp. 112-128). Cambridge University Press. <https://doi.org/10.1017/CBO9781139094597.011>
- United Nations. (2015b). *Transforming Our World: The 2030 Agenda for Sustainable Development. Seventieth Session of the United Nations General Assembly Resolution A/RES/70/1*. New York: United Nations Retrieved from

<https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>

- Upham, F. K. (1994). Speculations on Legal Informality: On Winn's "Relational Practices and the Marginalization of Law": Comment. *Law & Society Review*, 28(2), 233-241. <https://doi.org/10.2307/3054145>
- Urteaga Crovetto, P. (2013). Comunidad Nativa y Derecho: Dos Experiencias en Madre de Dios – Perú. *Foro Jurídico*.
- Valverde, M. (2014). "Time thickens, takes on flesh": Spatiotemporal Dynamics in Law. In I. Braverman, N. Blomley, D. Delaney, & A. Kedar (Eds.), *The Expanding Spaces of Law* (1 ed., pp. 53-76). Stanford University Press. <https://doi.org/10.2307/j.ctvqsdzjbj.7>
- Van Gelder, J.-L. (2010). Tales of Deviance and Control: On Space, Rules, and Law in Squatter Settlements. *Law & Society Review*, 44(2), 239-268. <https://doi.org/10.1111/j.1540-5893.2010.00406.x>
- von Benda-Beckmann, F., & von Benda-Beckmann, K. (1999). A functional analysis of property rights, with special reference to Indonesia. In T. van Mejlil & F. von Benda-Beckmann (Eds.), *Property rights and economic development: Land and natural resources in Southeast Asia and Oceania*. Kegan Paul International.
- Walker, N. (2022). Legalising inter-legality. *European Law Open*, 1(1), 216-227. <https://doi.org/10.1017/elo.2022.4>
- Watson, C., & Schalatek, L. (2020). *Climate Finance Thematic Briefing: REDD+ Finance* (Climate Finance Fundamentals, Issue. H. B. Stiftung. <https://climatefundsupdate.org/wp-content/uploads/2020/03/CFF5-2019-ENG-DIGITAL.pdf>
- Webley, L. (2020). The why and how to of conducting a socio-legal empirical research project. In N. Creutzfeldt, M. Mason, & K. McConnachie (Eds.), *Routledge Handbook of Socio-Legal Theory and Methods* (1 ed., pp. 105-122). Routledge. <https://doi.org/10.4324/9780429952814-4>
- Wieland, P. (2020). Hernando de Soto, the Lone Prospector and the Formalization of Artisanal and Small-Scale Mining: A Case Study from La Rinconada, Peru. *Environs: Env'tl. L. & Pol'y J.*, 43, 1.
- Wieland, P., & Farfan, R. (2015). *The distribution of powers and responsibilities affecting forests, land use, and REDD+ across levels and sectors in Peru: a legal study* (0854-9818). (Occasional Paper, Issue).

- Yin, R. K. (2003). *Case study research: Design and methods*. Sage.
- Yin, R. K. (2018). *Case study research and applications : design and methods* (Sixth edition. ed.). Sage.
- Young, K. M. (2014). Everyone Knows the Game: Legal Consciousness in the Hawaiian Cockfight. *Law & Society Review*, 48(3), 499-530.
<https://doi.org/https://doi.org/10.1111/lasr.12094>
- Young, R. (1995). *Colonial desire : hybridity in theory, culture, and race*. Routledge. <https://doi.org/10.4324/9780203992203>
- Zamora, G. (2021). Situación y perspectivas de la transferencia de funciones forestales a los gobiernos regionales. *Revista Kawsaypacha: sociedad y medio ambiente*(8), 61-79.