Globalization has rolled into the Peruvian Amazon. The local indigenous communities have witnessed the forces of the global market up close and fear that they will be displaced and enslaved by outsiders eager to benefit from the valuable natural resources on their jungle lands—the petroleum, logging and mining companies as well as the swarms of settlers migrating into the jungle (Creoles from the cities and Indians from the highlands). The natives also worry that these outside forces will continue to debase the biodiversity of their forests.

Historically and all over the world, people facing invaders whom they believe are intent on destroying their world fight back, ferociously. Peru witnessed a tragic example of this very human response last 5 June in Bagua, where, tragically, so many Peruvians died.

Bagua – A Typical Case of “Social Conflict”
Within days of the violence at Bagua, my colleagues from

Hernando De Soto’s Forthcoming Book
Hernando de Soto offers a preview of a new book based on recent research by the Institute for Liberty and Democracy (ILD) on the indigenous peoples of the Amazon and other sectors of society in conflict. The book is scheduled to be published by Grupo Editorial Norma in September 2010.

In the book, the ILD, thanks to the cooperation of several Peruvian and foreign indigenous organizations, will make concrete proposals to legally empower the indigenous peoples of Peru by giving them: full control over their lands and resources; mechanisms to remedy environmental deterioration and to create companies that facilitate the organization of their resources and significant participation in regional investments; and mechanisms for participation that go far beyond the “bargaining tables” and “consultations” proposed by the ILO.

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the Institute for Liberty and Democracy (ILD) and I traveled extensively throughout the region to try to discover the causes of the clashes. We quickly realized that this crisis in the Amazon was not an isolated incident but emblematic of the more than 200 "social conflicts" in Peru, mainly over land-use and government concessions, revealing that—despite our economic progress—there remains growing unrest and dissatisfaction among Peruvians who have not yet shared that prosperity or don’t feel they are part of the new order that produces it.

After eight months of fieldwork, including in-depth interviews with the leaders of all principal tribes and the chiefs of some 200 indigenous communities, I have come to share the fears of many Amazonians regarding globalization. Do we believe that all those outsiders should be arrested, locked in their plastic coffins and sent back home in their space ships, because it would be politically impossible: more than 80 percent of the population of the Amazon—almost all of them Peruvians, including recent settlers and a growing number of natives—have already opted for some kind of accommodation to the region’s fledgling market economy. Second, because it would be politically impossible: the indigenous communities represent only about one percent of Peru’s total population; the rest of the country considers the Amazon as an integral part of Peru and is directly or indirectly dependent on revenues and taxes generated there, and would not sympathize with any effort to expel the newcomers.

Finally and most important, because the vast majority of indigenous people do not reject globalization outright: Our research has revealed that these communities have been in touch with outsiders for hundreds of years. Like poor people in the rest of Peru and the world, they want the benefits of modern healthcare, education, and technology. And like generations of Peruvians before them, they have been increasingly migrating to cities searching for a better life. According to our polls, more than 50 percent of those remaining in the forest do not want their children to continue living in their isolated communities.

The ILD has also learned that even when communities have expelled mining companies eager to make a deal, the locals began mining the ore themselves or hired small informal mining groups to extract the ore in exchange for rent and a share of the profits. Unfortunately, these efforts tend to be primitive, illegal, ecologically disastrous, and relatively unprofitable. So why do they reject legitimate offers that are likely to be more profitable and more ecologically responsible? Here is my conclusion: Control! The native communities prefer being in charge of their own resources and destinies, even if it means forfeiting a sizeable income. What they are adamantly rejecting is being overwhelmed by the overwhelming forces of globalization. They refuse to continue being marginalized and having no role in the production model that is being proposed by globalization; they reject feeling inadequate in their own neighborhood. More and more, I am convinced that this feeling of powerlessness is what has pushed these people toward the radical politics that lead to the kind of violent response we saw in Bagua.

Talking with one of my best new-founds friends among the Amazonian tribal leaders, I asked whether he hadn’t thought about ways to stay in control, to preserve his culture and dignity while simultaneously living and prospering in the face of the encroaching reality of modernity. After all, most of us who live in the globalized world originally came from tribes, clans, fiefdoms, traditional villages, and extended families. Of course he had thought about how best to deal with globalization; he answered. But he still couldn’t figure out the best way to deal with such an overwhelming force as globalization. I suggested that the biodiversity that the indigenous people so adamantly defended in order to protect their flora and fauna was not that much different from the formula for coping with globalization. Human solutions to social problems have often arisen from the dynamics of nature. It’s conceivable that the systems that produce prosperity follow one grand pattern.

The Science of Biodiversity

The Amazon may be the most efficient system we have for controlling and confronting an enemy that is even more daunting than globalization—the forces of disorder that arise in the universe. According to the Second Law of Thermodynamics, the underlying characteristic of the universe is “entropy,” the obstinate tendency for energy and matter to degrade. If we don’t work against this tendency and protect life, it will dis-
appear, die out. Entropy, in fact, is all around us: burst tires do not re-inflate, milk does not flow back into bottles, and ashes do not re-assemble into logs. Growing cities get littered with garbage; everything moves toward degradation and disorder.

How does the Amazon avoid this? By creating its own order within that area we call “biodiversity,” which has three basic characteristics: a boundary of sorts surrounding it, separating and defending it from universal chaos. Second, this boundary (what biologists call the ectone, membrane or epidermis) can be permeated by the surrounding energy and nutrients required to maintain its integrity and development. Third, the boundary is able to receive, read, and interpret signals from the outside so that the system can absorb what it needs and filter out what can destroy it. Provided that it protects its interior by maintaining contact with its exterior, the biodiversity of the Amazon can be defined as “an open system.”

Here is the economic parallel: Like the universe, globalization is an enormous space that is also chaotic and will distort anything that is not protected by an open system: If the indigenous economy does not have a boundary to separate it from global chaos, allowing it to absorb exterior benefits and to receive and read global signals, globalization will sweep it away.

Those economic systems with permeable membranes have obtained that protection through property and business law — precisely what the indigenous people lack. It is only the law that can provide them with the tools they need to create the boundaries and the structures necessary for protecting them from the harms of globalization and taking advantage of its benefits.

An Environment for Creating Combinations and Life

The idea that to live and prosper requires an independent and strong environment that will help you control your surroundings to your own advantage and where you can combine resources to create abundance and diversity is very old. Aristotle reckoned that mice could not exist without the permeable spaces inside storehouses of wheat, and that flies could not have developed without the pockets of air that formed between bed sheets. That is probably why Charles Darwin, author of The Origin of the Species and the father of organic evolution, wrote that life may have begun in a “warm little pond with all sorts of ammonia and phosphoric salts,” feeding off the light and heat of the surrounding environment to form a protein compound that could generate creativity complexity. Scientists have since speculated that maybe life didn’t begin in a pond: The primordial soups from which existing life systems originated could have slowly evolved within oily bubbles in shallow coastal waters, or in the cracks of subterranean rock, or in geothermal vents on the sea floor. For my purpose, the exact place where life began doesn’t really matter. What’s important is that for any biosystem to develop into a self-sustaining order and to adapt to its environment requires a porous shield that can identify and differentiate outside signals.

Nor is there any major news here for the indigenous peoples of the Amazon. They have long developed the means to discriminate between different signals and have learned to adapt to a constantly evolving environment, joining forces and interacting with all the other living systems in a state of equilibrium.

Nor will this come as news to Peruvians from Arequipa, where I come from. Arequipa evolved from erupting volcanoes that formed a crack in the barren land of the desert — Darwin’s “warm little pond”— where an open system developed and transformed that crack into a green valley rich with vegetation. To make this environment friendlier to humans, ingenious farmers had to plant new crops, build irrigation channels, devise more effective fertilizers, and control plant diseases. And to avoid economic disorder and protect the interests of all parties concerned, the people of Arequipa had to design open systems based on property and business law, legal frameworks to divide opportunities, settle disputes, and connect businesses to their suppliers and clients.

Nor will any of this strike the residents of Ica or the new farmers along the Peruvian coast as a major innovation. The new legal environment created in the 1990s provided their properties and businesses with that same kind of protective and nutritious porous membrane. Meanwhile in the fields, the new entrepreneurs were able to pump water from the subsoil or draw it from distant rivers, funnelling it into isolated areas artificially protected from infestations and other environmental attacks. Whether to adapt to the entropy of the desert or globalization, people created physical and legal environments that allowed the desert of Ica to bloom.

Consequently, although we may not know the scientific origins of life, what we do know is that the natural impulse of things to join with one another is extremely strong, provided there is a clearly bound open system in which these resources can organize and combine. As Nobel laureate Christian de Duve once wrote, the incentive to assemble is “an obligatory manifestation of matter, bound to arise wherever conditions are appropriate.”

This impulse is also found in the biodiversity of the Amazon jungle where nature has created joining mechanisms such as cell adhesion molecules and connective tissues that permit individual cells to couple and form multi-cellular organisms. In fact, joining can be crucial to survival. For example, when cells are detached from others or the surrounding matrix, they usually die within a short time, a process called anakíkí, Greek for “homelessness.” Without an environment that allows living organisms to assemble and that simultaneously takes advantage of the energy and nutrients available outside its boundaries, there would be no biodiversity.

As the indigenous peoples confront globalization, they must also face up to this dilemma: either they arm themselves with the necessary legal elements to combine their resources and create wealth or they will gradually disappear as a people — homeless.

An Environment for Creating Combinations and Wealth

To help solve this dilemma, I devised what philosophers call a “thought experiment” to explore the number of signals and combinations a native entrepreneur would need to give added value to his trees by transforming them into pencils. To begin with, they will have to chop down trees from Loreto cutting them into even slats with grooves drilled into them so that graphite mined in Sri Lanka could be sandwiched in between. But graphite imported from Asia is not enough to make a proper pencil: a firm has to extract and deliver clay from Mississippi, while another processes animal fats treated with sulfuric acid, and yet another obtains and processes candelilla wax from Mexico so that the graphite could be wetted with all these

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1 Letter from Charles Darwin to Joseph Dalton Hooker (1 February, 1871).
...there is no reason to treat them as if they were pre-Columbian antiques residing in glass cases in the Museum of Natural History... ♦ ♦

To build a business that can coordinate and control the entire production of the pencils under one command, with its own technicians and machinery, and ensure that the business is well run, its orders and schedules scrupulously followed, the pencil maker needs an environment with a clearly established management hierarchy defining everyone’s responsibilities. To ensure that the commitment of his suppliers be unequivocal and valid, complying with delivery dates and conditions, he needs solid contracts. To reduce the risk of having to vouch for some failure with all the resources he owns, he needs to have the legal status of limited liability so that he is responsible for only the assets he has committed to the business and no more. To ensure that his suppliers’ companies deliver even if their owners die, change, retire or go bankrupt, he needs to know whether ownership succession has been established, that default and conflict resolution devices are in place. To make sure that his suppliers don’t just leave their firms, withdrawing all their investments and leaving him with nothing, he needs devices to lock-in capital in a way that prevents suppliers from fleeing without compensation. All of these protections and functions are provided by business organization law.

The legal instruments that signal where things are located and how to fix them in optimum combinations are like the nails or the ropes in a jungle construction: They contribute nothing to the physical structure, yet make it possible. Instead of joining beams, boards, and palm leaves, however, these connective devices assemble people’s knowledge, work, capital, and assets to create wealth. If anyone confronts globalization without the permeable boundaries, signal systems, and devices for making productive combinations provided by property and business law, they will be abruptly displaced and absorbed by those who do have them.

That raises the big question: Do the indigenous peoples of the Amazon have the property and business laws to protect themselves and for making productive combinations in an increasingly globalized world?

Here follows a summary of the answers we have discovered over the past year.

The Indigenous Communities Do Not Have Control over Their Territories

The majority of Peruvians have presumed that the State had long ago given the indigenous peoples of the Amazon property rights over their territories. That is not true. There are approximately 5,000 communities in the Peruvian Amazon, and only about 5% have a property title that allows them to control their territory and manage their so-called communal resources efficiently and productively.

Although the State has recognized 1,457 communities, and given some sort of property title to 1,280 of those—progress to be sure—the titles are of little use or value for the following eight reasons:

- The majority of the indigenous peoples’ titles do not provide the precise location of the properties: 80% do not have precise boundaries, use universal coordinates, or make reference to geographic features that would allow the properties to be identified with certainty within a standardized system.
- The few titles that have been granted are inscribed in registries that lack a geographic base.
- The titles cannot be readily used to protect holders from third party claims. Many contain errors in the names of the holders; have several title holders for the same piece of property; and have overlapping boundaries with other properties belonging to other communities, community members, concessionaires, productive forests, and protected natural areas.
- The titling system is not easily accessible to the different jungle communities and the process is extremely long and expensive—requiring an average of 747 working days at a cost of 102,150 soles (US$36,985), which is equivalent to 186
The indigenous peoples of the Amazon are not wealthy in any way whatsoever. All of us Peruvians are responsible for this...
becoming so indebted that he will have to spend the rest of his life forced to work for the owner of his debt, in effect, enslaved (a situation not unheard of among Amazonians).

By not being able to divide the value of his business into transferable shares, every time an Amazonian is unable to pay even a part of his debt, he has to liquidate the total value of his enterprise. If he were able to divide his business into shares, he would be able to liquidate only that part of his business to cover the amount needed, or exchange it for capital investment and perhaps keep some control over the enterprise.

By not having the official documents required to identify his business, an indigenous entrepreneur has no way of making his business’ track record known or creating trust beyond the borders of his community.

Without being able to count on a system of guarantees — over the production of lumber, for instance—a creditor’s capacity to recover a loan is reduced, and the indigenous person controlling the lumber will be unable to gain access to credit, except in very small amounts or at very high rates of interest.

In the disorder and the distances of the global economy, words can be easily swept away. Contracts and formal documents — written and properly registered — are required: these are the mechanisms providing less abstract and more precise signals with a wider geographic reach than spoken words, since they are devised according to international standards. They are also signals with specific functions: Promises to pay are embodied and signaled in promissory notes, bills of exchange, and IOUs; authorizations are contained in licenses and permits; values in stocks, shares or liens; business identities in statutes of incorporation; and statements of monies paid or received are embodied in double-entry accounting books. For there to be trust in savings and investment, for reputations to be based in facts, and for exploiters and swindlers to be easily traced, all of these signals must enter the public memory: in official registries, in title and risk insurance, under the custody of private parties, in stock exchanges, or in other intermediary agencies, including Peru’s notary publics.

The Avatar Myths

Why don’t the indigenous peoples of the Amazon have these legal tools to control their property and businesses? The answer is very simple: because numerous myths abound making us think that the Amazonians don’t want or don’t need these controls, or that they are incapable of using them. Among the most popular myths are: The natives live in a sort of communist paradise where everything is held in common and private rights are unnecessary; they are rich in their own way; they don’t need anything from the outside world; they reject property and business; they don’t need formal law; their world view is incompatible with globalization; and all that is needed to prevent environmental deterioration is evicting the outsiders.

My colleagues and I have found that these popular beliefs are completely false. Here is our brief response to each of them:

Indigenous Peoples are Communists

On the contrary: they live in an economic regime dominated by family and the individual. Their own leaders and documents state this quite clearly. For example:

Statement #1: “Neither public institutions nor NGOs should insist on promoting models for communal aquaculture (communal fish farms) that have been proven to fail, given that the indigenous model of production is based on the family or extended family (interest groups),” states the National Development Proposal for the Amazon Region (p. 46), proposed by organizations of the indigenous peoples of the Amazon in Table No.4 and approved in December 2009.

Statement #2: The minutes of the “First Meeting of the Indigenous Organizations of the Northeastern Block of the Manu River,” held in April 2008 in San Lorenzo, capital of the Province of Datem del Marañón (Loreto), states: “We must promote and provide incentives for economic development at the family, association and individual levels (communal enterprises do not work).” Also: “The economic program should draw up policies and strategies to facilitate the development of local, group, family and individual initiatives.”

The Natives Are Wealthy in Their Own Way

The indigenous peoples of the Amazon are not wealthy in any way whatsoever. All of us Peruvians are responsible for this by not providing them with adequate systems of control, which, along with their creative capacities, would give them all the necessary conditions to become wealthy in several ways. The official statistics demolish this particular widely held view:

• Seven out of every ten natives in Peru are poor, and five out of every ten live in extreme poverty.
• Five of the poorest districts of Peru (Balsapuerto, Calupapanas, Alto Pastaza, and Morona, in Loreto; and Río Santiago, in Amazonas) are located in indigenous areas of the
... the State, instead of creating a single law for the indigenous peoples of the Amazon, has created some 5,000 sovereign legal systems that are not standardized.

Hernando de Soto with Bora natives in San Andrés, Iquitos

Amazon region of northern Peru.

Poverty is also accompanied by several other deficiencies, particularly in the area of health. For example:

- Life expectancy among the indigenous is 20 years lower than in the rest of the country.
- Infant mortality is double the national average: for every thousand children born, 43 infants die.
- Chronic malnutrition—which severely limits future intellectual and physical development—affects 50% of all indigenous children who will have serious learning disabilities.
- Pernicious anemia affects 40% of indigenous children and 58.3% of pregnant women, endangering their lives.
- Malaria, hepatitis B and D, leishmaniasis, and other such illnesses virtually non-existent in urban areas are prevalent among indigenous communities.
- Forced labor in informal mining and logging activities is pervasive among indigenous children and teenagers. According to the ILO, 33,000 indigenous people, including women and children of the remotest communities, fall victim to forced labor in illegal extractive activities. Today, indigenous peoples require a prosperous economy to meet their growing demand for outside goods, ranging from tools and clothing to food, and services, such as education and health. The little they have has frequently been obtained by transferring their natural capital—biodiversity, forests, land, etc.—thus mortgaging future economic development.

Indigenous Peoples Prefer Their Isolation and Do Not Need the Rest of the World

False. Today in virtually every indigenous community, goods can be found from the outside world—from matches, salt, ropes, machetes, axes, rifles, and fishhooks to motors, radios, and many other mechanical and electrical goods. High on their wish lists are modern communication systems for their communities and schools, especially radios, telephones, televisions, Internet, and motorboats.

Indigenous Peoples Want Neither Property nor Businesses

If this were true, we wouldn’t have found in virtually every community we visited communal acts and maps documenting how they themselves issue certificates of possession over their homes, farm land, hunting areas and business transactions. These acts also reveal that almost all indigenous organizations repeatedly request that their properties be titled, because there are, among other things, many disputes between and among the different communities as well as with third parties over the use of their resources, and with invaders, whether settlers, concessionaires, or loggers on community lands. According to research done by Escuela de Administración de Negocios para Graduados (ESAN), Perú’s Graduate School of Business, all of the communities in the Amazon region have boundary disputes.

Environmental Degradation is a Result of Awarding Property Rights

On the contrary: Both deforestation and environmental degradation primarily occur in areas without solid property rights. The absence of property rights favors the plundering and depletion of resources, along with the degradation of the different ecosystems—inside as well as outside indigenous territories—thereby affecting the biodiversity of the Amazon region. Without the control that documented property rights and legal businesses provide to manage resources in a transparent manner, it is impossible to identify the owners of resources or those responsible for them, and severely punish plunderers.

The Indigenous Worldview Is Incompatible with Globalization

There is no proof whatsoever that this is so. Nobody is culturally tied to any particular kind of economic organization. It’s comparable to saying that certain nationalities are culturally unfit for playing soccer or surfing the Internet. Keep in mind that scarcely 90 years ago some people were actually claiming that the worldviews of China, India and former Soviet countries were incompatible with globalization. Sixty years ago, “experts” were also arguing that Japanese society would never work outside a feudal system, and that Arabs and Eskimos could only organize tribally. Not only did these nationalities become globalized without losing their cultural identity, they have also become important engines of globalization. Cultures are not museum pieces but are constantly evolving and adapting, frequently borrowing elements from other cultures.

What is so different about the Amazonian worldview that it cannot adapt, improve and absorb the useful traits of other cultures, and benefit from the positive effects of globalization?

What is certain is that people who are poor, without clear rights over their territories and business activities, lack the resources to defend their culture, worldview, customs and traditions. Without these rights, the Amazonian peoples are in danger of being “assimilated” in such an alienating way that they could also lose their self-esteem and security as a
people.

Why Are Avatar Myths Created?
Because the indigenous peoples have never had the mechanisms to form their own opinions and express themselves directly to the powers that be on the issues that most affect their lives and futures. The myths come from several external agents that present themselves, and are commonly accepted, as spokesmen for the indigenous peoples. And of course they have their own credibility as intellectuals, artists, activists, government officials who not only try to help the Amazon peoples but also write and make movies about them. They are the “experts” on indigenous peoples that react with hostility when we so-called “non-experts” dare to tell a different story. And perhaps justifiably so, for us newcomers to the Amazon have not dedicated ourselves to the area’s problems or its peoples as much as they have.

But there is no reason to treat them as if they were pre-Columbian antiques residing in glass cases in the Museum of Natural History, or invalids incapable of dealing with the rest of the world and modernity.

I may not have studied the Peruvian Amazon for ages, but in my experience, no matter what continent they live on, when people that have been excluded from the system obtain the legal, political and technical tools that allow them to organize and express themselves, they know perfectly well how to join the rest of the world advantageously. And the peoples of the Amazon are no more or less human than the rest of us.

Therefore, my colleagues and I intend to propose in a forthcoming book —of which this essay is but a preview— that the time is ripe for indigenous peoples to take the initiative and present their proposals to the country through their rights to petition, to propose legal initiatives, grassroots initiatives, and referendums. All of this is in accordance with the Constitution of 1993 and with the commitments assumed by the Government of Peru before member countries of the Organization of American States in 1992, and complementary legislation. All of these norms are mandatory and sources for legal interpretation. We will thus come to know, through a debate focused on concrete proposals, what the indigenous peoples of the Amazon really want and what seems reasonable to the rest of the country.

These are proactive mechanisms; they go beyond “dialogue/bargaining tables” which, though useful and reduce tensions, are generally set up once social conflict has broken out; and, therefore, tend to encourage confrontation or violence to initiate talks; these are emergency devices that are hard to convert into modern, solid and lasting institutions. Our proactive mechanisms go beyond the consultations proposed in ILO Convention 169 (with which Peru must comply), which are useful but insufficient, consisting in waiting passively for the State to make proposals, dividing what indigenous peoples might need instead of permitting them to make their own proposals for all Peruvians to consider.

But why is it that the majority of us are not clear about what the indigenous peoples in the Peruvian Amazon are demanding or cannot relate to their claims? Have they not protested enough? Or could it be that their demands have been expropriated and retransmitted by those who believe that indigenous peoples should not change, that wealth creation will deprive them of their identity? What has to be done so that the marginalized people of the Amazon will enter a dialogue with those who can help them on their way to modernity?

Do the indigenous peoples of the Amazon have the property and business laws to protect themselves and for making productive combinations in an increasingly globalized world? Do the indigenous peoples of the Amazon really know how to join the rest of the world and modernity?

The Forthcoming Book
These are some of the questions we hope to answer in our book, “The Amazon Jungle is not Avatar.” Our findings confirm that the Amazon region, like the fictional moon Pandora in Avatar, is inhabited by beautiful people. Unlike Pandora, however, the Amazon is not a solitary and self-sufficient territory. It is a part of the real world where the unstoppable and growing tide of globalization has already arrived. It is time for the indigenous peoples of the Amazon to consider the possibility of adopting property and business rights in order to exchange signals with each other and the outside world, to combine their resources productively and create diversity and wealth, thereby protecting themselves from the dangers of globalization and benefiting from its advantages – just as life in the Amazon defends itself from environmental degradation through biodiversity.

Hernando de Soto
Lima, 5 June 2010

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