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Expert Report of Antonio Alfonso Peña Jumba

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English Translation

**UNDER THE RULES OF THE INTERNATIONAL CENTRE
FOR SETTLEMENT OF INVESTMENT DISPUTES**

Bear Creek Mining Corporation

Claimant,

v.

Republic of Peru

Respondent

ICSID Case No. ARB/14/21

**OPINION OF ANTHROPOLOGY AND SOCIOLOGY OF LAW EXPERT
ANTONIO ALFONSO PEÑA JUMPA**

OCTOBER 6, 2015

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I. INTRODUCTION

1. My name is Antonio Alfonso Peña Jumpa; I am a university professor, with a background in Law and Social Sciences, particularly in legal anthropology and sociology. I obtained the degrees of Bachelor in Law (1991) and Master in Anthropology (2001) from the Pontifical Catholic University of Peru (PUCP). I have also obtained a Law Degree (1992) at the same PUCP, two postgraduate diplomas in Forced Migration from Oxford University, England (1996-1997) and diplomas for studies and workshops in Sociology of Law from the Former University of Oñati, Basque Country, Spain (1999, 2000, 2001, 2003). Finally, I obtained a Ph.D. in Law from the University of Leuven or *Katholieke Universiteit Leuven*, Belgium (2006). I have taught at PUCP since 1992; I am currently a senior lecturer, and I am responsible for the courses of Sociology of Law and General Theory of Law. I have also been responsible for courses in Social Projection of the Law, Legal Anthropology, and Legal Research, and I share teaching at other public and private universities, such as Universidad Nacional Mayor de San Marcos del Perú.

2. I obtained the degree of Bachelor in Law after finishing my legal studies (1982-1988), taking several courses in Social Sciences (1989), and performing research work on the Aymara Communities of the Southern Andes in Puno that lasted three years, culminating in the thesis “Justicia Comunal en las Comunidades Campesinas de Puno: el caso de Calahuyo [Communal Justice in the *Comunidades Campesinas* of Puno: the Case of Calahuyo]” (1991). The thesis was published under the title “Justicia Comunal en los Andes del Perú: el caso de Calahuyo [Communal Justice in the Andes: the Calahuyo Case]” (Lima, PUCP, 1998). I subsequently conducted lengthy research concerning the same Aymara Communities in my Master's thesis in Anthropology “Poder Judicial Comunal Aymara en el Sur Andino: Calahuyo,

Titihue, Tiquirini-Totería y Liga Agraria 24 de Junio [Aymara Community Judicial Authority in the South Andes: Calahuyo, Titihue, Tiquirini-Totería, and Agrarian League June 24]” (Lima, PUCP, 2001), published after a thesis competition with the title “Poder Judicial Comunal Aymara en el Sur Andino [Aymara Community Judicial Authority in the South Andes]” (Bogotá, ILSA, 2004). In addition, I continued the same line of research but with a more systematic approach in my doctoral thesis under the title “*Communitarian Law and Justice Based on Peoples’ Identity: The Aymara Experience*” (KUL, Leuven, Bélgica, 2006). During this research and afterwards I have had the opportunity to make presentations, write papers, monographs, essays, and articles about the Aymara Communities and other Andean and Amazonian Communities of Peru, in Peru, England, Spain, Belgium, Canada, Bolivia, Colombia, and Brazil.¹

3. In order to carry out this research I had the opportunity to perform my field work in Puno Region, Peru. I did my first field work in 1988, traveling the entire Aymara area in Puno region, from Chucuito province (in the south of the region) up to what today is Moho province (in the north of the region), surrounding Lake Titicaca. At that time I decided to focus my field work on the Aymara Communities of the district and province of Huancané, where I was able to live with the Communities of Calahuyo, Titihue, Tiquirini-Totería, Huancho, Villa Quishuarani, Chijichalla, and Sustía Munaypa. I have continued to visit these communities and added others such as Culluraya Community during the years 1989-1991, and then in 1994, 1998-2002, and subsequently in 2006, 2008-2014, and 2012-2014. All of these visits were related to field work for my research thesis, but since 2006 they were also related to a development project concerning economic and higher education activities that we tried to materialize together with a group of

¹ Annex 1 to this report, containing my résumé.

Communities of Huancané.

4. I traveled twice to the Puno region recently for the preparation of this report requested by the attorneys for the Republic of Peru. Specifically, I traveled to Chucuito Province, and in particular, to Desaguadero, Huacullani, and Kelluyo districts (located in the border with Bolivia). The first trip corresponds to July 18-22, 2015; during that trip, with the support of a research assistant and colleagues and community members of the region, I had the opportunity to travel from Puno to the city of Desaguadero, and from that city to Huacullani (07/20/2015) and Kelluyo (07/21/2015) districts. The second trip corresponds to July 28-August 1, 2015; during that trip, with the support of two assistants, I had the opportunity to remain longer in Huacullani district (07/29/2015 to 07/31/2015). During these trips I had the learned about the everyday practices of the urban population and the Aymara Communities of those districts, as well as participate in some of their festivities, and understand the difficulties that they currently share in connection with the conflict related to the Santa Ana Mining Project, located in Huacullani and Kelluyo districts, and three kilometers from the urban community of Huacullani district. From what I was able to observe, the reality of the urban population and the Aymara Communities of Huacullani and Kelluyo districts is not very different from the reality I know in the Aymara Communities of Huancané, which I studied for many years, as I indicated above.

5. During both visits I tried to be receptive to the situation and the problems that I was able to identify in the population of the Aymara Communities and the urban area that is also Aymara, in the districts that I visited. I had the opportunity to talk with local, political authority figures, but above all with community authority figures or former authority figures. In addition, I had the opportunity to visit the main university in the region and review part of its theses and publications. I also visited two non-governmental organizations that work in the area, local

libraries, and centers for the dissemination of publications, and local newspapers in the region. A limitation of these visits that I must mention is the context of social tension found among the people and the community members themselves in Huacullani and Kelluyo districts. The presence of the Santa Ana Project, and the subsequent protests of 2011, created a tense division among the people of the region, a division that persists to this day. The people of the area are afraid to discuss the 2011 events, or earlier, with persons from outside their community or from outside their circle of trust. Gathering information in these districts about the issue of the Santa Ana Mining Project has been difficult because of the distrust or fear that the community members and residents of the city have of discussing the issue. This situation has limited the carrying out of interviews and formal testimonies. For this reason, the identity of the persons interviewed is kept anonymous. These persons are afraid that if they provide their names, the information may be used against them.² Nevertheless, the visit to the area, including the mine site, as well as the conversations and informal testimonies, and the corroboration of information by means of other work previously performed by experts in the subject, lead us to prepare this report.

6. In this report I will first explain the social, political, and economic organization of the Aymara *Comunidades Campesinas* of south Puno. This will be essential to understanding the background to the opposition that was generated against the Santa Ana Project of Bear Creek Mining Corporation (“Bear Creek”). In addition, I will explain the special rights that the Peruvian and international legal systems grant to *Comunidades Campesinas*. Second, I will explain

² Although I have the formal interview with a main authority figure of one of the districts involved (Huacullani, July 20, 2015), anonymity is preserved in this report for security reasons.

the social crisis that originated in Puno in connection with the Santa Ana Project. In particular, I will describe the relations of the mining company with the communities in its area of influence, to show that one of Bear Creek's greatest failures was the lack of contact with all the communities that would be affected by the Project. Bear Creek established relations with only 5 of the 27 communities that were within the area of influence that it itself identified. This conduct created tensions and divisions among the communities, and for this reason a strong opposition movement was generated against the project. As part of this situation, I will describe the events that preceded the demonstrations of mid-2011, such as the looting and burning of the mining camp in 2008. Finally, I will describe the social explosion that occurred in 2011, which ended with regrettable loss of life and significant material losses. This social explosion [was] caused in part by the activities of Bear Creek in southern Puno.

II. THE AYMARA RURAL COMMUNITIES OF THE PERUVIAN SOUTH ANDES: PUNO REGION

7. The Aymara *Comunidades Campesinas* are historic social organizations that inhabit from time immemorial the southern and northern areas of Puno region, in Peru, including the provinces of Chucuito, Yunguyo, Ilave-El Collao, Puno, Huancané, and Moho. They also inhabit the northern part of the neighboring country of Bolivia. Their ancestors precede the Inca Empire (which developed in the 12th-15th centuries AD), having been identified with what used to be the Tiahuanaco Empire (which developed approximately in the 4th-12th centuries AD). These communities currently co-exist with the Quechua *Comunidades Campesinas* of the region (descendants of the Incas) that inhabit mainly the provinces of Melgar, Carabaya, and Azángaro in Puno region, and with the mestizo population that lives in the urban area or the main cities of

the region. The Aymaras also inhabit the border region, on the Bolivian side. It must be borne in mind that the Aymara *Comunidades Campesinas* consider themselves primarily Aymara; Peruvian or Bolivian nationality is, actually, secondary to them.

8. The Aymara *Comunidades Campesinas* are found in Puno region under two legal forms: the first of them corresponds to the *Comunidad Campesina* recorded or registered pursuant to State regulations,³ and the second corresponds to the non-recorded *Comunidad Campesina*, also known as Partiality, Sector, Annex, or Populated Center.⁴ In either of its two forms, the Aymara *Comunidad Campesina* has a defined territory, which is essential for its existence as a Community: without territory there is no community.⁵ The former, however, usually combines community tracts of land and a Community Board as the highest authority, whereas in the latter the tracts of land of each co-owner family predominate and has a lieutenant governors as the highest authority.⁶ On the other hand, these Aymara Communities also share activities and specific organizational forms at the economic, social, and cultural levels. These activities explain their own forms of life and subsistence, and therefore we briefly explain them below. The main regulatory framework will then be presented.

³ See Constitution of Peru, December 29, 1993 (“Constitution of Peru”), Art. 89 [Exhibit R-001]; General Law on the *Comunidades Campesinas* of Peru, Law No. 24656, April 14, 1987 (“General Law on Peruvian *Comunidades Campesinas*”), Arts. 1 and 2 [Exhibit R-107].

⁴ See Constitution of Peru, Art. 89 [Exhibit R-001]; Civil Code of Peru, July 25, 1984, Arts. 124-139 [Exhibit R-033].

⁵ Testimony of community members of Huancané (1988, 2015), but it is also an expression that is part of the vision of the community members of Huacullani and Kelluyo, in Chucuito province, Puno region (July 2015).

⁶ See in this regard Antonio Peña Jumpa, COMMUNAL JUSTICE IN THE ANDES: THE CALAHUYO Case 75-80 (1998) [Exhibit R-109]. This difference has also been the subject of conversation with community members of Huacullani and Kelluyo districts (July 2015), where the partiality appears with a sector of the community that separates itself to achieve autonomy.

A. MAIN ECONOMIC ACTIVITIES OF THE AYMARA *COMUNIDADES CAMPESINAS* OF PUNO

9. The Aymara *Comunidades Campesinas* of the Peruvian South Andes, Puno region, have two main economic activities: agriculture and livestock farming. Agriculture has been the main activity that has allowed the Aymara Communities to develop throughout history, leading to the formation of kingdoms and empires and to exist as a Community to this day. Because of their geographic location next to Lake Titicaca, in the Collao plateau, and because of the seasonal rains, agriculture is practiced as a family and community activity in their tracts of land. During the agricultural cycle that lasts from October to May, they are devoted to the sowing and harvesting of products such as potato, quinoa, barley, New Zealand yams, beans, ullucus, among others.

10. The tracts of land usually belong to a family, and they become integrated with each community, which, in turn, has community land or tracts of land, [and] both make up the territory of the Aymara *Comunidades Campesinas*.⁷

11. During the agricultural cycle, a cosmogonic relationship of the community members with nature and their deities of their surroundings is also added. The main deity corresponds to Pachamama or Mother Earth, to whom they offer tribute or payments before sowing to implore a good harvest, and after the harvest to express gratitude for the food received. The second important deity is Apu, identified with the mountains or hills that surround each Community, to whom they offer respect and tribute to implore his protection in health, safety, and personal and family development.

⁷ See Antonio Peña Jumba, *Originary Property in America: Property rights in Andean and Amazonian Communities in Peru*, JOURNAL JUS ET VERITAS No. 45 10 (December 2012) [Exhibit R-110]. Also online at, http://www.gunthergonzalesb.com/GGB.%2017.05.2011/articulos-amigos/Antonio_P...pdf, (accessed on September 20, 2015).

12. Livestock farming, on the other hand, is a secondary or complementary activity to agricultural activity. It is the economic activity that allows the use of cattle, mainly bovine, as an exchange or trade product between the *Comunidades Campesinas* and the urban population of the big cities of Puno, Arequipa, and Lima. By means of cattle trade the Aymara community members receive money or economic benefits that allow them to buy manufactured products that are made in the big cities.

13. By means of this livestock farming activity, the Aymara community members can have three to ten livestock per family, depending on the size of their tracts of land devoted to food for their cattle; with their periodic trading, they can obtain an income of 300 to 1,000 soles per month (USD 100 to 350 per month). With this money they can buy noodles, rice, oil, sugar, notebooks, pencils, matches, bread, fruit, drinks, etc. that the members of the family require.⁸

14. In addition to these main economic activities, other complementary activities are fishing, crafts, trade, and temporary work usually outside the community. Fishing is practiced by the community members who live near Lake Titicaca or around an adjacent lake. Crafts are connected to the manufacturing of traditional ornaments or clothing in the communities or in nearby cities to which part of their family members have migrated. Trade is also a complementary activity that takes place through a grocery store in the community or in a nearby city to which part of the family has migrated, or through the trading of a single product, such as quinoa or cattle between the community and the city. Finally, temporary work is usually a salaried but informal activity, which is performed in the agricultural fields on the coast of the country, in the informal mines of the highest areas of the Andes in the north of the region, or in

⁸ See Antonio Peña Jumpa, *Law (and Justice) and Aymaras' Cattle Economy in the Andean South: Perspectives for a Communal Development*, JOURNAL ALLPANCHIS 64, 238-244 (2004) [Exhibit R-111].

the work of laborers, security guards, domestic workers, among others that are similar, of the cities.

B. SOCIAL AND POLITICAL ORGANIZATION OF THE AYMARA RURAL COMMUNITIES OF PUNO

15. The Aymara Communities of Puno have a solid social and political organization, through which they control or regulate their family and community power structure. This is why the Community remains as an institution among the Aymaras, despite the multiple social and political changes that usually arrive from outside the community. A distinction must be drawn between social organization and political organization.

16. Social organization corresponds mainly to its family organization. The family is the foundation and support of each community, to the extent that the Community is made up of the collection of families.⁹ In the family organization we can distinguish between what we know as the nuclear family and the extended family.¹⁰ The nuclear family consists of the father, mothers, and children, whereas the extended family corresponds to the ascending (grandparents) [and] collateral (uncles, cousins) blood relationships, and the relationships established by marriage in ritual form (godparents) and by affinity (siblings-in-law, parents-in-law).

17. The nuclear family is the unit or center of the social foundation. Ownership of land and cattle, like any other economic activity, is defined by this unit. The nuclear family is also essential in the decision-making of each community and its Community Assembly:

⁹ See Antonio Peña Jumpa, COMMUNAL JUSTICE IN THE ANDES, THE CALAHUYO CASE 126 (1998) [Exhibit R-109].

¹⁰ Many anthropological studies mention this difference. See for example Javier Albo, *Husbands, In-laws and Best Mans within the Aymaras* in Enrique Mayer and Ralph Bolton, KINSHIP AND MARRIAGE IN THE ANDES 307 (1980) [Exhibit R-112]. In this regard, we have systematized it in Antonio Peña Jumpa, COMMUNAL JUSTICE IN THE ANDES, THE CALAHUYO CASE , COMMUNAL JUSTICE IN THE ANDES, THE CALAHUYO CASE , COMMUNAL JUSTICE IN THE ANDES, THE CALAHUYO CASE , COMMUNAL JUSTICE IN THE ANDES, THE CALAHUYO CASE 126-128 (1998) [Exhibit R-109].

each family has one vote, regularly exercised by the father of the family or, in his absence, the mother of the family. The extended family, on the other hand, supports and assists the nuclear family, and, reciprocally, receives support and assistance from the latter. When a nuclear family needs to perform sowing in several tracts of land, or when it needs grazing to fatten its cattle, or needs to take care of its tracts of land or its cattle, it resorts first to its extended family. Similarly, when the nuclear family needs to roof its house, lend tools, or sell a tract of land, it resorts to the extended family.

18. Family organization also manifests itself through conflict resolution. When a dispute occurs in a young marriage, the parents and godparents are the ones called for its resolution. When it is not possible for the couple to remain together because of mistreatment or unsustainable violence, the nuclear-extended family offers support for each member of the couple and, ultimately, decides on the resolution.¹¹

19. The political organization of the Aymara Communities of Puno, on the other hand, is determined by the participation of family representatives in the management of community activities that take place at two levels: the level of community authorities and the level of the Community Assembly. The participation at the level of community authorities encompasses, in turn, the obligation to assume by rotation the positions of Lieutenant Governor and President of the Community. Usually the position of Lieutenant Governor is assumed first (for one year) before the position of President of the Community (for two years). But, in any event, the personal background of the candidates in the performance of previous “minor” positions, such as

¹¹ See Antonio Peña Jumpa, *COMMUNITY JUSTICE IN THE ANDES, THE CALAHUYO CASE* 189-191, 199-206 (1998) [Exhibit R-109]. One can also read Antonio Peña Jumpa, *AYMARAS’ JUDICIARY POWER IN THE ANDEAN SOUTH* 157-159, 178-183 (2004) [Exhibit R-114].

bailiff or superintendent that supports the Lieutenant, or as administrative secretary, treasurer, public prosecutor, or member of the board that supports the President, must be known and evaluated by the totality of the community members. Depending on the extent and population of a community, there may be one Lieutenant Governor or more, identified by sector. There will always be, however, one President, supported by a Community Board (which includes positions that are lesser than the position of President of the Community).

20. The Community Assembly is the legislative and governmental unit of the community, headed by the President of the Community and supported by the Lieutenant Governor. The exercise of the duties of this unit includes decisions concerning the cleaning of channels to prevent flooding, school refurbishment, implementation of the health clinic, tree cutting, etc. The participation at the level of community assembly includes, in turn, the obligation by each nuclear family to take part in the ordinary and special sessions that are called by the President and his Community Board. Ordinary sessions may occur every week, every fifteen days, every month, or every two months, depending on what each community has agreed, in accordance with the need that identifies them. Special sessions are called at any time, depending on the circumstances. During these sessions agreements are reached on the economic, social, and cultural activities that involve all the families of the community.

21. The community authorities and the Community Assembly also have judicial duties. When nuclear families cannot resolve their conflicts through their family bodies, the Lieutenant Governor intervenes, if the matter corresponds to his sector, or the President of the Community and his Community Board intervene. When the conflict is of a community nature, because it involves the interests of several families, the President and the Lieutenant Governor

intervene directly in its resolution. If the matter or conflict is very complex, it is included in the next agenda of the Community Assembly or the Community Assembly is called urgently to put an end to it.¹²

22. In sum, these are organized communities whose structure and family and community composition is found in all and each one of the community members, enabling their development and existence in the Community.

C. THE CULTURAL ORGANIZATION OF THE AYMARA COMMUNITIES OF PUNO

23. Neither the economic organization nor the social or political organization of the Aymara Communities of Puno can be understood and discerned unless one also considers the cultural organization. This is what defines the spiritual character of the economic, social, and political activities, as we have mentioned above. We can briefly introduce it through its deities, the concept of family honor, and collective identity.

24. The cultural organization of the Aymara Communities is defined by traditional and “Western” deities (syncretism) that guide the actions of the community members. The traditional deities include Pachamama and the Apus, who intervene in the economic activity and personal life of the community members, as we have mentioned. The “Western” or syncretic deities encompass, in turn, the cross, the virgin, and certain religious saints, who are usually connected to patron saint festivities. The latter are celebrated at different times of the year through the obligatory character of positions (“alferado” and “kaperado,” for example) that are held by rotation to carry out celebrations incorporating all the families of the community.¹³

¹² See Antonio Peña Jumpa, *COMMUNITY JUSTICE IN THE ANDES, THE CALAHUYO CASE 192-197*, 206-229 (1998) [Exhibit R-109]; Antonio Peña Jumpa, *AYMARAS’ JUDICIARY POWER IN THE ANDEAN SOUTH 159-162*, 183-192 (2004) [Exhibit R-114].

¹³ See Antonio Peña Jumpa, *COMMUNITY JUSTICE IN THE ANDES, THE CALAHUYO CASE 128-130* (1998) [Exhibit R-109].

25. The cultural organization also includes the development of a morality in the individuals of each family and in each family per se. Respect for promises made, respect for neighbors and their property, and respect for basic principles of coexistence such as “not to steal,” “not to lie,” and “work hard” (Inca and Pre-Inca principles) constitute what we call Family Honor.¹⁴ Based on this concept of Family Honor, each family respects agreements of the family and the community assembly, assumes community positions by rotation, and seek to resolve or prevent family or community conflicts in which a family member is involved. Without honor, a family feels discredited and unprotected, being forced to recover it to prevent being excluded from the community.

26. The set of economic, social, and political activities related to the deities and the family honor of community members leads to other fundamental concept that makes life in the community possible: collective identity or cultural identity that we call collective being. This consists of the identity built day to day through and expressed in mutual respect among families, in reciprocity and mutual help caused by family or community interest, in conflict resolution, in the protection of their natural resources, and in the idea of progress that the young in particular experience when they migrate because of their studies or work and drive the sentiment of each family and the entire community. This collective or cultural identity drives the development of the community as a unit.¹⁵

¹⁴ See Antonio Peña Jumpa, COMMUNITY JUSTICE IN THE ANDES, THE CALAHUYO CASE 232-236 (1998) [Exhibit R-109].

¹⁵ See Antonio Peña Jumpa, COMMUNITY JUSTICE IN THE ANDES, THE CALAHUYO CASE 236-255 (1998) [Exhibit R-109].

27. In short, Aymara Communities are characterized as a social organization in which the family and family honor, community authority, and collective being represent essential elements in the development of the community. For this reason, its structure and composition, which in general is like a hierarchical order, are respected, and community agreements are followed without much questioning.

D. RECOGNIZED RIGHTS OF THE AYMARA COMMUNITIES OF PUNO

28. The Aymara *Comunidades Campesinas* of Puno have a special treatment with regard to the rights and obligations recognized in the Peru's legal system and in international agreements to which Peru is a party. This is a special treatment that benefits all the *Comunidades Campesinas* of Peru (usually located in the Andes and the coast of Peru), as well as all the Native Communities of Peru (usually located in the Amazonia of Peru). Both *Comunidades Campesinas* and Native Communities are identified as Native Peoples or Indigenous Peoples in international regulations. The sections below distinguish the special treatment, both at the national and international levels, of the rights recognized for these Rural and Native Communities, or Indigenous Peoples of Peru, in which we include the Aymara Communities of Puno.

1. Special Treatment of Rights at the National Level

29. At the national level, particular rights have been historically recognized for *Comunidades Campesinas* and Native Communities, among which we find the Aymara Communities. The Constitution of Peru of 1993, currently in effect, recognizes three main rights or groups of rights: 1) the right to ethnic and cultural identity, 2) the right to legal personality and organizational autonomy, in community work, in the use of and free disposition of their lands,

and in economic and administrative matters, and 3) the right to their own judicial authority.¹⁶ In addition, there are other constitutional rights, such as the right to use one's own language, the right to a bilingual and intercultural education, the right to intercultural health, among others. Similarly, there are other rights recognized by specific normative instruments such as the General Law on *Comunidades Campesinas* of Peru, Law No. 24656, which recognizes the right to exempt oneself from taxation or the right to the community company.¹⁷

30. The constitutional right to ethnic and cultural identity is provided in Article 2, paragraph 19 of the Constitution of Peru, in the following terms: “Every person has a right to: His or her ethnic and cultural identity. The State recognizes and protects the ethnic and cultural plurality of the Nation (...).”¹⁸ This provision, in turn, is supplemented by the final section of Article 89 of the Constitution, which specifies the right in favor of Rural and Native Communities: “(...) The State respects the cultural identity of Native and *Comunidades Campesinas*.”¹⁹

31. The constitutional right to the legal personality and autonomy of the Aymara *Comunidades Campesinas* is also provided in Article 89 of the Constitution of Peru, which provides that Native and *Comunidades Campesinas* have free disposition over their lands.²⁰ This provision partially regulates the right to self-determination of the Communities, a right that is supplemented by Article 163 of the Constitution of Peru of 1979, which provided that the lands of *Comunidades Campesinas* were unattachable and imprescriptible and, importantly, also that

¹⁶ See Constitution of Peru, Articles 2.19, 89, 149 [Exhibit R-001]

¹⁷ See General Law on the *Comunidades Campesinas* of Peru, Arts. 25-39 [Exhibit R-107]

¹⁸ Constitution of Peru, Article 2.19 [Exhibit R-001].

¹⁹ Constitution of Peru, Article 89 [Exhibit R-001].

²⁰ See Constitution of Peru, Article 89 [Exhibit R-001]

the lands of the Communities were inalienable.²¹ Under the principle of progressivity of Human Rights, the rights recognized in the latter aforementioned normative instrument remain in effect.²² Therefore, the constitutional right to autonomy also includes the imprescriptibility, unattachability, and inalienability of the lands of Native and *Comunidades Campesinas*, pursuant to the aforementioned articles.

32. The right of the Aymara *Comunidades Campesinas* of Puno to their own judicial authority, in turn, is provided in Article 149 of the Constitution of Peru. Under this article, rural authorities have judicial authority within the scope of their territory.²³ That provision regulates what is known as Community Justice or Communitarian Justice of the Native and *Comunidades Campesinas* of Peru, which includes the universe of conflicts of those Communities.

2. Special Treatment of Rights at the International Level

33. At the international level, the rights of the Aymara *Comunidades Campesinas* are supported by two sets of international normative instruments: International Convention No. 169 of the International Labor Organization (ILO) on Indigenous and Tribal Peoples in independent countries (1989, enforceable in Peru since 1995),²⁴ and the United Nations Declaration on the Rights of Indigenous Peoples (2007).²⁵ Both normative instruments include a set of rights that are added to those mentioned above at the national level; among them, the following three rights

²¹ See Constitution of Peru, July 12, 1979 (“1979 Constitution of Peru”), Art. 163 [Exhibit R-031]. (“The lands of Native and *Comunidades Campesinas* are unattachable and imprescriptible. They are also inalienable, except by a law based on the interest of the Community, and requested by a majority of two thirds of the qualified members of the Community, or in case of expropriation because of public necessity and utility.”)

²² See Civil Code of Peru, Art.136 [R-033]; see also Antonio Peña Jumpa, *Originary Property in America: Property rights in Andean and Amazonian Communities in Peru*, JOURNAL IUS ET VERITAS, 28-29 (December 2012) [Exhibit R-110].

²³ Constitution of Peru, Art. 149 [Exhibit R-001].

²⁴ See International Labor Organization Convention Concerning Indigenous and tribal Peoples in Independent Countries No. 169, September 5, 1991 (“ILO Convention 169”) [Exhibit R-029].

²⁵ See United Nations Declaration on the Rights of Indigenous Peoples, September 13, 2007 [Exhibit R-108].

must be highlighted: 1) the right to prior consultation, 2) the right to participate in the benefits of extractive activities, and 3) the right of indigenous peoples to self-determination.²⁶ In addition, international regulations add an additional set of rights, similar and supplemental to those already recognized in the Constitution of Peru and its specific laws.²⁷

34. The right to prior consultation of Native and *Comunidades Campesinas*, or those identified as Indigenous Peoples in international regulations, is provided in Article 6 of ILO Convention 169.²⁸ The aforementioned right is supplemented with the right of participation, provided in the same article, but above all it highlights the need to listen to and engage in dialogue beforehand with Indigenous Communities or Peoples concerning matters related to legislative or administrative measures that may affect them directly. This right is, in turn, recognized in greater detail in Article 32 of the United Nations Declaration on the Rights of Indigenous Peoples, which even provides a right to issue their free and informed consent in cases of projects that affect their lands or territories.²⁹

35. The right to participate in the benefits of an extractive activity that is obtained from the sub-surface of the lands or territories of Indigenous Communities or Peoples is provided in Article 15 of ILO Convention 169, as follows:

“1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

2. In cases in which the State retains the ownership of mineral or sub-

²⁶ See ILO Convention 169, Art. 6 [Exhibit R-029]; United Nations Declaration on the Rights of Indigenous Peoples, September 13, 2007 [Exhibit R-108].

²⁷ See for example ILO Convention 169, Arts. 1, 7-14 [Exhibit R-029].

²⁸ See ILO Convention 169, Art. 6 [Exhibit R-029].

²⁹ See United Nations Declaration on the Rights of Indigenous Peoples, September 13, 2007, Art. 32 [Exhibit R-108].

surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programs for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.”³⁰

36. The aforementioned provision specifies the right of indigenous peoples to be consulted beforehand about the exploration or exploitation of minerals or sub-surface resources, in the lands of these peoples, adding the right to participate in the benefits obtained from the exploitation of those resources. In addition, the same provision adds the right to fair compensation for any damage caused by the same activity, and the following provision of the same Convention, Article 16, adds the right to prior consent in case of relocation or transfer of Indigenous Communities or Peoples.³¹

37. The right to self-determination of Indigenous Communities or Peoples, in turn, is provided in Articles 3 and 4 of the United Nations Declaration on the Rights of Indigenous Peoples.³² The rights laid down in those provisions are reflected in the aforementioned Article 89 of the Constitution of Peru, which regulates the right to autonomy of Native and *Comunidades Campesinas*, among which we include the Aymaras.

38. In conclusion, the Aymara Communities have autonomy over their territory. In addition to the previous information about their economic, social, and cultural organization, the Communities, in practice, must not only be consulted, but the communities must accept the

³⁰ See ILO Convention 169, Art. 15 [Exhibit R-029].

³¹ See ILO Convention 169, Art. 16 [Exhibit R-029].

³² See United Nations Declaration on the Rights of Indigenous Peoples, September 13, 2007, Arts. 3, 4 [Exhibit R-108].

project.

III. THE AYMARA COMUNIDADES CAMPESINAS AND THE TRANS-COMMUNAL CONFLICT OF THE SANTA ANA MINING PROJECT

39. The Aymara *Comunidades Campesinas* of Puno have conflicts, but also the means to resolve them. In order to understand the conflict that occurred after the Santa Ana Mining Project of the mining company Bear Creek, it is first important to briefly understand the content of those conflicts that the Communities identify and resolve, so as to then describe the context of the mining project and analyze the most relevant events of a conflict that we call trans-communal based on the reality of the Aymara Communities of Puno.

A. UNDERSTANDING THE NATURE OF THE CONFLICTS IN THE AYMARA COMMUNITIES OF PUNO

40. In previous studies about the Aymara *Comunidades Campesinas* of Puno, I have verified that they suffer or experience numerous conflicts, just as any other social or human group. These conflicts have been classified into two main groups: on the one hand, internal conflicts, whose causes are found in the clash of interests in dispute within each Community, and, on the other hand, external conflicts, whose causes are found in the clash of interests in dispute of one community with another community or with some private or public institution.³³

41. Among the internal conflicts of the Aymara *Comunidades Campesinas* there are two additional groups of conflicts: family conflicts and community conflicts. These conflicts emerge in the daily life of the community members from their economic, social, political, and cultural activities in the same community. Family conflicts arise from the clash of interests among members of the same nuclear-extended family or among members of two families of the

³³ The universe of Aymara conflicts can be found generally in Peña, Antonio Peña Jumpa, COMMUNITY JUSTICE IN THE ANDES, THE CALAHUYO CASE 187-308 (1998) [Exhibit R-109]; Antonio Peña Jumpa, AYMARA'S JUDICIARY POWER IN THE ANDEAN SOUTH (2004) 155-307 [Exhibit R-114].

same community, whereas community conflict arises from the clash of interests of a nuclear or extended family with the interests of the community symbolized by the totality of its community members.³⁴

42. The external conflicts of the Aymara *Comunidades Campesinas* of Puno can be divided, in turn, into two additional groups of conflicts: inter-communal conflicts and trans-communal conflicts. Inter-communal conflicts correspond to those family or community conflicts that have as main characters family members of different communities. For example, the family conflict of a couple in a dispute whose members belong to different Communities, or the community conflict of boundaries of community tracts of land of two neighboring communities.³⁵

43. Trans-communal conflicts, in contrast, are those conflicts that involve the interest of a community or group of communities against the interest of a non-community party: a public institution, a private company, or a natural person outside the Community. They are conflicts that go beyond the family and community relations of a community or group of communities. For example, the conflict that brings into confrontation a community or group of communities with a mining company interested in the exploitation of the mine site located in the territory of those communities and that has the support of the State authority. The communities do not agree with the exploitation of the mine site, whereas the mining company, since it has the formal permits, feels entitled to exploit that site. In that case, the resolution of the conflict goes beyond the decision of the Community.³⁶

³⁴ See Antonio Peña Jumpa, COMMUNITY JUSTICE IN THE ANDES, THE CALAHUYO CASE 187-197 (1998) [Exhibit R-109]; Antonio Peña Jumpa, AYMARA'S JUDICIARY POWER IN THE ANDEAN SOUTH (2004) 155-177 (2004) [Exhibit R-114].

³⁵ See Antonio Peña Jumpa, AYMARA'S JUDICIARY POWER IN THE ANDEAN SOUTH 223-276 (2004) [Exhibit R-114].

³⁶ The definition and development of the trans-communal conflict can be found in Antonio Peña Jumpa, AYMARA'S

44. The Aymara Communities of Puno have the capacity to resolve the array of conflicts that is submitted to its resolution bodies. For that purpose, they have their own resolution bodies, different procedures and agreements, and final decisions that consolidate their own conflict resolution systems.³⁷ One of the conflicts that escapes this community judicial authority, however, is the one that concerns trans-communal conflicts that involve the interests and decisions of private or public bodies external to the Community.

45. Under this short theoretical framework of conflict in the Aymara Communities of Puno, it is possible to begin to understand the relationship of the Santa Ana Mining Project of Bear Creek with the Aymara Communities of its surroundings. As can be understood from the theoretical framework presented, it was or it is a conflict of a trans-communal nature. Its resolution involved private officers and central government authorities that overwhelmed the resolution capacity of the Aymara Communities of Puno. Because of the causes and effects of the conflict, however, it must also be borne in mind that it had repercussions in the internal relations of the Aymara Communities of the surroundings of the mining project, in which internal and inter-communal conflicts emerged.

B. CONTEXT OF THE SANTA ANA MINE SITE AND ORIGINS OF THE CONFLICT

46. The Santa Ana mine site is located at approximately 3,900 meters above sea level, in the districts of Huacullani and Kelluyo, in Chucuito province, Puno region. Geographically, it

JUDICIARY POWER IN THE ANDEAN SOUTH 277-307 (2004) [Exhibit R-114] and more directly in Antonio Peña Jumpa, COMMUNAL JUSTICE AND DEVELOPMENT: TRANSCOMMUNAL CONFLICTS IN THE ANDEAN SOUTH. PERSPECTIVES FOR LOCAL DEVELOPMENT FROM THE STATE AND INTERNATIONAL COOPERATION (2008) [Exhibit R-115].

³⁷ The universe of Aymara conflicts can be found in Antonio Peña Jumpa, COMMUNITY JUSTICE IN THE ANDES, THE CALAHUYO CASE 187-308 (1998) [Exhibit R-109]; Antonio Peña Jumpa, AYMARA'S JUDICIARY POWER IN THE ANDEAN SOUTH 155-307 (2004) [Exhibit R-114]; Antonio Peña Jumpa, COMMUNAL JUSTICE AND DEVELOPMENT: TRANSCOMMUNAL CONFLICTS IN THE ANDEAN SOUTH. PERSPECTIVES FOR LOCAL DEVELOPMENT FROM THE STATE AND INTERNATIONAL COOPERATION 5-15 (2008) [Exhibit R-115].

is located 3 kilometers from the historic center or the Urban Community of Huacullani District, 18 kilometers from the border with the neighboring country of Bolivia, and approximately 48 kilometers from the city of Desaguadero.³⁸

47. For the community members of the area, it is a site of gold, silver, and other metals, whose exploitation dates back many years, involving Inca or pre-Inca periods. It is during the period of Spanish colonization, however, that the community members remember that the largest exploitation of the mine site took place; the mineral was extracted to be transferred to the mining center of Potosí, in Bolivia, for its subsequent delivery to Spain. During this period one can identify a massive exploitation of the local workforce, something that still brings bad memories to the community members of the area.³⁹ After independence on July 28, 1821, the small tunnels stop operating, and priority is given to agricultural activity through Hacienda Ingenio Concepción, which will subsequently go into decline because of the agrarian reform of 1968.⁴⁰

48. The Santa Ana mine site can be easily visited from the Urban Community of Huacullani as long as one has the permission and support of local community members. During my visit to the area I was able to verify the proximity of the site to Huacullani district and to Kelluyo district.

³⁸ According to the account of rural and urban community members of Desaguadero and Huacullani interviewed on July 19-20, 2015.

³⁹ According to the account of rural and urban community members of Huacullani interviewed on July 20, 29-30, 2015.

⁴⁰ According to the account of rural and urban community members of Huacullani interviewed on July 20, 29-30, 2015.



Photograph of the mine site taken from the Urban Community of Huacullani, July 20, 2015. The site is located behind the homes that appear between the arch and the tower of the local church.⁴¹



Photograph from the Urban Community of Kelluyo. The mine site is located behind the mountain that appears behind the homes and the municipal building. July 21, 2015.

49. The Santa Ana mine site was not important for the community members who were

⁴¹ See additional photographs in Exhibit 3 to this report.

residents of the *Comunidades Campesinas* or Partialities of Huacullani District, and less important for the Communities and Partialities of Kelluyo, until the beginning of the first decade of 2000.⁴² The community members who have lived after the agrarian reform of 1968, when their community territories were reconstituted, only knew that their lands were important and necessary for agricultural and livestock farming activities that they have historically practiced. In 1996 the area of the mine site had been declared Aymara Lupaca Reserved Area by Supreme Decree No. 002-96-AG.⁴³ The aforementioned Supreme Decree created this initial natural protected area (because of its wildlife, its scenic beauty, and its natural resources) that had 300,000 hectares, encompassing Chucuito and Yunguyo provinces, where the Santa Ana mine site and Huacullani and Kelluyo districts were located. However, over the years and because of new political and economic circumstances, this reserved area would first be resized and then reclassified.

50. During the first years of 2000 a woman appeared in Huacullani and Kelluyo (it is likely that this was Ms. Jenny Karina Villavicencio Gardini, as it appears cited in previous research work) who, accompanied by other persons, identified herself as the owner of the mine site, and they talked with the local authorities of the time.⁴⁴ According to information obtained, the aforementioned persons negotiated with these authorities the reclassification of Huacullani and Kelluyo districts, where the mine site is located, of the Aymara Lupaca Reserved Area.⁴⁵ This partial reclassification was achieved by a Supreme Decree that resized the Reserved Area,

⁴² According to the account of rural and urban community members interviewed on July 20, 29-30, 2015.

⁴³ See Supreme Decree No. 002-96-AG March 1, 1996 (published on March 3, 1996) [Exhibit R-116].

⁴⁴ See Patricia Quiñones, *CONCESSIONS, PARTICIPATION, AND CONFLICT IN PUNO. THE SANTA ANA CASE, THE LIMITS TO THE MINING EXPANSION IN PERU* 35-42 (2013) [Exhibit R-117].

⁴⁵ See Patricia Quiñones, *CONCESSIONS, PARTICIPATION, AND CONFLICT IN PUNO. THE SANTA ANA CASE, THE LIMITS TO THE MINING EXPANSION IN PERU* 35-42 (2013) [Exhibit R-117].

excluding the aforementioned districts: Supreme Decree No. 003-2006-AG, published on January 21, 2006.⁴⁶ Subsequently, in 2009, the total reclassification of the Reserved Area is decreed by Supreme Decree No. 015-2009-MINAM, published on August 28, 2009.⁴⁷

51. After the reclassification of Huacullani and Kelluyo districts of the Aymara Lupaca Reserved Area, in 2006 the mining company Bear Creek appeared, as the owner of the mine site.⁴⁸ Bear Creek had to get a special regulation in order to obtain ownership of the mining concession in a border area: the declaration of public necessity. It is observed that the company Bear Creek appeared in the area before having obtained the declaration of public necessity to carry out the Santa Ana Project.

52. The company Bear Creek obtained a Supreme Decree that allowed it to exceptionally operate the Santa Ana mine site in November 2007: Supreme Decree No. 083-2007-EM.⁴⁹ The aforementioned Supreme Decree is exceptional because constitutionally the right to exploit a mine site located within 50 kilometers from the territorial border of Peru is prohibited to foreign nationals by Article 71 of the Constitution. This was the case of the owners of Bear Creek that wanted to operate the Santa Ana mine site, located in the border with Bolivia. The second paragraph of Article 71 of the Constitution provides as follows:

“(…)distance of fifty kilometers from the borders, aliens may not acquire or possess, directly or indirectly under any title, mines, land, woods, water, fuel or energy sources, whether it be individually or in partnership, under penalty of losing that so acquired right to the State. (…)”⁵⁰

⁴⁶ Details of the reclassification process of the districts where the Santa Ana mine site is located can be found in the study by Patricia Quiñones, CONCESSIONS, PARTICIPATION, AND CONFLICT IN PUNO. THE SANTA ANA CASE, THE LIMITS TO THE MINING EXPANSION IN PERU 29-42 (2013) [Exhibit R-117]; *see also* Supreme Decree No. 003-2006-AG, of January 21, 2006 [Exhibit R-113].

⁴⁷ *See* Supreme Decree No. 015-2009-MINAM, published on August 28, 2009 [Exhibit R-175].

⁴⁸ According to the account of rural and urban community members, interviewed on July 20, 29-30, 2015.

⁴⁹ *See* Supreme Decree No. 083-2007-EM, November 29, 2007, Arts. 1-3 [Exhibit C-0004].

⁵⁰ Constitution of Peru, Art. 71 [Exhibit R-001].

53. The main requirement to make use of this exception is the circumstance of public necessity. The urban and rural population of Kelluyo District was insistent in maintaining that the Santa Ana Project was not a public necessity neither in the region nor in the country to authorize that exception. The majority of the rural population of Huacullani agreed with this assessment, whereas for the urban population of Huacullani the debate was not relevant.⁵¹

54. Supreme Decree No. 083-2007-EM authorized Bear Creek to acquire the mining concessions of the Santa Ana Project. Ms. Jenny Karina Villavicencio Gardini transferred the concessions to the company.⁵² Bear Creek had to begin its community relations activities to obtain the support of the Aymara *Comunidades Campesinas* identified as part of their area of influence. This was the third important step to consolidate the project and move on from exploration to exploitation of the minerals of the site.

55. Neither Bear Creek nor the central government carried out a prior consultation of the local population, which included the Aymara *Comunidades Campesinas* of Huacullani and Kelluyo districts, that would be directly affected by the Santa Ana Project. This fact, added to the

⁵¹ Interviews in Kelluyo, July 21, 2015, and Huacullani on July 20, 29-31, 2015. With regard to the extraordinary nature of the measure, it must be borne in mind in addition that, as Patricia Quiñones (2013) mentions, there is a precedent of a request similar to the one of Bear Creek over the Santa Ana mine site, which had a negative response, according to the Documentation Center of the Mineral Public Register No. 01-00258-00. She describes it as follows: “ (...) in 2000 the company ASC Perú LDC-Sucursal Perú [ASC Perú LDC-Peru Branch], owned by the United States transnational company Apex Silver Mines Corporation, was interested in obtaining the concession of the area of the Santa Ana Project, as it knew about the existence of silver deposits, and resorted to the same legal means [requesting the “public necessity” exception]. (...) Nevertheless, (...) it received a negative response for reasons of national defense and security.” (Patricia Quiñones, CONCESSIONS, PARTICIPATION, AND CONFLICT IN PUNO. THE SANTA ANA CASE, THE LIMITS TO THE MINING EXPANSION IN PERU 43-44 (2013) [Exhibit R-117]). The precedent is also cited by Omar Cavero, “Understanding Social Conflict: The Puno 2011 Mining Protest”, December 2014 [Exhibit R-052]. Why was the necessity request denied in the case of the company Apex Silver Mines Corporation and granted in the case of Bear Creek ? This explains the extraordinary nature of the situation described, which constitutes an important precedent in view of the facts that will take place.

⁵² See supra, para. No. 452 (facts that agree with what Patricia Quiñones describes, CONCESSIONS, PARTICIPATION, AND CONFLICT IN PUNO. THE SANTA ANA CASE, THE LIMITS TO THE MINING EXPANSION IN PERU 35-42 (2013) [Exhibit R-117]).

previous facts concerning the extraordinary permits that would later be known and understood by the community members of Kelluyo and Huacullani, constituted the origin of the conflict.

C. LIMITATIONS OF THE COMMUNITY RELATIONS OF THE COMPANY BEAR CREEK: DIRECT WORK WITH ONLY FIVE AYMARA RURAL COMMUNITIES

56. The mining company Bear Creek is viewed by the community members of Huacullani under two perspectives. For a group of community members, it appears as a company that offers work and therefore boosts the local economy bringing development to the district. For others, it appears conversely as a risk of contamination of the territory of their communities and the destruction of their economic activities that they have historically used, such as agriculture and livestock farming.⁵³ For the community members of Kelluyo district, on the other hand, with some exceptions, the assessment of Bear Creek is negative, as it is identified as a risk of contamination and abuse to the detriment of their communities.⁵⁴ This assessment is in line with the demarcation of effective work that Bear Creek had during its years of operation in the area (approximately 2007 to 2011). The community members of Huacullani and Kelluyo districts consider that the company only worked offering benefits to five *Comunidades Campesinas* and one Urban Community. These are:

⁵³ Interviews in Huacullani, July 20, 29-31, 2015.

⁵⁴ Interviews in Kelluyo, July 21, 2015.

Comunidades Campesinas with Job Agreements with Bear Creek		
Nro.	Comunidad or Parcialidad	Location
1	Comunidad Campesina de Concepción Ingenio	Huacullani
2	Comunidad Campesina de Challacollo	Huacullani
3	Comunidad Campesina de Ancomarca	Huacullani
4	Parcialidad de Cóndor de Ancocahua	Huacullani
5	Comunidad Urbana de Huacullani (Junta Vecinal Urbana San Pedro de Huacullani)	Huacullani
6	Comunidad Campesina de Arconuma	Kelluyo

Source: Interviews in Huacullani and Kelluyo of July 20, 21, 29, and 30, 2015.

57. From this total of Communities and Partialities that allegedly received the offer of benefits from Bear Creek , one must exclude as an effective beneficiary the rural community of Arconuma, of Kelluyo district, which ultimately did not accept or did not receive the benefits of the company, leaving as the only beneficiaries the five Communities and the Partiality of Huacullani district. This fact is verified with the temporary work contracts or agreements entered into by the mining company Bear Creek and the beneficiary communities.

58. According to the account of the Huacullani community members, the following is the table of contracts or agreements entered into between the mining company Bear Creek and the beneficiary Communities, by year and identifying the number of jobs assigned per year:

Number of Jobs Assigned by the Mining Company Bear Creek to the Communities and Partiality of Huacullani District, 2007-2011						
Year	Comunidades Campesinas (CC) Urban Community (UC) o Parcialidades (P)					Total
	P. Condor Ancocahua	CC Challacollo	CC Ancomarca	CC Concepción Ingenio	UC Huacullani	
2007	10	5	5	5	0	25
2008	15	10	10	10	3	48
2009	35	25	25	15	10	110
2010	35	25	25	15	10	110
2011 (enero)	35	25	25	15	10	110

Source: Interview with a co-owner of the Partiality of Cónдор Ancocahua, July 20, 2015, and interviews with community members of Huacullani on July 29 and 30, 2015. Prepared by the author.

59. In the 2006 request by Bear Creek requesting the declaration of public necessity to be exempted as a foreign company from the constitutional prohibition of operations within the 50-km border area (Article 71 of the Constitution of Peru), it identifies a total of 26 Communities and/or Partialities as part of its area of influence.⁵⁵ Nevertheless, despite this acknowledgement of the area of influence and the Communities likely to be affected, work is only carried out with the aforementioned five Communities and Partiality. According to that request, the same company excludes from direct benefits or does not give the same attention during its years of operation to the following Communities and/or partialities:

⁵⁵ See Request from Bear Creek MINEM soliciting the authorization to acquire mining rights located in the border area, December 4, 2006, pp. 18-19 [Exhibit C-017]; see in this regard the Amendments to the Environmental Impact Study. July 2009 available at http://intranet2.minem.gob.pe/web/archivos/dgaam/inicio/resumen/RE_1915172.PDF (accessed on September 21, 2015) [Exhibit R-120]. In a document dated July 2009, the area of direct influence only includes four communities: Ingenio *Comunidad Campesina*, Ancomarca *Comunidad Campesina*, Challacollo *Comunidad Campesina*, and the Urban Neighborhood Board San Pedro de Huacullani (Huacullani Urban Community), whereas the area of indirect influence only includes one Community: the *Comunidad Campesina* of Yorohoco.

Communities and Partialities Excluded from Direct Benefits, According to the Declaration of Area of Influence of the Company Bear Creek		
Nro.	Comunidades Campesinas y Parcialidades Huacullani Districti	Comunidades Campesinas y Parcialidades Kelluyo District
1	Comunidad de Aurincota	Comunidad de Arconuma
2	Comunidad de Callaza	Comunidad de Totoroma
3	Comunidad de Chacachallo	Comunidad de Alto Aracachi Kelluyo
4	Comunidad de Laca Laca	Comunidad de Carique Challacollo
5	Comunidad de Laca Jaqui o Laca haqui o Laca hache	Comunidad de Centro Aracachi Chiaraqui
6	Comunidad de Marca Ayllu Huancasama	Comunidad de Kapia Pusuma
7	Comunidad de Tarapoto	Comunidad de Maycu Phujo
8	Comunidad de Alto Andino Vilachave	Comunidad de Perca
9	Comunidad de Vilachave 1	Comunidad de Pérez
10	Comunidad de Yarocco o Yorohoco	Comunidad de Pilco
11		Comunidad de Tulacollo
12		Comunidad de Tuntipucara

Source: Interviews with community members of Huacullani and Kelluyo, July 20, 21, 29-31, 2015.

60. The community members of Huacullani and Kelluyo districts consider, in addition, that the area of influence of the mine site and its possible exploitation involves all the *Comunidades Campesinas* and Partialities of both districts.⁵⁶ Consequently, the following Communities and Partialities are added to the previous table:

⁵⁶ Interviews with community members of Huacullani and Kelluyo, July 20, 21, 29-31, 2015. See Exhibit 2 to this report for a complete list of the Communities and Partialities.

Additional Communities and Partialities Excluded from Direct Benefits, According to the Assessment of Co-Owners of Huacullani and Kelluyo Districts		
Nro.	Comunidades Campesinas y Parcialidades Huacullani Districti	Comunidades Campesinas y Parcialidades Kelluyo Distric
1	Comunidad de Sillicachi	Parcialidad de Aracachi Chura
2	Parcialidad de Cangachi	Comunidad de Jahuerha Chura
3	Parcialidad de Ancohaqui	Comunidad de San Juan de Aracachi
4	Parcialidad de Carhuankuyo	Comunidad de Jahuerja San Pedro
5	Parcialidad de Quinbalita o Quimbalita	Comunidad de Chacocollo
6	Comunidad de Isruni	Comunidad de Sacacani Huma (ex parcialidad)
7	Comunidad de Arconuma [de Huacullani]	Comunidad de Rio Arenales
8		Parcialidad de Chuncarcollo
9		Parcialidad de Chipana San José
10		Parcialidad de Circa Kenturani
11		Parcialidad de Chipana Nueva Alianza
12		Parcialidad de Vilcanqui Challacollo
13		Parcialidad de Vilaque

Source: Interviews with community members of Huacullani and Kelluyo, July 20, 21, 29-31, 2015.

61. Therefore, in the assessment of the totality of the community members of districts surrounding Huacullani and Kelluyo, the area of influence of the possible exploitation of the Santa Ana mine site is greater. In the area of direct influence, the nearby beneficiary or affected communities are within three to five kilometers of the mine site, whereas the other communities are located within five to ten kilometers of the mine site, approximately.

62. In addition, after the acts of looting and burning of the mining camp of Bear Creek

that occurred in 2008 that are discussed below, other communities or partialities that also felt affected or threatened by the mining project came forward and, therefore, they considered that they should be included in that area of influence. These communities or partialities are more numerous than the ones indicated above, and correspond mainly to the neighboring districts of Zepita, Pisacoma, and Desaguadero. The events that occurred after the 2011 protests, particularly in the months of April to June 2011, confirmed that demand and condition of the Communities and Partialities of the districts indicated.

63. In view of these facts and conditions it can be verified that the communities excluded from the work of the mining company Bear Creek would develop fears and rejections toward the mining activity. The fears were connected more with the possibility of losing their lands and cattle, which led to hatred that ended with more violent acts, such as the looting and burning of the mining camp in October 2008.

D. LOOTING AND BURNING OF THE MINING CAMP OF THE COMPANY BEAR CREEK AS AN EXPRESSION OF PROTEST

64. Although detailed field work with review of historical data is necessary to understand the true facts experienced at each stage of the consolidation or development of the mining company Bear Creek in Huacullani and Kelluyo districts, certain events can show us that reality without much effort. One of those events is the one that corresponds to the looting and burning of the mining camp that occurred on October 14, 2008. Below we analyze the causes of the looting and burning of the camp of the mining company Bear Creek and their consequences and meaning.

1. Causes of the Looting and Burning of the Camp

65. When we interviewed a co-owner leader who took an active part in the protests of

April to June 2011 in Puno region about the causes of rejection of Bear Creek , he identified a set of causes that matched very well the same causes that two years and five months earlier had led to the looting and burning of the mining camp of the aforementioned company.⁵⁷ Agreeing and explaining those causes in greater depth, they are the following:

- **The risk of ecological damage.** The Aymara community members feared for the contamination of their rivers and the impact on their lands and cattle. The experience of contamination of other rural areas or districts, such as in the Quechua provinces of Cayabaya and Melgar, in Puno department, provided an illustration.
- **The lack of consultation about the concession and commencement of mining activities.** The community leaders were already aware of the right to prior consultation, and, therefore, they could demand that it be complied with. Nevertheless, although State authorities had an obligation to carry out the prior consultation, its being carried out depended on the officers of Bear Creek .
- **The declaration of public necessity.** The arbitrariness of requesting and obtaining by means of an extraordinary Supreme Decree the authorization that allows a dispensation from the constitutional prohibition on foreign companies from exploiting the Santa Ana mine site, located within 50 kilometers of the country's border. This request necessarily involves Bear Creek , in the community members' view, because neither the district nor the mining activity in the region were in the situation of “public necessity” required by the Constitution for the government to grant that dispensation.
- **The lack of benefits.** The omission of economic benefits in infrastructure works and jobs or, in general, of any benefit that corresponds to all the communities of Huacullani and Kelluyo districts, as well as the neighboring districts that consider themselves to be directly affected, since they are the owners of the lands where the mining project is located or through which it will be exploited.

66. After understanding these causes we can, in turn, understand the conditions of grievance, protest, and even hatred toward the mining company and the communities that initially supported them. In these conditions, the looting and burning of the mining camp occur, confirmed in the corroboration of the Public Prosecutor of Desaguadero district, in the following terms:

⁵⁷ Interview in Kelluyo, July 21, 2015

“...Carrying out the Verification on the 14th of this month and year, at 2:00 p.m., the installations of the mining company had already been set on fire. They were also completely LOOTED. The criminal acts had therefore already taken place,...”⁵⁸

67. It was not possible to identify the perpetrators after the events. Nevertheless, even if individuals had been identified, the causes were collective. Nonetheless, it could be understood that the arrest of the leaders or of all the community members would have exacerbated the events.

2. Consequences of the Looting and Burning of the Mining Camp

68. After the unfortunate event of the looting and burning of the mining camp of Bear Creek, this company withdrew for a short time: from October 2008 until January 2009.⁵⁹ After that time, the company returned seeking a closer relationship with the communities that did not benefit and that were located within the area of direct influence identified by it: projects of agrarian promotion, veterinary support, school support, and pre-university preparation were introduced. The aforementioned main causes, however, did not change. For example, employment contracts were resumed only with the group of four communities and one partiality with which it had previously worked directly.

69. The tense situation of the Communities of Huacullani and Kelluyo between those who favored the mining project and those who were against intensified. In the thesis of Tintaya and Acero (2011), prepared after the looting and burning of the mining camp, the degree of tension that identifies one of the *Comunidades Campesinas* of Huacullani (the *Comunidad*

⁵⁸ Observation of the Public Prosecutor of the looting and burning of the mining camp, in Resolution No. 468-2008-MP-2da.FPMCH.DESAGUADERO, October 17, 2008 [Exhibit R-051].

⁵⁹ Interview Huacullani July 20 and 30, 2015.

Campesina of Challacollo, even a beneficiary of the employment contracts) can be observed.⁶⁰

The following testimony obtained in that community is very clear in this regard:

“[The mining company Bear Creek] provided us with little support, in addition there are projects that were not commenced, they have only been a matter of words ... on the contrary, it has led to the people from the other communities rising up against us because of our not sharing with the entire District the work and social support that the company allegedly gave us because the other communities think that they give us many more things. In addition, we once told the engineers to go out to the other neighboring communities to inform them of how and what things they are giving us... Their commitment of the company and the engineers [sic] was that they were going to go out to the other communities to inform them, but they never did.

“The problem of the looting and burning of the mining camp (2008) affected the cattle fair that we had in HUACULLANI, because it was separated into two, that is, the fair of those from Kelluyo has come here to the community of Carique and the district fair is not as full as it used to be; in addition, cattle purchasers do not come anymore.”⁶¹

70. The testimony reveals the difficulty associated with living after the looting and burning of the mining camp. From the perspective of the cited co-owner, in practice the inter-communal life to which they were used to was destroyed; the market or communal trade between neighboring communities was broken. The other communities that did not correspond to the five that directly benefited from the company already thought and speculated many aspects that they could not put a stop if the company could not lessen the aforementioned main causes.

71. In sum, the looting and burning of the mining camp of Bear Creek was not an “isolated,” purely “criminal,” or “terrorist” act by the community members. The looting and

⁶⁰ Olimpia Tintaya Choquehuanca and Patty Acero Chambi, *Sociocultural Conflicts that Resulted from the Operation of Bear Creek Mining Company in Challacollo*, THESIS OF ANTHROPOLOGY 178-179 (2011) [Exhibit R-121].

⁶¹ Testimony of co-owner L.M. (name omitted for security reasons), 35 years old. In Olimpia Tintaya Choquehuanca and Patty Acero Chambi, *Sociocultural Conflicts that Resulted from the Operation of Bear Creek Mining Company in Challacollo*, THESIS OF ANTHROPOLOGY 169-170 (2011) [Exhibit R-121].

burning of that camp was the expression of a first crisis situation shown by a numerous group of *Aymara Comunidades Campesinas* in light of the causes that we could already identify as structural that had been developed by the mining company Bear Creek's own action or intention and that, regrettably, was not rectified. This lack of rectification would lead over the months to a more extreme crisis situation.

IV. EXPLOSION OF SOCIAL CRISIS AFTER THE TRANS-COMMUNAL CONFLICT OF THE SANTA ANA MINING PROJECT

72. After the looting and burning of the mining camp of Bear Creek on October 14, 2008, events of continuous tension occurred between community members of the different communities and partialities of Huacullani and Kelluyo districts, as well as between the communities and the mining company. Although initially the company tried to earn by means of social programs the acceptance of more communities beyond the five communities that supported it, the causes of the earlier rejection increased. When the experience of communities or partialities of other areas of the region, where contamination had followed concessions and mining exploitation, became known, the rejection increased more.⁶²

73. The leaders and experts of the region began to debate and disseminate, through local media, the contamination problems that occur in different areas of the region.⁶³ In these areas the contamination of the Quechua Communities of the provinces of Azángaro, Carabaya, and Melgar, whose harmful effects reach the Aymara area of Huancané through the Ramis River,

⁶² Interview in Kelluyo, July 21, 2015; interview in Huacullani, July 20 and 30, 2015.

⁶³ Omar Cavero (2014) describes that from 2006 [sic]. Several districts of the province of Ilave-El Collao, adjacent to the province of Chucuito, where Huacullani and Kelluyo are located, began these debates to the extent of submitting complaints against the decrees that reclassified the Aymara Lupaca reserve area. *See* Omar Cavero, "Understanding Social Conflict: The Puno 2011 Mining Protests", December 2014 [Exhibit R-052]. In March 2011, when I had the opportunity to visit the city of Puno for an academic event, I was invited to a radio program for an interview. In addition to the issue of Community Justice, which was the subject of the invitation, I was insistently asked about issues of mining and contamination caused by mining in the Communities. At the time I did not know about the conflict that was developing in the Aymara south zone.

stands out. The case of the mining concession of Khapía Hill, identified as an Apu or Aymara deity, located in Yunguyo province (not far from Huacullani and Kelluyo districts, which belong to Chucuito province), was also disseminated. On the other hand, it spread among the communities and among community members and citizens in general that Puno region was under an unspecified or exaggerated number of mining and oil concessions.⁶⁴

74. After this news, the trans-communal conflict, localized in the districts of Huacullani and Kelluyo and triggered by the Santa Ana Mining Project, spread. First, the conflict became consolidated at the level of the communities that did not benefit from the direct activities that only five communities received. Second, the conflict heightened in those communities that belong to the districts surrounding Huacullani and Kelluyo that also consider themselves affected by the mining project. Third, the conflict spread to all the communities, partialities, and urban centers of the Aymara area of Puno region, where it joined other conflicts such as the one mentioned above in Yunguyo province, where the population was defending Khapía Hill against another mining concession. Finally, the Quechua area of Puno region joined the conflict; its community members radicalized their protests up to the city of Juliaca, the most economically important in the region. Thus the conflict was transformed from local into regional, or, more precisely, it was transformed into a trans-communal conflict at a regional level.

75. Let us examine below three main aspects that lead us to understand the intensification or explosion of the social conflict and how, as part of this explosion, one detects the rejection of the Santa Ana Mining Project of the mining company Bear Creek: A) the causes or complaints that preceded the intensification or explosion of the trans-communal conflict, B) the chronology of the most important events of this explosion of the conflict, and C) the

⁶⁴ Interviews in Desaguadero, Huacullani, and Kelluyo districts on July 19, 20, 21, 29-31, 2015.

consequences that followed the explosive events of the conflict.

A. CAUSES OR COMPLAINTS THAT CREATE THE SOCIAL EXPLOSION IN PUNO REGION

76. After the looting and burning of the mining camp, another important event that intensified the trans-communal conflict of the Communities of Huacullani and Kelluyo districts was the public hearing of February 23, 2011, in which the results of the Environmental Impact Statement (EIA) were presented. This public hearing was very well attended; many people of the Communities, Partialities, Populated Centers, and cities of Huacullani and Kelluyo districts participated, but also people from neighboring districts that felt threatened: Zepita, Pisacoma, Desaguadero, and Pomata. It gathered together the interests of those who were in favor, those who hesitated, and those who were against the mining project.

77. During the public hearing, although some people submitted oral and written questions, there was little room for the intervention of the people attending. This resulted in the intervention of only the representatives of the mining company, experts, and leaders who knew about the issue. For this reason, at the end of the audience, a movement of peaceful protest was generated outside the premises of the audience, around the main square of the city of Huacullani: “the people mobilized peacefully with the request for the immediate withdrawal of the Santa Ana Mining Project from the area.”⁶⁵ A mayor of the most important district of the area, the city of Desaguadero, appeared as one of the leaders who expressed his disagreement with the Environmental Impact Statement of the Santa Ana Mining Project, supported by other leaders, community authorities, and community members in general, who belonged to the communities

⁶⁵ Interview Huacullani July 20 and 30, 2015.

that did not receive a direct benefit from the mining company Bear Creek.⁶⁶

78. This public disagreement was the confirmation of the situation that had been experienced for months and years in all the communities surrounding the mining project. An example of this situation was known even in one of the five communities that were direct beneficiaries of the mining project, Challacollo *Comunidad Campesina*, where anthropologists Tintaya and Acero managed to obtain numerous testimonies, of which we cite the following three:

“Initially the company... with its engineers arrived saying sweet things... they said that they are here only to see whether it will be possible to perform exploration studies and that it would not affect them at all... they need the permission of the community for that... that it will only be for a time; it thus persuaded us, and thus the community, association, and the authorities of the time have given permission... but once the mine people arrived... they have done things as they pleased... from the beginning they have not respected agreements... they said they would drill only a few holes, but now they have made several platforms... And what little support they have given us... does not compensate for what they have done in our lands.”⁶⁷

“Now the employment policy of the company was not very good because for them all that matters is to discuss the agreement with the three communities, where they were operating... but they did not care about conducting information workshops for the other communities and Districts. The community relations manager (engineer) talked... about reaching up to the Provincial [sic] in order to inform and educate the population about the mining project... those proposals of informative work have not been fulfilled.”⁶⁸

“I sincerely oppose the return and operation of the mining company, simply because they do not fulfill their commitments and agreements...”

⁶⁶ Interview Huacullani July 20 and 30, 2015.

⁶⁷ Testimony of Ms. H. V. (name withheld for security reasons), 55 years old, in Olimpia Tintaya Choquehuanca and Patty Acero Chambi, *Sociocultural Conflicts that Resulted from the Operation of Bear Creek Mining Company in Challacollo*, THESIS OF ANTHROPOLOGY 123 (2011) [Exhibit R-121].

⁶⁸ Testimony of Ms. L. M. (name withheld for security reasons), 35 years old, in Olimpia Tintaya Choquehuanca and Patty Acero Chambi, *Sociocultural Conflicts that Resulted from the Operation of Bear Creek Mining Company in Challacollo*, THESIS OF ANTHROPOLOGY 124 (2011) [Exhibit R-121].

but they want the community and its authorities to fulfill them, they require from us minutes signed by our assembly that reflect what little they provide to us as support... With that conduct the engineers will not obtain the support and backing of the population as they expect... much less an unconditional support; therefore... first fulfill the commitments and then we will just see whether it is accepted again or not... although it would be better if it did not come back.”⁶⁹

79. All these sources of dissatisfaction of the communities and partialities of Huacullani (except the case of the five communities that were direct beneficiaries) and Kelluyo districts, but also those of neighboring districts, became consolidated when support to the Frente de Defensa de los Recursos Naturales de la zona Sur de Puno (FDRNSP) was confirmed on March 22, 2015. This front is led by Walter Aduviri, a professional and Aymara community member, of Mazocruz district, Ilave-El Collao province, who with other Aymara leaders had already created the Frente de Defensa a protest movement against the mining concessions in Puno region. At that time, after a multitudinous meeting in the *Comunidad Campesina* and town of Yaraoco, in Huacullani district, the sources of dissatisfaction with the Santa Ana Mining Project are included as part of the aforementioned movement. The community members describe that that meeting assembled 25,000 community members, who arrived from all the Communities of Kelluyo, Huacullani, Desaguadero, Pisacoma and Zepita districts, among others, and were interested in taking a position against the Santa Ana Mining Project of Bear Creek .⁷⁰ According to newspaper accounts, community members from other Aymara districts, such as Capazo, Pisacoma, Masocruz, Acora, Ilave, and even from a Quechua province, Carabaya, joined.⁷¹

⁶⁹ Testimony of Mr. T. C. (name withheld for security reasons), 44 years old, in Olimpia Tintaya Choquehuanca and Patty Acero Chambi, *Sociocultural Conflicts that Resulted from the Operation of Bear Creek Mining Company in Challacollo*, THESIS OF ANTHROPOLOGY 124 (2011) [Exhibit R-121].

⁷⁰ Interview in Kelluyo, July 21, 2015.

⁷¹ See Human Rights and Environment Association, *Chronology: Antimining Protests in the South Region-2011*, p. 3 [Exhibit R-058]. Chronology of the events prepared by a non-governmental institution.

80. With the support received by the rural communities, the FDRNSP, led by Walter Aduviri and other Aymara leaders, and the representatives of the communities began protests in defense of the natural resources of the region. In this regard, the FDRNSP had three main demands, which are summarized as follows:

- The repeal of Supreme Decree No. 083-2007-EM, published on November 29, 2007, that authorizes in an extraordinary manner the mining concession in favor of Bear Creek in a border area. The leaders of the FDRNSP consider that that Supreme Decree “has constitutional and legal defects.”⁷²
- The declaration of the intangibility [sic] of mining activities in Khapía Hill, located in the Aymara province of Yunguyo. This is because Khapía Hill is a deity known as Apu in Yunguyo province and in large part of Chucuito province.⁷³
- The suspension of all mining concessions in the provinces of Chucuito, Yunguyo, Ilave-El Collao, and Puno. This request is based on the fear of having the entire region under concession for mining and oil. It is requested that the suspension be extended until land use planning is made for the entire region.⁷⁴

81. As can be seen, the first request or demand made by the FDRNSP corresponds to the repeal of the Supreme Decree that led to the concession of the Santa Ana Mining Project of Bear Creek. This confirms that the activities of Bear Creek caused in large part the conflict that originated in Puno in 2011.

B. BASIC CHRONOLOGY OF THE EXPLOSIVE SOCIAL EVENTS

82. In order to understand the events of 2011, we follow the information of the media

⁷² Interview with a Kelluyo co-owner and authority figure, July 20, 2015.

⁷³ See Khapía Documentary, available at <https://www.youtube.com/watch?v=AUai1FPrCXM> (last viewed on September 18, 2015) [Exhibit R-122].

⁷⁴ All these demands have been disseminated by the press and in interviews with leaders of the social movement. This appears systematized in the Chronology prepared by the Human Rights and Environment Association, Chronology: Antiminig Protests in the South Region-2011 [Exhibit R-058].

systematized in the chronology prepared by the Association for Human Rights and the Environment of Puno (2011). This is a non-governmental entity with presence in Puno, whose officers experienced first hand the violent actions and demonstrations that occurred in the area. In this regard, we identify three stages of the demonstrations: the first stage corresponds to protest actions carried out locally, for example near the Santa Ana mine site; the second stage corresponds to the spread of the protest to the cities of Puno and Desaguadero; and the third stage corresponds to the spread of the protest to the capital of the country, Lima, and the intervention of Quechua Communities.

83. The first stage corresponds to the period of March, after the confirmation of the support for the FDRNSP, until the beginning of May 2015, before the spread of the protest to the cities of Puno and Desaguadero. This stage is characterized by the occurrence of local protests that were carried out in the districts near the mine site. In the case of the Santa Ana mine site, the protests were localized in the *Comunidades Campesinas* of Huacullani, in the area that corresponds to the bi-national highway of Peru and Bolivia, and that in Peru connects Desaguadero district with the cities of Moquegua and Tacna. The regional authorities were asked to issue ordinances declaring the conflict area as intangible and prohibiting mining and oil concessions in Puno region.⁷⁵ This stage included the implementation of a 48-hour regional strike, carried out on April 25 and 26, 2015, in which co-owner María Choque Limache (68 years old) died as a result of the firing of a tear gas shell; she was a resident of Totoroma Community, Kelluyo district.⁷⁶

⁷⁵ Interview with community members and leaders of Kelluyo, Huacullani, and Desaguadero, July 19, 20, 29-31, 2015.

⁷⁶ See Human Rights and Environment Association, Chronology: Antimining Protests in the South Region-2011, p. 4 [Exhibit R-058].

84. The second stage of the protest coincides with the realization by FDRNSP leaders and the people who participated in those protests concerning the functional incompetence of the Regional Government to prohibit mining and oil concessions in the region. Awareness emerges that the authority corresponds to the central government, because its bodies issued the regulations that granted the concessions that they questioned at the time. Thus, the protests localized in the municipalities and provinces where the mine sites are located spread to cities with larger populations, focusing in the capital of the region, Puno, during May of 2011.⁷⁷

85. During this second stage the most serious events that occurred during the protests in Puno region take place. Thus, on May 9, 2011 an indefinite regional strike began, but on May 24-27, 2011 possession was taken of the city of Puno, and several State institutions were destroyed, among them the institutional Customs headquarters. During this process, the composition of the Multi-Sectoral Commission of the Central Government (created on May 22, 2011, by Supreme Resolution No. 131-2011-PCM) was expanded on May 26, and subsequently an agreement was reached to enact Supreme Decree No. 008-2011-MINAM, which prohibits mining concessions in Khapía Hill, as it considers it a landscape reserve.⁷⁸ This decision of the central government would have provided a response to one of the demands. This second stage, in our view, culminates on May 31, 2011, when the suspension of the indefinite strike until June 8, 2011 was agreed, in order to prevent an interruption of the national electoral process.⁷⁹

86. The third stage corresponds to the actions after the electoral process of June 5, 2011 in Peru. During this stage a group of Aymara leaders, consisting of more than 300 people,

⁷⁷ See Human Rights and Environment Association, Chronology: Antimining Protests in the South Region-2011, pp. 5-14 [Exhibit R-058].

⁷⁸ See Supreme Decree No. 008-2011-MINAM, May 28, 2011 [Exhibit R-123].

⁷⁹ See Human Rights and Environment Association, Chronology: Antimining Protests in the South Region-2011, p. 14 [Exhibit R-058].

mobilizes in Lima, and, on the other hand, the *Comunidades Campesinas* of the Quechua area join the protest, in solidarity with the Aymaras, but above all also to demand the defense and protection of their environment, affected by unofficial and official mining.⁸⁰

87. The Quechua Communities radicalized their protest on June 21-24, 2011. To this end, they centralized their protest in the city of Juliaca, reaching its critical point on June 24, 2011, when the protesting community members manage to enter the Juliaca international airport, with six deaths and more than 40 injured recorded.⁸¹ Meanwhile, the Aymaras in Lima, accompanied by Walter Aduviri, were visiting the public institutions and media to insist on the cancellation of mining projects in south Puno, including the Santa Ana Project. After an incident that occurred in the media, in which the Peruvian National Police tried to arrest Mr. Aduviri pursuant to a court order, and, after the lifting of this court order was secured in an extraordinary manner, the access to dialogue with authorities of the central government in Lima began.⁸²

C. CONSEQUENCES THAT FOLLOWED THE EXPLOSIVE SOCIAL EVENTS

88. After the radicalization of the protests in Desaguadero, Puno, Juliaca, and Lima, the central government issued a series of regulations to bring under control the critical situation that was taking place in Puno. In summary, the set of regulations that followed the explosive social unrest are the following:

- **Supreme Resolution No. 131-2011-PCM**, published on May 22, 2011, which establishes the Multi-Sectoral Committee responsible for studying and proposing actions with regard to the mining concessions in the provinces of Chucuito and Yunguyo, Puno department. That Supreme Resolution was amended and expanded by subsequent

⁸⁰ Interviews in Puno, Kelluyo, and Huacullani on July 19-22, 28-31, 2015.

⁸¹ The media disseminate the news globally. *See for example* “Juliaca: Six People Dead After Violence During Protests” *La Republica Newspaper*, June 25, 2011 [Exhibit R-050].

⁸² See in this regard The More Than 30 hours That Walter Aduviri Spent in Panamericana, *available at* https://www.youtube.com/watch?v=R_BgMLBoZvM (last viewed on August 7, 2015) [Exhibit R-124].

Supreme Resolutions: Supreme Resolution No. 161-2011-PCM, of June 25, 2011, which expands the scope of the Multi-Sectoral Committee previously established; Supreme Resolution No. 162-2011-PCM, of June 25, 2011, which creates a Multi-Sectoral Commission with a view to study and propose actions with regard to mining concessions granted in Melgar province of Puno department; among others.⁸³

- **Supreme Decree No. 008-2011-MINAM**, published on May 28, 2011, in which the Ministry of the Environment declared the “Khapía Hill Landscape Reserve” a Reserved Area and issues provisions for the protection of water resources in the headwaters of Khapía Hill.⁸⁴
- **Supreme Decree No. 026-2011-EM**, published on May 29, 2011, which suspends the admission of Mining Concession Applications in the territory of the provinces of Chucuito, el Collao, Puno, and Yunguyo of Puno department, for a period of twelve months.⁸⁵
- **Emergency Decree No. 028-2011**, published on June 17, 2011, which provides measures for the protection and recovery of Ramis River basin, affected by illegal mining activity.⁸⁶
- **Supreme Decree No. 032-2011-EM**, published on June 25, 2011, which repeals Supreme Decree No. 083-2007-EM, which declared the Santa Ana Mining Project to be of public necessity, authorizing its concession to Bear Creek , and includes provisions aimed at prohibiting mining activities in Huacullani and Kelluyo, Chucuito province, Puno department.⁸⁷
- **Supreme Decree No. 033-2011-EM**, also published on June 25, 2011, which provides for the adequacy of mining concession applications and suspends the admission of mining concession applications in Puno department.
- **Supreme Decree No. 034-2011-EM**, also published on June 25, 2015 [sic], which includes provisions with regard to oil and mining activities of exploration and exploitation in Puno department in the framework of ILO Convention 169 and Law No. 24656, Law on *Comunidades Campesinas*, providing that mining and hydrocarbon-industry activities of exploration and exploitation must be subject to prior consultation.
- **Supreme Decree No. 035-2011-EM**, published on June 26, 2011, which adopts

⁸³ See Supreme Resolution No. 131-2011-PCM, May 22, 2011 [Exhibit R-024].

⁸⁴ See Supreme Decree No. 008-2011-MINAM, May 28, 2011 [Exhibit R-123].

⁸⁵ See Decree Suspending the Admissions of New Mining Requests in the Provinces of Chucuito, El Collao, Puno and Yunguyo in the Puno Department, Supreme Decree No. 026-2011-EM, May 29, 2011 [Exhibit R-025].

⁸⁶ See Decree that Complements Emergency Decree No. 028-2011, June 17, 2011 [Exhibit R-013].

⁸⁷ See Supreme Decree No. 032-2011-EM, June 25, 2011 [Exhibit C-0005].

remediation rules in the basin of the rivers Ramis and Suches.⁸⁸

89. The trans-communal conflict led to a social and political disaster when it spread. It is regrettable that although the causes that produced these events could have been known, the officers of Bear Creek that was interested in the exploitation of the Santa Ana mine site have not done enough to control their effects.

90. In the trans-communal conflict process, three specific consequences experienced by the *Aymara Comunidades Campesinas* that were visited must be added, and they relate to the latest news. A first consequence corresponds to the conduct during the acts of protest from April to June 2011 of the five *Comunidades Campesinas* that received the greatest benefits from the mining company Bear Creek. These five communities also submitted to the protests against the mining company for two reasons: because they were threatened or forced to participate by all the other Aymara Communities that were already against the mining company, and because they needed to join the other Communities of their Huacullani district in order to avoid becoming pariahs of sorts. Not only did the local authorities of Huacullani district change the rhetoric, but the community authorities of the five aforementioned Communities had to take part in the Puno marches and at least one person from each community had to travel to Lima compulsorily to obtain the “pardon” of the neighboring Communities.⁸⁹

91. The second consequence is that after the protests of April to June 2011, there are court proceedings against the Aymara leaders who led the activities during the three previously-

⁸⁸ Decree that Supplements Emergency Decree No. 028 of 2011, Supreme Decree No. 035-2011-EM, June 26, 2011 [Exhibit R-014]; also in the working paper prepared by Juan Carlos Ruiz Molleda, *Legal Analysis of the Laws Issued Regarding the Negotiations with the Comunidades Campesinas in Puno*. Paper N° 53 Instituto de Defensa Legal (IDL) – Justicia Viva, available at (http://www.justiciaviva.org.pe/webpanel/doc_trabajo/doc11082011-185107.pdf) (last visited on August 5, 2015) [Exhibit R-119].

⁸⁹ Interviews and testimony of leaders from three of the five beneficiary communities of Huacullani, July 20, 29, and 30, 2015.

described stages. At least 21 leaders, led by Walter Aduviri, are as of the date of this report charged with very serious crimes such as aggravated extortion, breach of the peace, and obstructing transportation, punishable with between 16 and 28 years of imprisonment.⁹⁰

92. Finally, the third consequence corresponds to the current situation of the *Comunidades Campesinas* of Huacullani and Kelluyo after the protests and the political disaster. Despite the Supreme Decrees issued by the central government and the withdrawal of the mining company Bear Creek from the area, the conflict continues. The reconstruction process after the political disaster has been very slow. During the two visits, we have found a context of tension between the community members of the districts of Huacullani and Kelluyo, but also between the community members of Huacullani. Kelluyo as a district continues to reject the Huacullani district for having accepted the arrival of the mining company Bear Creek, and, in turn, the Communities of Huacullani that did not receive a direct benefit from the mining company Bear Creek do not completely accept the five Communities that received that direct benefit. This increases when they comment among themselves that “there is a group of people who continue to think about the return of the mining company Bear Creek, given that officers of that company continue to have contact with those people.”⁹¹

V. CONCLUSIONS

93. The Aymara *Comunidades Campesinas* are economic, social, political, and cultural organizations of human groups that historically have occupied the territory of the Peruvian South Andes, specifically in the south and north of Puno region. They are first and

⁹⁰ Criminal File No. 00682-2011-7-2101-JR-PE—02, before the Second Court for Preliminary Investigation, Superior Court of Justice of Puno, reviewed in July 2015 [Exhibit R-118]. The first pages of the two reports of the public prosecutors concerning the charging document against the aforementioned leaders are attached.

⁹¹ Interviews and testimonies taken in the districts of Huacullani and Kelluyo, July 20, 21, 29-31, 2015.

foremost life systems that through agriculture and livestock farming, their family and community organization, their deities, and family honor have built a cultural identity that allows them to coexist peacefully. As part of this Aymara cultural identity, they build their own conflict resolution systems in which one can distinguish between internal and external conflicts, and among them a distinction is drawn between family, community, inter-communal, and trans-communal conflicts.

94. These Aymara *Comunidades Campesinas* of Puno have particular rights recognized at the national and international levels. At the national level, their own existence as a community is constitutionally recognized; three specific rights provided in the Constitution of Peru stand out: the right to ethnic and cultural identity (Articles 2.19 and 89); the right to their autonomy in the organization, their collective work, the disposition of their lands, their economy, and administration (Article 89); and the right to their own judicial authority (Article 149). At the international level, the set of rights that identifies these Communities as Indigenous Peoples is recognized by ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples; three specific rights stand out: the right to prior and informed consultation (Article 6 of Convention 169), the right to participate in the benefits of natural resources such as minerals (Article 15 of Convention 169), and the right to self-determination (Articles 3 and 4 of the United Nations Declaration).

95. In order to obtain the concession for the Santa Ana mine site in favor of Bear Creek , two administrative requests that can be characterized as extraordinary were submitted to the central government. The first of those requests is the one concerning reclassification or exclusion of Huacullani and Kelluyo districts from the Aymara Lupaca Reserved Area, established in 1996 by Supreme Decree No. 002-96-AG. The second request is the one

concerning the declaration of public necessity of the Santa Ana mine site located in a border area, authorizing Bear Creek to become the owner of the mining concession. Both requests concluded in Supreme Decrees that favored the mining concession to Bear Creek : the first supreme decree corresponds to number 003-2006-AG (published on January 21, 2006) and the second supreme decree corresponds to number 083-2007-EM (published on November 29, 2007).

96. Bear Creek did not engage in sufficient efforts to inform all the communities within its area of influence of the effects and benefits that the project could bring. This led to tensions among the communities that subsequently led to strong opposition to the Project. The community relations activities undertaken by the mining company Bear Creek within the Santa Ana Mining Project were focused on and favored directly four recognized communities and one unrecognized partiality or community: Concepción Ingenio *Comunidad Campesina*, Challacollo *Comunidad Campesina*, Ancomarca *Comunidad Campesina*, Huacullani Urban Community (Urban Neighborhood Board San Pedro de Huacullani), and Cónдор de Ancocahua Partiality. These communities are the owners of the lands where the mine site is located and are located in Huacullani district. The mining company Bear Creek did not provide the same attention to ten communities of the same Huacullani district, although it considered them within its area of influence, and it also failed to provide the same attention to twelve Communities of Kelluyo district also considered within its area of influence, all of them located within an approximate distance of five to ten kilometers from the project. To the latter ones one should add seven additional Communities of the same Huacullani district and thirteen additional Communities of Kelluyo district, all of them located within approximately ten kilometers from the project, that were excluded, from the beginning, from the area of influence of the mining company and

therefore excluded from the benefits that could have been provided to them. In addition, the *Comunidades Campesinas* of the districts of Zepita, Pisacoma, and Desaguadero also considered themselves within the area of direct influence of the mining project and were excluded by the same mining company.

97. The *Comunidades Campesinas* (recognized and unrecognized) excluded from the community relations of the mining company Bear Creek located in the districts of Huacullani and Kelluyo, as well as in the districts of Zepita, Pisacoma and Desaguadero, among others, developed a position of rejection toward the aforementioned company, based on four main causes: 1) the risk of ecological damage caused by the possible contamination of their rivers and the impact on their lands and cattle; 2) the lack of consultation about the concession and the company's commencement of mining activities; 3) the perceived arbitrariness in requesting and obtaining an extraordinary authorization to become the owner of the concession of the Santa Ana mine site located within 50 kilometers of the country's border by Bear Creek ; 4) the lack of benefits that correspond to them as owners of the lands where the mining project is located or through which it will be exploited.

98. The rejection of the *Comunidades Campesinas* considered to be excluded from the community relations of Bear Creek will objectively manifest itself in 2008 with the looting and burning of the camp of the Santa Ana Mining Project that occurred on October 14 of that year. Despite this serious event, and knowing the adverse context of part of the majority of the *Comunidades Campesinas* of Huacullani and Kelluyo districts, based on the testimony of the members of the five *Comunidades Campesinas* that were favored in its community relations, Bear Creek restarts and continues its work without changing the four main causes of that rejection. This produces the build-up of this rejection of the Santa Ana Mining Project, including

all the communities of neighboring districts such as Pisacoma, Zepita, and Desaguadero, and the neighboring provinces of Yunguyo and Ilave-El Collao. This rejection will objectively manifest itself again on February 23, 2011 during the presentation in Huacullani of the Environmental Impact Study of the mining company Bear Creek, when the first public demonstrations against the mining project take place. It will subsequently manifest itself in the multitudinous support that all the *Comunidades Campesinas* of the districts that feel affected by the mining project provided to the Frente de Defensa (FDRNSP), led by Walter Aduviri, on March 22, 2011.

99. Finally, the rejection of the Santa Ana Mining Project under concession to Bear Creek will radically materialize in all the acts of protest that included local strikes, regional strikes, taking of roads, sacrificial marches, taking of cities of districts and provinces, until its explosion in late May 2011 and in June 2011. At the end of May the city of Puno was taken for several days, leading to the burning of public institutions, and in June the protest spread to the city of Lima, whereas in Puno region the *Comunidades Campesinas* of the Quechua area joined the demands, taking the city of Juliaca and its international airport. In the end, as a result of these protests and control efforts by the security forces, seven people died and dozens were injured, in addition to significant material losses.

100. After the protests and incidents of May and June 2011, the central government had to intervene directly and adopted a series of measures to control the situation. To this end, after the protests, the central government issued seven supreme decrees (SDs): SD No. 008-2011-MINAM (05/28/2011), SD No. 026-2011-EM (05/29/2011), SD No. 032-2011-EM (06/25/2011), SD No. 033-2011-EM (06/25/2011), SD No. 034-2011-EM (06/25/2011), and SD No. 035-EM (06/26/2011).

101. The origin and development of the rejection and protests of the *Comunidades*

Campesinas of Huacullani, Kelluyo, and of those of the other neighboring districts against the Santa Ana Mining Project, under concession to the mining company Bear Creek, relate to what we have identified as a trans-communal conflict. This is a conflict of an external nature that includes non-community actors such as the mining company and the State authorities, which leads to the overwhelming of the capacity of the communities to resolve their own problems. But what is unique to this experience is that this trans-communal conflict reaches a regional level, involving all the Aymara and Quechua communities of the entire region, and ends in a situation of political disaster, without capacity for response by the population not involved in the conflict. After this disaster, the conflict still continues as of July 2015, when we performed our most recent field work in Huacullani and Kelluyo districts. The Rural and Urban Communities of these districts still live in a context of tension between those who were in favor of the mining project of Bear Creek and those who, constituting the vast majority, were against the mining project. This context offers the necessary conditions for a process of reconstruction of the community relations that still remains to be undertaken.

This opinion is based on my professional experience and I certify that its content is in accordance with the best of my knowledge and belief.

[signature]

Antonio Alfonso Peña Jumpa

Date: October 6, 2015

Annex 1

ANTONIO ALFONSO PEÑA JUMPA

CURRICULUM VITAE



Born in Pisco, Ica Region, on May 10, 1963. Married, father of 2.

Domicile: Calle Monte Caoba # 586, Urb. Monterrico Sur, Surco. Phone: 278-0691

E-mail: apena@pucp.edu.pe

A. EDUCATION AND CONTINUING EDUCATION

1. DEGREES AND TITLES

- 1.1. Bachelor's Degree with Thesis
Pontifical Catholic University of Peru (*Pontificia Universidad Católica del Perú - PUCP*)
School of Law
Thesis: *Justicia Comunal en las Comunidades de Puno: El Caso de Calahuyo* (Community Justice in the Communities of Puno: The Calahuyo Case)
Passed with outstanding marks. Year 1991.
- 1.2. Professional Law Degree
Pontifical Catholic University of Peru
School of Law
Records: Civil and Constitutional-Criminal
Passed with very good marks. Year 1991.
- 1.3. Master in Social Sciences: Major in Anthropology.
Pontifical Catholic University of Peru
School of Postgraduate Studies
Thesis: *Poder Judicial Aymara en el Sur Andino* (Aymara Judicial Authority in the South Andes)
Passed with outstanding marks. Year 2001.
- 1.4. Ph.D. in Law
Catholic University of Leuven (*Katholieke Universiteit Leuven*), Belgium
School of Law
Thesis: *Communitarian Law and Justice Based on People's Identity: The Aymara Experience*.
Passed with Highest Honors in the Belgian System: no comments. Year 2005/2006.

2. POSTGRADUATE STUDIES AND TRAINING

- 2.1. Studies Toward Ph.D. Degree in Law
Catholic University of Leuven, Belgium
School of Law. Years 2001-2005.
- 2.2. Studies Toward Master Degree in Social Sciences, Majoring in Anthropology
Pontifical Catholic University of Peru
School of Postgraduate Studies. Years 1996, 1997, 1998, 1999, 2000.
- 2.3. Master's Degree Studies on Forced Migration
University of Oxford, England
Queen Elizabeth House
Refugee Studies Programme (now Refugee Studies Centre)
Courses passed with the highest honors. Academic year 1996-1997.
- 2.4. Specialization Studies at University of Oñate:
International Institute for the Sociology of Law
 - 2.4.1. Media and Law
Year 2000
 - 2.4.2. Human Rights and Cultural Identity
Year 2001

3. LANGUAGES

- 3.1. Advanced English
Catholic University of Leuven, Belgium
Language Center. Academic years 2001-2005.
University of Oxford
Language Center. Academic years 1996-1997.
- 3.2. Basic French
Catholic University of Leuven, Belgium
Language Center. Academic years 2002-2003.
- 3.3. Basic Aymara
Practice during field work. Years 1988, 1989, 1991, 1996, 1998, 2000, 2002, 2006, 2009, 2010, 2013, 2014.
- 3.4. Basic Quechua
Practice acquired through Quechua-Spanish bilingual parents.

4. PARTICIPATION IN ACADEMIC FORUMS

4.1. President or Organizer of Academic Forums

4.1.1. International Conferences

- 1) Organizer (as coordinator of the PUCP's General Theory of Law Department) of the 2nd International Seminar on Law and Interculturality. Peruvian and Swiss Experiences. Held at the PUCP's School of Law, September 23-24, 2013.
- 2) Organizer (as coordinator of the PUCP's General Theory of Law Area) of the International Conference led by Professor Mariano Delgado, from the University of Fribourg, Switzerland, on the subject of Law and Justice in Bartolomé de las Casas. Held at the PUCP's School of Law, February 15, 2013.
- 3) Organizer (as coordinator of the PUCP's General Theory of Law Department) of the International Seminar on Law and Interculturality. Peruvian and Swiss Experiences. Held at the PUCP's School of Law, November 22-23, 2010.
- 4) Event Organizer: International Workshop on Social Justice Outreach in American Universities in the 21st Century. Place and date: International Institute for the Sociology of Law, Oñate, Spain, July 14-15, 2003. Note: The event's organization was under the responsibility of the undersigned and of Carlos Montoya Anguerri.

4.1.2. National Conferences or Events

- 1) Organizer (as coordinator of the PUCP's General Theory of Law Department) of the National Seminar on Communal Property Rights and Mining Companies. Held at the PUCP, on August 27, 28, and 29, 2012. The event was co-organized with the Common Good Institute and the Non-Governmental Organizations Work Group on Communal Property.
- 2) Organizer (as coordinator of the PUCP's General Theory of Law Department) of the Seminar on Political, Economic, and Social Conflicts from the Law. Held at the PUCP, from September 30 through October 2, 2009, within the framework of the 90th anniversary of our School.

Other prior events are added.

4.2. Member of the Organizing Committee

4.2.1 International Conferences or Events

- 1) Organizer (along with the representative of the University of Fribourg) of the 2nd Seminar on Law and Interculturality, organized by the PUCP and the University of Fribourg. Held at the PUCP's School of Law, September 23-24, 2013.
- 2) Organizer (as coordinator of the PUCP's General Theory of Law Department) of the 2nd Meeting of Teachers and Students of the PUCP and the University of Sao Paulo on Social Outreach and Legal Research within Vulnerable Communities, and the Teaching of Law. Held at the University of Sao Paulo, in Sao Paulo, Brazil, November 7-11, 2011. Co-organized by professors from the PUCP and the University of Sao Paulo, Brazil.
- 3) Organizer (as coordinator of the PUCP's General Theory of Law Department) of the 1st Meeting of Teachers and Students of the PUCP and the University of Sao Paulo on Social Outreach and Legal Research within Vulnerable Communities, and the Teaching of Law. Held at the PUCP and Lima, October 25-29, 2010. Co-organized by professors from the PUCP and the University of Sao Paulo, Brazil.
- 4) Member of the organizing committee of the 7th International Conference on Legal Anthropology, held in Lima, Peru, August 3-6, 2010, at the Pontifical Catholic University of Peru. Note: The organization began in the year 2009, with the creation of several commissions, and the Central Committee, which we joined. In the last few days of the event, there were some issues that limited our commitment, even though we continue to appear as members of the organization.
- 5) Member of the organizing committee of the International Conference on Social Outreach, Legal Clinics, and Law Learning. Place and date: Lima, PUCP, May 3, 2007. Note: The event was promoted by the Social Justice Outreach Office of the PUCP. We also participated as exhibitors.

Other prior events are added.

4.3. Lecturer

- 1) Exhibitor in the Seminar "Balance and Perspectives Twenty Years after the Enactment of the Constitution of Peru of 1993," held in the conference room of the Ministry of

- Justice and Human Rights, on April 14-15, 2014. Presentation: *“Aportes para una Constitución Multicultural”* (Contributions toward a Multicultural Constitution).
- 2) Exhibitor in the Public Forum “Indigenous Youth and Educational Policies” organized by CHIRAPAJ, Center for Indigenous Cultures of Peru, held in Lima, on November 6, 2014. Presentation: *“El Derecho a una Universidad Intercultural e Interlingue en los Andes y la Amazonia”* (The Right to an Intercultural and Multilingual University in the Andes and the Amazon).
 - 3) Speaker at the Roundtable “Analysis of the Environmental Aspects of the Economic Reactivation Package,” organized by the journal *Derecho y Sociedad* [Law and Society], on September 20 and 27, 2014.
 - 4) Exhibitor in the Preparatory Workshops for the 13th National Conference on Registration Law titled “The Role of the Register in the Country’s Inclusive Development,” held in Cusco, on August 22 and 23, 2013. Presentation: *“Los Registros Públicos en una sociedad Pluricultural: Reflexiones del caso peruano desde la Sociología y Antropología Jurídica”* (Public Registers in a Multicultural Society: Reflections of the Peruvian Case from the Legal Sociology and Anthropology Perspective).
 - 5) Exhibitor in the Seminar on General Theory of Law, organized by Minority Student Council and the Board of Directors of Base 2013, National University of San Marcos (*Universidad Nacional Mayor de San Marcos*), on August 27, 2013. Presentation: *“Derecho y sociedad: aproximaciones desde la teoría del dominio sociológico, el Derecho como instrumento de Cambio Social y el Uso Alternativo del Derecho”* (Law and Society: Approaches from the Sociological Domain Theory, the Law as an Instrument for Social Change, and Alternative Use of the Law).
 - 6) Exhibitor in the Seminar on the University Reform under Debate: New Alternatives Regarding the University Law, organized by the Associate Center [*Centro Federado*] of the School of Law of the National University of San Marcos, on September 4, 2013. Presentation: *“Reforma de la enseñanza de derecho en una sociedad pluricultural: reflexiones del caso peruano desde la sociología y antropología jurídica”* (Reform of the Teaching of Law in a Multicultural Society: Reflections of the Peruvian Case from the Legal Sociology and Anthropology Perspective).
 - 7) Exhibitor in the Latin American Conference on Human Rights and the 2nd National Conference on Human Rights, organized by the Associate Center of the School of Law of the National University of San Marcos, and the National Human Rights Coordinator, October 1-4, 2013. Presentation: *“Aproximaciones del Derecho a la comprensión de los Conflictos Socio-Culturales”* (Legal Approach to the Understanding of Socio-Cultural Conflicts).
 - 8) Exhibitor in the 13th National Conference on Registration Law titled “The Role of the Register in the Country’s Inclusive Development,” held in Tarapoto, San Martin, on October 24 and 25, 2013. Presentation: *“Los Registros Públicos en una sociedad Pluricultural”* (Public Registers in a Multicultural Society).
 - 9) Conference [sic] in the event “The Two Faces of the Law,” organized by the journal *Ius Et Veritas*, held in Lima on November 11-12, 2013. Presentation: *“Justicia en las Comunidades Andinas y Amazónicas”* (Justice in Andean and Amazonian Communities).
 - 10) Exhibitor in the 5th International Conference on Intercultural Justice, organized by the Supreme Court of Justice, in Piura, on December 20-21, 2014. Presentation: *“Los límites del Acuerdo Plenario de 2009 en relación a las Rondas Campesinas-Urbanas y la Justicia Comunal”* (Limitations of the 2009 Plenary Agreement regarding Rural-Urban Patrols and Community Justice).

- 11) International Lecturer at the Workshop Seminar on the Rule of Law and Legal Interculturality in Bolivia, organized by the Project to Support the Development of an Intercultural Legal System in the Framework of a Democratic State under the Rule of Law, by the GIZ German Cooperation [sic], held in Santa Cruz de Bolivia, on November 19-20, 2012. Presentation *“Barreras de acceso a la Justicia y la Justicia Comunal como alternativa en Perú y Bolivia”* (Access Barriers to Justice and Community Justice as an Alternative in Peru and Bolivia).
- 12) Conference to Present Bulletin PROSODE 2012-2, organized by the Social Justice Outreach Office of the PUCP, and held on October 4, 2012. Presentation: *“Conflictos Sociales en el Perú”* (Social Conflicts in Peru).
- 13) Lecturer at the 6th Specialized Mining Seminar, organized by the Administrative Law Circle [*Círculo de Derecho Administrativo, CDA*], of the PUCP’s School of Law, and held in the Auditorium of the PUCP’s School of Law on May 25 and 26, 2012. Presentation: *“Comentarios al reglamento de la Ley de Consulta Previa. Problemas en su aplicación”* (Comments on the Regulations to the Prior Consultation Law. Problems with its Application).
- 14) Lecturer at the PUCP’s Amazon Week. Organized by the Social Sciences Committee, Specialized in Anthropology, and the Social Responsibility Office, held at the School of Law, May 21-25. Presentation of May 22: *“Pluralismo Jurídico en la Amazonia Peruana”* (Legal Pluralism in the Peruvian Amazon).
- 15) Lecturer at the Seminar: Prior Consultation: Regulations and Implementation Challenges. Organized by the law firm Santiváñez Abogados, and held at the PUCP Cultural Center, on May 16 and 17, 2012. Presentation: *“El Derecho Constitucional a la Consulta Previa”* (Constitutional Right to Prior Consultation).
- 16) Guest lecturer in the *Workshop Thinking About and Practicing with Indigenous Legal Traditions*, held in Fort St. John, British Columbia, Canada, from September 30 to October 2, 2011. Presentation: *“Law and Justice in a Practical and Complex Way: the Aymara Experience.”*
- 17) Lecturer in the workshop Preparatory Actions for the Earthquake Simulation in the Independencia District, Pisco, held in Ica on November 25-27, 2011. Presentation on November 26: *“La intervención del Derecho frente a los Desastres: vulnerabilidad legal y prevención”* (Law’s Intervention against Disasters: Legal Vulnerability and Prevention).

Other prior events are added.

4.4. Speaker

- 1) Speaker in the Course on “International Public Law Matters,” organized by the Ius Inter Gentes Association, PUCP, March 10-26, 2014. Subject: The Right to Health in International Public Law.

- 2) Speaker at the Roundtable "Analysis of the Environmental Aspects of the Economic Reactivation Package," organized by the Journal Derecho y Sociedad, on September 20 and 27, 2014.
- 3) Speaker at the 8th International Conference of the Latin American Legal Anthropology Network [*Red Latinoamericana de Antropología Jurídica*, RELAJU] – Bolivia, held in Sucre, Bolivia, October 22-26, 2012. Two presentations: "*La Dicotomía del Derecho al Veto en la Consulta Previa: una aproximación desde Masaji Chiba*" (The Dichotomy of the Right to Veto in Prior Consultations: A Masaji Chiba Approach), "*El derecho de propiedad en las comunidades Andinas y Amazónicas del Perú*" (Property Law in Amazonian and Andean Communities in Peru)
- 4) Speaker at the National Seminar on Communal Property Rights and Mining Companies, held at the PUCP, on August 27, 28, and 29, 2012. The event was co-organized with the Common Good Institute and a Non-Governmental Organizations Work Group on Communal Property. Presentation: "*El derecho de propiedad en las comunidades andinas y amazónicas*" (Property Law in Andean and Amazonian Communities).
- 5) Speaker at the 3rd International Conference on Intercultural Justice, organized by the Judiciary, in Huaraz, on November 27-29, 2011. Presentation on November 28: "*Decisiones Finales y Decisiones 'Revisables' en la Justicia de las Comunidades Andinas y Amazónicas*" (Final Decisions and "Reviewable" Decisions in Andean and Amazonian Community Justice).
- 6) Speaker in the Debate on the Evaluation of the Regulations to the Law on Prior Consultation of Indigenous People: Achievements and Challenges. Organized by the Pro-Persona Human Rights Group, and held in the Santo Domingo Auditorium, in Jesús María, on May 28, 2012. Presentation: "*Comentarios al Reglamento de la Ley de Consulta Previa*" (Comments on the Regulations to the Prior Consultation Law).
- 7) Speaker at the International Seminar on Law and Interculturality. Peruvian and Swiss Experiences. Held at the PUCP's School of Law, November 22-23, 2010. Presentation: "*Justicia y Derecho en comunidades andinas y amazónicas: la experiencia de la justicia comunal en los Aymaras y Aguarunas*" (Justice and Law in Andean and Amazonian Communities: the Aymara and Aguaruna Community Justice Experience).
- 8) Speaker at the Conference of the Americas on International Education: Essential Component of Quality in 21st Century Higher Education. Organized by the Inter-American Organization for Higher Education (IOHE), and held in Calgary, Canada, on October 19-22, 2010. Presentation: "*El derecho a una universidad bilingüe en los Andes y la Amazonia del Perú, dificultades y retos*" (The Right to a Bilingual University in the Peruvian Andes and Amazonia. Difficulties and Challenges).
- 9) Speaker at the International Seminar on the Teaching of Law. Held in the Pontifical Catholic University of Peru's School of Law, on August 9, 10, and 11, 2010. Presentation: "*La Antropología y Sociología del Derecho como formación interdisciplinaria*" (Anthropology and Sociology of Law as Interdisciplinary Training).
- 10) Speaker at the 7th International Conference on Legal Anthropology, held in Lima, Peru, August 3-6, 2010, at the Pontifical Catholic University of Peru. Presentation: "*El Concepto de Justicia de Kelsen y su relación con la Sociología y Antropología del Derecho*" (Kelsen's Concept of Justice and its Relationship with the Sociology and Anthropology of Law).

- 11) Speaker at the Seminar on Indigenous Peoples' Law and International Jurisdiction, April 2010, Pontifical Catholic University of Peru. Presentation: "*El Derecho Constitucional a la Consulta Previa*" (Constitutional Right to Prior Consultation).
- 12) Speaker at the Seminar on Intercultural Bilingual Education, held in Lima, October 2009. Presentation: "*El Derecho Constitucional a la Educación Bilingüe Intercultural en el Perú*" (The Constitutional Right to Intercultural Bilingual Education in Peru).
- 13) Speaker at the Seminar on Environmental Law and the Events of Bagua, organized by the Environmental Law Area of the Legal Workshop, PUCP, July 2009. Presentation: "*El Derecho de Propiedad en las Comunidades Indígenas y su relación con el conflicto de Bagua*" (Property Rights in Indigenous Communities and their Relationship to the Bagua Conflict).

Other prior events are added.

Type of Exhibitor: Lecturer

Event: 1st Macro Regional Summit between Rural Patrols (*Rondas Campesinas*) and Administrators of Justice.
 Subject: "*Pluralismo Jurídico y Justicia Comunal. Una proyección de la experiencia Aymara en las Rondas Campesinas*" (Legal Pluralism and Community Justice. A Projection of the Aymara Experience in Rural Patrols).

Place and Date: Chota, Cajamarca, Peru, November 21 and 22, 2008.

Type of Exhibitor: Speaker

Event: 6th Conference of the Latin American Legal Anthropology Network – RELAJU
 Subject: "*Derechos Fundamentales y Justicia Comunal: la aplicación del artículo 149 y el artículo 2 inciso 19 de la Constitución Política del Perú*" (Fundamental Rights and Community Justice: Application of Article 149 and Article 2 Paragraph 19 of the Constitution of Peru).

Place and Date: Bogotá, Colombia, October 28-31, 2008.

Type of Exhibitor: Lecturer

Event: Seminar "Communities, Mining, and Environment: Bases to Foster Dialogue," organized by Themis Law Journal PUCP.
 Subject: "*Decretos Legislativos y el Futuro de la Minería en el Perú*" (Legislative Decrees and the Future of Mining in Peru).

Place and Date: Auditorium of the National Association of Industries, Lima, September 22-24, 2008.

Type of Exhibitor: Lecturer

Event: "Interculturality as Ethical Principle for the Development of Our People," organized by the Andean Institute of Science and Ethics (*Instituto Andino de Ciencia y Ética*, INACET) of the School of Postgraduate Studies of the National University of Altiplano (*Universidad Nacional del Altiplano*).
 Presentation: "*La Interculturalidad en su aplicación en el Derecho y la Justicia*" (Applicability of Interculturality in Law and Justice).

Place and Date: Puno, June 5, 2008

Type of Exhibitor: Lecturer

Event: Forum on Racism, Human Rights, and Administration of Justice, organized by the Roundtable against Racism, of the National Human Rights Coordinator.

Subject: "*Racismo y el Convenio 169 de la OIT*" (Racism and ILO Convention 169).

Place and Date: Auditorium Mejía Baca of the National Library, Lima, March 26, 2008.

Type of Exhibitor: Lecturer

Event: Workshops on Legal Research, organized by the Legal Workshop of the National University of San Marcos, UNMSM.

Subject: *“Investigación de Campo e Investigación Jurídica”* (Field Research and Legal Research).

Place and Date: Lima, UNMSM, March 19, 2008.

Type of Exhibitor: Lecturer

Event: Perspectives and Proposals for an Adequate Coordination between Community Justice and Ordinary Justice.

Subject: Law and justice among the Aymaras: an experience to reflect on the need for a law to coordinate between community justice and ordinary justice.

Place and Date: Libertadores Hall of the Sheraton Hotel, Lima. December 11, 2007.

Type of Exhibitor: Lecturer

Event: Forum for the Reconstruction of Pisco, organized by the Association of Professionals Committed to the Reconstruction of Pisco.

Subject: *“El Problema Legal en la reconstrucción de Pisco, tras el sismo del 15 de Agosto del 2007”* (Legal Issues in the Reconstruction of Pisco after the Earthquake of August 15, 2007).

Place and Date: Auditorium of the Church of Jesus Christ of Latter-Day Saints, November and December 2007.

Type of Exhibitor: Lecturer

Event: Global Dialogue on Social Outreach and Legal Clinics in Lawyer Training. Their use in Access to Justice and Defense of Human Rights, organized by PROSODE-PUCP and GDLN-PUCP.

Subject: *“La Proyección Social del Derecho y los Desastres. El caso del Desastre del Sur”* (Social Justice Outreach and Disasters. The Case of the Disaster in the South).

Place and Date: Lima, PUCP, October 11, 2007.

Type of Exhibitor: Lecturer

Event: Puno Regional Forum on Intercultural Education in Multilingual Contexts, organized by CARE-Perú and local entities.

Subject: Community Justice as promoter of citizenship and democracy in the Southern Andes.

Place and Date: Auditorium of the Néstor Cáceres Velásquez Andean University, Puno Campus, August 16, 2007.

Type of Exhibitor: Commentator

Event: Access to Justice and Community Justice – Balances and Perspectives, organized by the Program Access to Justice in *Comunidades Campesinas*, PROJUR.

Place and Date: Lima, May 28-31, 2007.

Type of Exhibitor: Lecturer

Event: 5th European Congress of Latin Americanists, titled “The triangular relations between Europe and the Americas in the 21st Century: Expectations and Challenges.”

Subject: *“Justicia Comunal y Desarrollo: los conflictos transcomunales en el Sur Andino, Perspectivas de Desarrollo Local desde el Estado y la Cooperación Internacional”* (Community Justice and Development: Trans-Communal Conflicts in the Southern Andes. Perspectives on Local Development from the State and International Cooperation)

Place and Date: Université Libre de Bruxelles, Belgium, April 11-14, 2007.

Type of Exhibitor: Lecturer

Event: Panel at the Federal University of Ceará, Fortaleza, Brazil, before master program students of the Department of Soils of the Center for Agricultural and Livestock Sciences.

Subject: *“Derecho y Justicia Agraria: el caso de los Aymaras del Perú”* (Agrarian Law and Justice: the Case of the Aymaras of Peru)

Place and Date: Auditorium of the School of Soils of the Federal University of Ceará, March 1, 2007.

Type of Exhibitor: Lecturer

Event: First National Conference on Human Rights, organized by the Bar Association of Lima and others.

Subject: Discrimination and Human Rights

Place and Date: November 9-11, 2006.

Type of Exhibitor: Panelist

Event: Panel of the Seminar *“International Law and Global Inclusion”*

Subject: *“Acceso a la Justicia de los Pueblos Indígenas del Perú”* (Access to Justice by Peru’s Indigenous Peoples)

Place and Date: Auditorium John Paul II, Pontifical Catholic University of Peru, September 14, 2006.

Type of Exhibitor: Lecturer

Event: Anniversary of the School of Law of the National University of Piura

Subject: *“Análisis Socio-Antropológico Jurídico de los Pueblos Indígenas del Perú”* (Social-Anthropological Legal Analysis of Peru’s Indigenous People)

Place and Date: Auditorium of the Rectorate of the National University of Piura, Piura, July 2006.

Type of Exhibitor: Lecturer / Speaker

Event: 60th Anniversary of Anthropology in San Marcos

Subject: *“Investigaciones en Antropología Andina: aporte desde la Antropología Jurídica”* (Andean Anthropology Research: Legal Anthropology Contributions)

Place and Date: School of Social Sciences of the National University of San Marcos, June 6, 2006.

Type of Exhibitor: Speaker at the Commission for State and Public Administration Reform.

Event: 2nd International Conference on Administrative Law, titled *“Administrative Law as an Instrument to Improve Quality of Life.”*

Subject: *“Cambios de Paradigmas en la Administración del Poder Público: la administración pública bajo criterios de libertad o negociación para la reforma del Estado”* (Shifting Paradigms in Public Administration: Public Administration under Freedom or Negotiation Criteria for State Reform).

Place and Date: Pontifical Catholic University of Peru, April 27-29, 2006.

Type of Exhibitor: Lecturer, Special Guest

Event: 4th, 5th, and 6th year Spanish Course

Subject: *“Sociedades Pluriculturales: el caso de Perú y los Aymaras”* (Multicultural Societies: The Peruvian and Aymara People’s Case); *“El contexto de sociedades pluriculturales en Latinoamérica: el caso de Perú”* (The Multicultural Society Context in Latin America: the Peruvian Case), *“América Indígena: una perspectiva desde el Perú”* (Indigenous America: A Peruvian Perspective), *“América Latina desde el Perú”* (Latin America from Peru).

Place and Date: Language Center, Catholic University of Leuven. Conferences held twice a year, 2002, 2003, 2004, 2005.

Type of Exhibitor: Lecturer

Event: International Workshop on Multicultural Jurisprudence: Comparative Perspectives on the Cultural Defense.

Subject: The Cultural Defense as a Matter for a Collective Action: The Aymara Comunal Justice Experience in Peru.

Place and Date: International Institute for the Sociology of Law, Oñate, Spain, June 16 and 17, 2005.

Type of Exhibitor: Lecturer

Event: 14th International Congress of the Commission on Folk Law and Legal Pluralism, titled "Law, Plural Society, and Social Cohesion in the 21st Century."

Subject: Delineating the Historical Poly-Ethnic Country or State in Peru. Towards a Full Recognition of the Communitarian and Identity Law and Justice from the Aymaras and Other Ancient Civilizations."

Place and Date: University of New Brunswick, Fredericton, N.B., Canada, August 26-29, 2004.

Type of Exhibitor: Lecturer, Special Guest

Event: 2nd World Pastors Conference, organized by the World Pastors Forum, headquartered in the Basque Country, Spain

Subject: "*Derecho y Economía Ganadera en los Aymaras del Sur Andino*" (Law and Livestock-Farming Economy in the Aymaras of the Southern Andes).

Place and Date: Arantzazu (Oñate), Basque Country, Spain, September 17-20, 2003.

Type of Exhibitor: Lecturer

Event: Annual Meeting of the Research Committee on Sociology of Law of the International Sociology Association: "RCSL Oxford 2003."

Subject: "Law and Justice for Poly-Ethnic Countries. The Aymaras in Peru."

Place and Date: Oxford Centre for Family Law and Policy, Oxford University, England, July 18-20, 2003.

Type of Exhibitor: Lecturer

Event: International Workshop on Social Justice Outreach in American Universities in the 21st Century.

Subject: "*La Proyección Social del Derecho en una Sociedad Pluricultural: perspectivas desde el Caso Peruano*" (Social Justice Outreach in a Multicultural Society: Perspectives from the Peruvian Case)

Place and Date: International Institute for the Sociology of Law, Oñate, Spain, July 14 and 15, 2003.

Type of Exhibitor: Lecturer

Event: Workshop on Bases for the Construction of a Latin American Legal Sociology.

Subject: "*Un análisis Socio-Antropológico del derecho para el Perú*" (A Social and Anthropological Analysis of Law in Peru)

Place and Date: International Institute for the Sociology of Law, Oñate, Spain, July 16 and 17, 2001.

Type of Exhibitor: Special Guest Professor

Event: Cultural Identities and Human Rights. Summer Course.

Subject: "*Límites a los Derechos Humanos en Sociedades Pluriculturales. El Caso de los Aymaras del Sur Andino*" (Human Rights Limitations in Multicultural Societies. The Case of the Aymaras in the Southern Andes).

Place and Date: International Institute for the Sociology of Law, Oñate, Spain, July 9 -13, 2001.

4.5. Participant

In addition to being an organizer and speaker/lecturer, he was a participant in all the aforementioned events.

B. ACADEMIC EXPERIENCE

5. Professional Experience in the Specialization

- 5.1. Experience as an independent attorney who applies Legal Sociology to Constitutional Law, Civil Law, Criminal Law, and Administrative Law. Years 1992 to 2013.
- 5.2. Experience as a consultant and researcher
 - Member of the team of trainers of the Justice of the Peace and Community Justice Training Project. Judiciary. Years 1994-1995.
 - Researcher in the Commission for the Transition of the Judiciary after the Reform process, year 2000. Project: Analysis of the Corruption Problem. Report to the Ethics Committee.
 - Consultant at the Public Prosecutor's Office for Education: analysis of the status of legal proceedings at the prosecutor's office and proposals for improvement, 2006.
 - Coordinating investigator of the Justice Project in the Apurimac and Cajamarca Communities. PROJUR. Year 2007.
 - Consultant for the International Red Cross, year 2008 and part of 2009: Convention of the International Red Cross and the Academic Office for Social Responsibility (DARS, by its Spanish acronym) of the PUCP. Project: "Free legal training for legal unencumbering in the housing reconstruction process in the province of Pisco, Ica Region."
 - Community Justice Project in Amazonas. Center for Constitutional Studies, Constitutional Court, year 2009.
 - Consultant for Water Rights project at the National Water Authority, under the responsibility of the Spanish institution INFRAECO, 2012.
 - Consultant for the preparation of a proposal for a Protocol on legal anthropological expert appraisal in criminal matters, and regulatory proposal that will compel its practice, under call by the Ministry of Culture. August-October, 2014.
- 5.3. Experience as Professor Responsible for the Social Justice Outreach Office of the Pontifical Catholic University of Peru. School of Law. Years 1996-2000.
- 5.4. Experience as Coordinating Professor of the General Theory of Law Department of the Pontifical Catholic University of Peru. School of Law. Years 2008-2013.

6. University Academic Work

- 6.1. Teaching Assistant in the Legal Anthropology course
Pontifical Catholic University of Peru.
School of Law. Years 1989, 1990.
- 6.2. Associate Professor for the course on Legal Problems in Marginal Sectors
Pontifical Catholic University of Peru.
School of Law. Years 1991, 1992.
- 6.3. Professor under Contract at the Department of Law of the PUCP
Pontifical Catholic University of Peru.
Department of Law.
Courses: Legal Problems in Marginal Sectors, Sociology of Law, Social Justice Outreach, Legal Anthropology, Legal Research.
Years 1992-1995.
- 6.4. Professor at the Department of Law of the PUCP
Pontifical Catholic University of Peru.
Department of Law.
Courses: Sociology of Law, Social Justice Outreach, Legal Research Methodology, Seminar on General Legal Theory, General Legal Theory Subjects, Public Interest Clinics, Academic Research.
Years 1996-2012.
He has held the position of SENIOR LECTURER since 2006.
- 6.5. Professor under Contract at the School of Law of the National University of San Marcos
Course: Sociology of Law.
Years: 2013-2014.
- 6.6. Professor under Contract at the Doctorate Program of the School of Law of the San Martín de Porres Private University (*Universidad Privada San Martín de Porres*).
Courses: Sociology of Law, and Legal Anthropology.
Years: 2013-2014.

C. ACADEMIC AND RESEARCH OUTPUT

7. Academic Publications

- 7.1. Books Published
Book 1: *Justicia Comunal en los Andes del Perú: el caso de Calahuyo* (Community Justice in the Peruvian Andes: The Calahuyo Case)
Lima: Fondo Editorial PUCP, year 1998.

Book 2: *Poder Judicial Comunal Aymara en el Sur Andino* (Aymara Community Judicial Authority in the Southern Andes). Bogotá: ILSA, year 2004.

Book 3: *Multiculturalismo y Constitución: Justicia Comunal Aguaruna en el Alto Marañón*. (Multiculturalism and Constitution: Aguaruna Community Justice in the High Marañón). Lima: CEC, year 2009.

Book 4: *Manual de Justicia Climática* (Climate Justice Handbook)
Lima: CEDAL, year 2012.

Doctoral Dissertation, in book form: *Communitarian Law and Justice based on People's Identity: The Aymara Experience* [sic]. Leuven: Faculty of Law, Catholic University of Leuven, Belgium, Year 2006.

Book under coordination and co-authorship: *Constitución. Derecho y Justicia en los Pueblos Indígenas de América* (Constitution, Law, and Justice in the Indigenous Populations of America). Lima: PUCP, year 2002.

2 books under coordination and co-authorship: *Justicia Comunitaria en los Andes* (Community Justice in the Andes). Volumes I and II.
Lima, Cusco: Allpanchis, years 2002-2003.

Book under coordination and co-authorship: *Proyección Social y Clínicas Jurídicas en las Universidades de América del Siglo XXI* (Social Outreach and Legal Clinics in American Universities in the 21st Century). Madrid, Oñate: Dykinson, year 2005.

Book under coordination and co-authorship: *Libro Homenaje a Humberto Medrano Cornejo* (Tribute Book to Humberto Medrano Cornejo). Lima: Graduating Class 1998-1, PUCP School of Law, year 2008.

Book under the coordination of colleague Iván Ortiz Sánchez, and under co-authorship: *Homenaje al Profesor Carlos Montoya Anguerry* (Tribute to Professor Carlos Montoya Anguerry). Lima: PUCP School of Law, year 2014.

Book under co-authorship with Félix Arias-Schreiber and Luis Valdivieso: *Balance y Perspectivas de la aplicación del Análisis Costo Beneficio ACB en los proyectos de ley del Congreso de la República del Perú* (Balance and Perspectives of the Application of the Cost-Benefit Analysis (CBA) in Peruvian Congressional Bills). Lima, PUCP, Vice-Rectorate for Research, year 2014.

5 small books under general coordination: Handbook for Legal Unencumbering of Properties in Rural Zones [under disaster], Collection "Mi Propiedad y Yo" (My Property and I), Five Volumes: 1) *La propiedad y la posesión* (Ownership and Possession); 2) *La prescripción adquisitiva de dominio* (Adverse Possession); 3) *El contrato de compra-venta* (Purchase-Sale Agreements), 4) *La sucesión o herencia* (Succession or Inheritance), and 5) *La desmembración de un terreno* (Partitioning of Land). Lima: International Federation of Red Cross and Red Crescent Societies, and PUCP, years 2008 and 2009.

7.2. Publication of University Texts or Teaching Materials.

Teaching Materials for the Sociology of Law course. Lima: PUCP School of Law. 1st edition, years 1996, 1997, 1998, 1999, 2000, 2001.

Teaching Materials for Sociology of Law course. Lima: PUCP School of Law. 2nd edition, years 2007, 2008, 2009, 2010, 2011, 2012.

Teaching Materials for Sociology of Law course. Lima: PUCP School of Law. 3rd edition, years 2013, 2014, 2015.

Teaching Materials for Introduction to Legal Research Methodology course. Lima: PUCP School of Law. Years 2001 and 2006.

Teaching Materials for the Seminar on General Legal Theory. Lima: PUCP School of Law. 1st edition, years 1999, 2000, 2001. 2nd edition, years 2010, 2011, 2012, 2013, 2014, 2015.

Teaching Materials on Justice and Legal Pluralism. Teaching Handbook for Judges. Lima: Academy of the Judiciary, years 2013, 2014.

Teaching Materials on Interculturality and Law. Teaching Handbook for Judges. Lima: Academy of the Judiciary, years 2010, 2011.

Teaching Materials on the Courts and the Law on the Right to Prior Consultation. Lima: Academy of the Judiciary, year 2011.

8. Research Publications

- 8.1. Research papers about the specialization, published in journals or Books, and
- 8.2. Newspaper articles on the subject, published in newspapers and the Internet.

a) BOOK CHAPTERS

Chapter Title: *“El Sistema ético-religioso de los testigos de Jehová como expresión de un pluralismo jurídico. El caso de Pueblo Libre”* (Jehovah’s Witnesses’ Religious-Ethical System as an Expression of Legal Pluralism. The Pueblo Libre Case).

Book Title: *Los rostros de la tierra encantada. Religión, evangelización y sincretismo en el Nuevo Mundo. Homenaje a Manuel Marzal, SJ* (The Faces of the Enchanted Land. Religion, Evangelism and Syncretism in the New World. Tribute to Manuel Marzal, SJ.)

ISBN: 978-612-4146-35-0

1st Edition.

Publishing Company: Editorial Fund of the Pontifical Catholic University of Peru.

Date Published: June 2013.

Chapter Title: *“La Jurisdicción especial de las Comunidades Campesinas y Nativas en la Constitución Política del Perú: Análisis exegetico del artículo 149 de la Constitución”* (Special Jurisdiction of Rural and Native Communities in the Constitution of Peru: Exegetic Analysis of Article 149 of the Constitution).

Book Title: *Libro Homenaje al Profesor José Hurtado Pozo, el Penalista de dos mundos* (Tribute Book to Professor José Hurtado Pozo, the Criminal Lawyer of Two Worlds)

ISBN: 978-612-4037-64-1

1st Edition.

Publishing Company: IDEMSA, Importadora y Distribuidora.

Date Published: March 2013.

Chapter Title: *“La propiedad originaria en América: el derecho de propiedad en las comunidades Andinas y Amazónicas del Perú”* (Original Ownership in America: Property Law in Amazonian and Andean Communities in Peru).

Book Title: *Derechos Reales* (Rights in Rem), Volume 15, Civil Rights Observatory.

ISBN: 978-612-4144-04-2

1st Edition. Publishing Company: MOTIVENSA, Editora Jurídica.

Date Published: December 2012.

Chapter Title: *“Justicia Comunal y Desarrollo: Los Conflictos Transcomunales en el Sur Andino, Perspectivas de Desarrollo Local desde el Estado y la Cooperación Internacional”* (Community Justice and Development: Trans-Communal Conflicts in the Southern Andes. Perspectives on Local Development from the State and International Cooperation).

Book Title: *Libro Homenaje a Humberto Medrano Cornejo* (Tribute Book to Humberto Medrano Cornejo). Edited by Alfredo Bullard Gonzáles, Nelly Fernández del Castillo, and Antonio Peña Jumpa.

ISBN: 978-9972-33-824-3

1st Edition. Publishing Company: Graduating Class 1998-1, PUCP School of Law.

Date Published: 2008.

Chapter Title: *“Límites a los Derechos Humanos en Sociedades Pluriculturales. El Caso de los Aymaras del Sur Andino”* (Human Rights Limitations in Multicultural Societies. The Case of the Aymaras in the Southern Andes).

Book Title: *Derechos Humanos e Identidades Culturales* (Human Rights and Cultural Identities). Coordinated by Manuel Calvo.

ISBN: 84-8155-971-7

1st Edition. Publishing Company: Dykinson, Madrid, and International Institute for the Sociology of Law, Oñate, Spain.

Date Published: 2002.

Chapter Title: *“The Limits of International Human Rights and Refugee Law: An Analysis of the Case of the Aymaras from the Perspective of Legal Pluralism.”*

Book Title: *Law and Anthropology: International Year Book for Legal Anthropology.*

ISBN-10: 90-411-1602-8, ISBN-13(i): 978-9041116-02-4

1st Edition, volume 11, edited by Rene Cupe and Richard Potz.

Publishing Company: Martinus Nijhoff Publishers (Vienna and Leiden).

Date Published: 2001.

Chapter Title: *Poder Judicial Comunal Aymara: alternativa de paradigma en los procesos de Reforma Judicial: el caso de los Aymaras del Sur Andino* (Aymara Community-Based Judicial Power: Alternative Paradigms for Judicial Reform: The case of the Aymara in Southern Andes).

Book Title: *Constituciones, Derecho y Justicia en los Pueblos Indígenas en América* (Constitution, Law, and Justice in the Indigenous Populations of America). Coordinated by the author.

ISBN: 9972-42-485-5

1st Edition.

Publishing Company: Editorial Fund of the Pontifical Catholic University of Peru.

Date Published: 2002.

Note: This book chapter expands on an article that was published in the magazine *El Otro Derecho* [The Other Law] in December 2000. We wanted to disseminate the content of the essay at a national level.

Chapter Title: *“La Proyección Social del Derecho en una Sociedad Pluricultural: perspectivas desde el Caso Peruano”* (Social Justice Outreach in a Multicultural Society: Perspectives from the Peruvian Case).

Book Title: *Proyección Social y Clínicas Jurídicas en las Universidades de América del Siglo XXI* (Social Outreach and Legal Clinics in American Universities in the 21st Century). Coordinated by the author.

ISBN: 84-9772-569-7

1st Edition. Publishing Company: Dykinson, Madrid, and International Institute for the Sociology of Law, Oñate, Spain.

Date Published: 2005.

Chapter Title: *“Justicia Inter-Comunal en las Comunidades Aymaras del Sur Andino, Partes I y II”* (Inter-Community Justice in the Aymara Communities of the Southern Andes, Parts I and II).

Book Title: *Justicia Comunitaria en los Andes* (Community Justice in the Andes). Volumes I & II.

ISBN: ISSN (International Standard Serial Number): 0252-8835

1st Edition, special for the journal Allpanchis

Publishing Company: Allpanchis, Instituto de Pastoral Andina.

Date Published: 2002/2003.

Chapter Title: *“La Administración de Justicia bajo la concepción del poder como libertad: la descongestión de la carga procesal desde la experiencia de los Aymaras del Sur Andino”* (The Administration of Justice under the Concept of Power as Freedom: The Streamlining of the Procedural Burden from the Aymara Experience in the Southern Andes).

Book Title: *La participación en las Administraciones Públicas, ¿Cooperación o enfrentamiento?* (Participation in Public Administration: Cooperation or Confrontation?). Coordinated by Antonio Colomer, 17th International AISO Seminar.

ISBN: 84-9705-911-5

1st Edition. Publishing Company: Technical University of Valencia.

Date Published: 2006.

b) ARTICLES

Article Title: *“Hans Kelsen, la Sociología y Antropología del Derecho: una aproximación desde su concepto de Derecho”* (Hans Kelsen, the Sociology and Anthropology of Law: An Approach from his Concept of Law).

Name and Type of Publication: Article in trade journal *Revista Foro Jurídico*, No. 12, Lima, PUCP.

Place Published: Lima. Date Published: 2011.

Article Title: *“El Derecho a la Educación Intercultural y Bilingüe desde una Perspectiva Plurilegal”* (The Right to Intercultural and Bilingual Education from a Multi-Legal Perspective).

Name and Type of Publication: Article in trade journal *Revista del Foro*, from the Bar Association of Lima, No. 96, Volume XCII

Place Published: Lima. Date Published: 2010.

Article Title: *“La antropología y la sociología del derecho como formación interdisciplinaria”* (Anthropology and Sociology of Law as Interdisciplinary Training).

Name and Type of Publication: Article in trade journal *Revista Derecho*, from the PUCP School of Law, No. 65

Place Published: Lima. Date Published: 2010.

Article Title: *El Derecho Constitucional a la Consulta Previa tras los sucesos de Bagua: la aplicación sistemática de la Constitución Política del Perú y el Convenio Internacional 169 de la OIT* (Constitutional Right to Prior Consultation after the Bagua Events: the Systematic Application of the Constitution of Peru and ILO International Convention 169).

Name and Type of Publication: Article in trade journal *Revista Ius Inter Gentes*, No. 6, Lima, PUCP.

Place Published: Lima. Date Published: 2009.

Article Title: *“Derechos Fundamentales y Justicia Comunal, la aplicación del artículo 149 y el artículo 2 inciso 19 de la Constitución Política del Perú”* (Fundamental Rights and Community Justice: Application of Article 149 and Article 2 Paragraph 19 of the Constitution of Peru).

Name and Type of Publication: Article in trade journal *Revista Ius Et Veritas*, No. 39.

Place Published: Lima. Date Published: 2009.

Article Title: *“La Educación Legal, la Informalidad y la Reforma del Poder Judicial desde la Perspectiva de las Comunidades Andinas”* (Legal Education, Informality, and the Reform of the Judiciary from the Perspective of the Andean Communities).

Name and Type of Publication: Article in trade journal *Revista Themis*, No. 57.

Place Published: Lima. Date Published: 2009.

Article Title: *“Prevención legal ante el Desastre Financiero: gravar a los nuevos ‘ricos’”* (Legal Prevention in Light of the Financial Disaster: Taxing the Nouveau Riche).

Name and Type of Publication: Blog – Law and Disasters

(<http://derechoydesastre.wordpress.com/>)

Place Published: Lima. Date Published: November, 2008.

Article Title: *“Del pánico bursátil al Desastre Financiero: causas irracionales y roles del Derecho”* (From Stock Market Panic to Financial Disaster: Irrational Causes and Law’s Roles).

Name and Type of Publication: Weekly Publication of the Pontifical Catholic University of Peru, Punto Edu. Also in the Blog Law and Disasters

Place Published: Lima, PUCP. Date Published: October, 2008.

Article Title: *“Los Derechos Reales en Acción: ¿Qué significa sanear un título de propiedad tras el último sismo en Pisco?”* (Rights in Rem in Action: What Does it Mean to Unencumber a Title Deed after the Latest Pisco Earthquake). Under co-authorship with Imelda Campos Ferreyra.

Name and Type of Publication: *Gaceta Notarial Magazine*, Year 2, No. 6.

Place Published: Lima. Date Published: June, 2008.

Monograph Title: *“Derechos Reales y Reconstrucción tras el sismo en Pisco: testimonios sobre el Shock del Derecho en zonas de desastre”* (Rights in Rem and Reconstruction after the Earthquake in Pisco: Testimonies about the Shock of the Law in Disaster Areas.)

Author: Pisco-Law Liaison Group, coordinated by the undersigned.

Name and Type of Publication: Derecho y Sociedad Magazine, Lima, PUCP.

Place Published: Lima, PUCP.

Date Published: June/July, 2008.

Article Title: *“Una norma legal puede matar más que el ‘frijaje’ o los cambios climáticos: el caso del Decreto Legislativo 1015”* (A Regulation Can Kill More than the ‘Cold’ or Climate Change: the Case of Legislative Decree 1015).

Name and Type of Publication: Sociology and Anthropology of Law Blog

(<http://blog.pucp.edu.pe/item/25072>)

Place Published: Lima.

Date Published: May, June 2008.

Article Title: *“Carencia de Derechos y Discriminación en el proceso de reconstrucción de la zona rural de Pisco tras el terremoto del 15 de Agosto de 2007”* (Lack of Rights and Discrimination in the Reconstruction of the Rural Area of Pisco after the Earthquake of August 15, 2007).

Name and Type of Publication: Blog – Law and Disasters

(<http://derechoydesastre.wordpress.com/>)

Place Published: Lima.

Date Published: April, 2008.

Article Title: *“Una aproximación al concepto de Justicia: el sentido grupal de ‘lo justo’”* (An Approach to the Concept of Justice: the Group Sense of ‘What is Fair’).

Name and Type of Publication: Magazine of the Master’s Program of the University of Fortaleza, Ceará.

Place Published: Fortaleza, State of Ceará, Brazil.

Date Published: 2007.

Article Title: *“Las sanciones en el Derecho y Justicia Penal de los Aymaras del Sur Andino”* (Penalties in Aymara Criminal Law and Justice in the Southern Andes).

Name and Type of Publication: Criminal Law Yearbook, edited by Professor José Hurtado Pozo.

Place Published: Lima, Fribourg (Switzerland).

Date Published: 2007.

Article Title: *“Salvemos Pisco: Urgencia de Organización y Participación”* (Let’s Save Pisco: Urgent Need for Organization and Involvement)

Name and Type of Publication: Blog – Universia and Others. Diario Perú 21.

(<http://universia.edu.pe/noticias/principales/destacada.php?id=61428>)

Place Published: Lima.

Date Published: August, September, 2007.

Article Title: *“Descentralización del Sistema de Justicia Peruano: la alternativa de la Justicia Comunal”* (Decentralization of the Peruvian Justice System: The Community Justice Alternative)

Name and Type of Publication: Servindi Intercultural Communication Services Blog (<http://www.servindi.org/actualidad/5921>) and others.

Place Published: Perú and others (Global)

Date Published: November 2006.

Article Title: *“Derecho (y Justicia) y Economía Ganadera de los Aymaras del Sur Andino. Perspectivas para un desarrollo comunal”* (Law (and Justice) and Livestock-Farming Economy of the Aymaras of the Southern Andes. Perspectives for Community Development).

Name and Type of Publication: Allpanchis, No. 64, year XXXV. Trade magazine.

Place Published: Cuzco, Lima.

Date Published: 2004.

Article Title: *“La cuestión de la Identidad desde el Derecho. Breves reflexiones desde un caso de Identidad Jurídica Aymara”* (Identity from a Legal Perspective. Brief Reflections on an Aymara Legal Identity Case).

Name and Type of Publication: Revista Jurídica del Perú, year LI, No. 26. Trade magazine.

Place Published: Trujillo, Lima.

Date Published: September 2001.

Article Title: *“Bases Cooperativas o Comunitarias en la resolución de conflictos de las Comunidades Aymaras del Sur Andino”* (Cooperative or Community Foundations in Conflict Resolution among the Aymara Communities of the Southern Andes).

Name and Type of Publication: Revista Jurídica del Perú, year LIV, No. 56. Trade magazine.

Place Published: Trujillo, Lima.

Date Published: May-June 2004.

Article Title: *“El caso Ilave: ¿Barbarie o justicia?”* (The Ilave Case: Barbarism or Justice?).

Name and Type of Publication: in the newspaper La República, and in the Magazine Hechos y Derechos, year 3, No. 20.

Place Published: Lima and Trujillo.

Date Published: May 2004.

Article Title: *“Constitución Política, Libertad Religiosa y Pluralismo Jurídico”* (Constitution, Freedom of Religion, and Legal Pluralism).

Name and Type of Publication: *Revista Peruana de Jurisprudencia*, year 4, No. 28. Trade magazine.

Place Published: Lima.

Date Published: June 2003.

Article Title: *Community-Based Judicial Power: Alternative Paradigms for Judicial Reform. The case of the Aymara of Peru.*

Name and Type of Publication: *Beyond Law*, Vol. 7, Issue 23, peer-reviewed journal edited by the Latin American Institute for Alternative Legal Services (*Instituto Latinoamericano de Servicios Legales Alternativos – ILSA*)

Place Published: Bogotá, Colombia.

Date Published: February 2001.

Article Title: *“Poder Judicial Comunal Aymara: alternativa de paradigma en los procesos de Reforma Judicial: el caso de los Aymaras del Sur Andino”* (Aymara Community-Based Judicial Power: Alternative Paradigms for Judicial Reform: The case of the Aymara in the Southern Andes).

Name and Type of Publication: El Otro Derecho, No. 25. Peer-reviewed journal edited by the Latin American Institute for Alternative Legal Services (ILSA).

Place Published: Bogotá, Colombia.

Date Published: December 2000. We found out the edition later.

Note: This publication was made possible after winning an essay contest on the subject.

Article Title: *“Un Análisis Socio-Anropológico del Derecho para el Perú”* (A Social and Anthropological Analysis of Law in Peru).

Name and Type of Publication: in the journal Revista Foro Jurídico, No. 1, and in the Magazine of the PUCP Legal Workshop.

Place Published: Lima, Pontifical Catholic University of Peru.

Date Published: 2002.

Article Title: *“Castigos de la Naturaleza como actos Jurídicos y Ecológicos: reflexiones a partir de la experiencia de los Aymaras del Sur Andino”* (Nature’s Punishments as Legal and Ecological Acts: Reflections from the Aymara experience in the Southern Andes).

Name and Type of Publication: magazine Revista Iberoamericana de Autogestión y Acción Comunal, INAUCO, No. 35-37. Trade magazine.

Place Published: Valencia, Spain

Date Published: It says 2000, but it was offered in the market in 2001.

Several articles and research documents are pending registration.

Annex 2

ANNEX 2

LIST OF COMMUNITIES AND PARTIALITIES WITH THEIR REPRESENTATIVE AUTHORITIES FOR THE HUACULLANI AND KELLUYO DISTRICTS

1. COMMUNITIES AND PARTIALITIES WITH ELECTED AUTHORITIES IN HUACULLANI DISTRICT- YEAR 2015

No.	District	Community or Partiality	Representative	Position
01	Huacullani	Huacullani (community or urban center)	Miriam C. Luna Vargas	President
02	Huacullani	Tarapoto (community)	Galos Gacenes Sucso / Silverio Condori Choque	President / Vice President
03	Huacullani	Aurincota (community)	Hernan Acenos Morales	President
04	Huacullani	Laca Laca (community)	Cesar Rojas Cauna	President
05	Huacullani	Sillicachi (community and populated center)	Hernan Llanos Ch.	President
06	Huacullani	Marca Ayllu Huacasuma (community and populated center)	Alipio Quispe Torres	President
07	Huacullani	Lacahaqui or Lacahache (community)	Nicolas Quispe (or Nicolas Mamani)	President
08	Huacullani	Ingenio Concepción (community)	Fernando Mamani Quispe	President
09	Huacullani	Vilachave I (community)	Julian Mamani M.	President
10	Huacullani	Cangachi (Partiality)	Juan Machaca Loza	President

11	Huacullani	Condor Ancocahua (partiality)	Glicerio Perez Luna	President
12	Huacullani	Callaza (community)	Rosendo Mendoza	Vice President
13	Huacullani	Ancomarca (community)	Patricio Calzana Quispe	Vice President
14	Huacullani	Ancohaqui (partiality)	Damián Chambilla M.	Vice President
15	Huacullani	Alto Andino Vilachave (community)	Juan Gutiérrez	Vice President
16	Huacullani	Quinbalita or Quimbalita (partiality)	Víctor Mamani Limachi	Vice President
17	Huacullani	Yorohoco or Yorcco (community and populated center)	Alfredo Tapia	Vice President
18	Huacullani	Carhuankuyo (partiality)	Hugo Araca Cauna	President
19	Huacullani	Isruni (community)	No data	
20	Huacullani	Arconuma (community)	No data	
21	Huacullani	Challacollo (community and populated center)	Manuel Francisco Mamani Huisa	Mayor of Populated Center

Source: List of Communities and Partialities of Huacullani in record in one of the Communities visited. July 30, 2015.

2. COMMUNITIES AND PARTIALITIES WITH ELECTED AUTHORITIES IN KELLUYO DISTRICT – YEAR 2013-2014

No.	District	Community or Partiality	Representative	Position
01	Kelluyo	Alto Aracachi Quelluyo (Community)	Samuel Choque Cori	President
02	Kelluyo	Aracachi Chura (Partiality)	Sabas Tarqui Chura	President
03	Kelluyo	Jahuerha Chura (Community)	Julio Chura Flores	President
04	Kelluyo	Carique Challacollo (Community)	Juan Chura Mamani	President
05	Kelluyo	Pérez (Community)	Sabino Pérez Rivera	President
06	Kelluyo	San Juan de Aracachi (Community)	Reinaldo Chura Mamani	President
07	Kelluyo	Jahuerja San Pedro (Partiality)	Jorge Capaquira Mamani	President
08	Kelluyo	C. Aracachi Chiaraqui (Community)	Miguel Ancachi Tarqui	President
09	Kelluyo	Kapia Pusuma (Community)	Tito Manuelo	President
10	Kelluyo	Totoroma (Community)	Constantino Estaña Jimenez	President
11	Kelluyo	Maycu Phujo (Community)	Gervasio Choque Hualpa	President

12	Kelluyo	Arconuma (Community)	Máximo Mamani Copari	President
13	Kelluyo	Pilco (Community)	Sergio Mamani Pilco	President
14	Kelluyo	Tuntipucara (Community)	Ignacio Toma Gomez	President
15	Kelluyo	Tulacollo (Community)	Victor Salamanca Ayala	President
16	Kelluyo	Perca (Community)	Martín Tesillo Perca	President
17	Kelluyo	Chacocollo (Community)	Valentín Choque Choque	President
18	Kelluyo	Sacacani Huma (Community) (Former partiality)	Humberto Chura Choque	President
19	Kelluyo	Río Arenales (Community)	Wilson Choque Alvares	President
20	Kelluyo	Chuncarcollo (Partiality)	Antonio Tarqui Ancachi	President
21	Kelluyo	Chipana San José (Partiality)	Máximo Chipana Yupanqui	President
22	Kelluyo	Circa Kenturani (Partiality)	Miguel Huarahuara Acero	President
23	Kelluyo	Chipana Nueva Alianza	Santiago Chipana Turqui	President

		(Partiality)		
24	Kelluyo	Vilcanqui Challacollo (Partiality)	Walter Vilcanqui Vilcanqui	President
25	Kelluyo	Vilaque (Partiality)	Aurelio Salamanca Salamanca	President

Source: File of the Municipality of Kelluyo, in the care of the Filing Office. July 21, 2015.

Annex 3

1. Pictures of the Mine Site from the Main Avenue of the Huacullani Urban Community (July 20, 2015).



2. Pictures of the Mine Site from the Municipal Building of the Huacullani Urban Community (July 20, 2015).



3. Pictures of the Mine Site from a home in the Huacullani Urban Center (July 30, 2015).



4. Visit to Bocamina 1, from Huacullani to the community of Ignacio Concepción and the Partiality of Cóndor Ancocahua (July 30, 2015).



5. Visit to Bocamina 2, in the Partiality of C6ndor Ancocahua and in the community of Concepci6n Ingenio, and return to Huacullani (July 30, 2015).

