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“A Salute to the Bandido”: A Political Ecology of Voice Exploration into Peru’s Freedom of Voice Surrounding Hydrocarbon Development

Adrian Gonzalez, Cardiff University

Abstract

This paper sets out to evaluate the freedom of voice for Peruvian stakeholders affected by hydrocarbon development. This occurs through the utilization of a political ecology of voice (PEV) theoretical framework based upon the theory of voice by Albert Hirschman and political ecology. PEV can be defined as the study of economic, political, social, and geographical factors over a specific time period and their impact upon the use of voice by stakeholders. Peru’s case-study was focused on its main oil-producing Loreto Region and incorporated evaluation of hydrocarbon voice mechanisms (prior consultation and environmental impact assessments) supported by interview testimony of stakeholders and state officials. PEV analysis reveals a political environment which is dangerous, inflexible and intolerant of Peruvian stakeholders voicing over hydrocarbon development. This is due to the state’s zealous pursuit of its “*selva* (rainforest) hydrocarbon and development vision” which severely undermines Peruvian stakeholder’s freedom of voice.

**Key Words:** *environmental impact assessments; freedom of voice; hydrocarbon development; law of prior consultation; natural resource governance; Peru; political ecology of voice; race and resource interactions*

## INTRODUCTION

The growth in hydrocarbon development in areas like the Amazon raises important questions surrounding state interaction and engagement with locally impacted stakeholders (US Energy Information Administration 2009 p. 21; Vasquez 2014 p. 11). It is crucial to evaluate the extent to which stakeholder voices and opinions surrounding this extractive expansion are heard and listened to by the state and the way they interact with stakeholders. For this to occur, analysis of a country's political environment will be able to show the openness or freedom of voice for stakeholders, in this case surrounding Peruvian hydrocarbon development.

The paper utilizes the political ecology of voice (PEV) theoretical framework established within a 2015 paper (Gonzalez 2015). This has integrated the political ecology framework, which refers 'to the politics of environmental problems' without specific debate of ecology (Forsyth 2003 p. 4) with the voice theory of Albert Hirschman. In a 1970 text, Hirschman described two actions which consumers could take to respond to unsatisfactory situations stemming from economic actors. The first is exit (i.e. consumers stop buying a firm's products) and is typically a private, silent decision and activity (Hirschman 1995 p. 34). The second is voice, a public, 'messy' action (due to the different gradients that encompass voice i.e. from violent protest down to faint grumbling) that can be used by individuals or collectively (Hirschman 1970 p. 16). Voice is predominantly considered an active action, although it can occur passively, e.g. muted remarks (Zuindeau 2009 p. 154) via horizontal and vertical scenarios (talking with one's peers and discussions with higher level actors respectively) (O'Donnell 1986). In situations affecting public happiness such as a food hazard, automobile safety problem (Hirschman 1981 p. 217) or, as PEV suggests, an environmental concern, one can understand voice as an active expression of protest against a disagreeable issue.

PEV involves the study of a specific temporal, economic, political, social and geographical environment in which stakeholders (e.g. citizens, community-based organizations (CBOs) and non-governmental organizations (NGOs)) utilize their voice over an environmental issue (Gonzalez 2015 p. 466). The various contextual influences surrounding the application of voice by stakeholders have been combined with broad investigatory themes present within political ecology (power, scale, space and time) to formulate PEV (Gonzalez 2015 pp. 468-469).

This paper is focused on one facet of the PEV theoretical framework, namely the political (or state) environment. An examination of the political environment means assessing the freedom of voice for stakeholders which partly rests 'upon their legal rights' in their country (Dowding et al. 2000 p. 473) and their 'opportunity' (Tilly 1978 p. 55) for this action. This reflects the fact that voice can be risky where organizations (and the state) try and silence protests (Hirschman 1981 p. 244). Broadly, one finds that authoritarian countries will try to limit participation and suppress voice in comparison to democracies, where freedom of speech is integral to democracy (Gonzalez 2015 p. 474). Political analysis of the state must also investigate into regional and international bodies and treaties which impact on a society's freedom of voice.

In this article, I focus on orthodox formal voice, which is defined as legal or socially acceptable forms of non-violent voice action in horizontal/vertical situations e.g. electoral voting, petitions, discussions, debates, lectures and crucially, government consultation mechanisms and meetings. These forms of orthodox formal voice action are more likely to be found in democratic states as opposed to authoritarian regimes and will indicate the freedom of Peruvian stakeholders to legally voice.

## METHODS

### Study region

Peru's case study is the main onshore oil producing Loreto Region. This region, covering nearly 369,000 kilometers (Finer et al. 2013 p. 2) encompasses the greatest proportion of the country's share of the western Amazonia basin. Peru's *selva* (rainforest) oil production sites have witnessed two significant periods of activity, characterized as hydrocarbon exploration booms. The first occurred in the 1970s after the state-run company Petroperu found substantial *selva* oil reserves which significantly increased resource extraction industry (REI) investment in the area (Philip 1984 p. 4).

The second exploration boom in 2004 was significantly more aggressive. The plan, supported by investor-friendly policies (Vasquez 2014 pp. 28-29, 31), generated new REI contracts for the development of marginal sites, many within the *selva* (Finer and Orta-Martinez 2010; Vasquez 2014 p. 28). In 2003, just 28 oil and gas licenses were granted, of which 7.1 percent covered the *selva* region (Finer and Orta-Martinez 2010 p. 4; Vasquez 2014 p. 14). By the end of December 2009, 41.2 percent of the *selva* was covered by oil and gas licenses that totaled 52 active hydrocarbon concessions (Finer and Orta-Martinez 2010 pp. 3-4; Orta-Martinez and Finer 2010 p. 208). When these Blocks are combined with the 2010 bidding-round for 18 additional sites, 81 active and proposed oil and gas Blocks covered 70 percent of the Peruvian Amazon (Finer and Orta-Martinez 2010 p. 4) highlighting the concerted scale and drive to harness this resource.

## **Methodology**

Data were collected through a two-pronged process. Firstly, through three and a half month's fieldwork in 2015 in the Loreto Region. Primary data were collected through a multi-method qualitative approach incorporating semi-structured interviews (SSIs) and micro-geography analysis (Elwood and Martin 2000), a form of participant observation, used during the SSIs. The SSIs incorporated Loreton stakeholders who could provide first-hand knowledge of the PEV environment surrounding their feasibility of holding REIs accountable for oil pollution incidents. They were carried out through a paid interpreter and were anonymized and audio recorded with the consent of each interviewee. Interview questions were based upon a pre-field interview guide tested through several pilot interviews and refined throughout fieldwork with the completion of interview contact summary sheets (Miles and Huberman 1994 pp. 51-55). Each participant was given a coded category based on a combination of their broad professional occupation, ethnicity, geographical location and the number of the organization and interviewee (*n*) (Appendix 1).

Initial contact was made with a small group of potential participants all found via a Google search. These were Red Ambiental Loretana, an indigenous environmental watch-dog CBO (CBO1R1) and three NGOs (E-Tech International, The Peru Mission (NGO2R1) and Alianza Arkana (NGO7R1)) all (except E-Tech International) based in Iquitos, Loreto's regional capital. Subsequent interviewees were found through the snowballing effect (Taylor and Bogdan 1998 pp. 32-33). 110 interviews were conducted with 105 interviewees from the

various stakeholder groups but only interviewees whose interview answers discuss the PEV political environment vis-à-vis hydrocarbon development are included (Appendix 1).<sup>1</sup>

Transcripts were created by paid UK translators and analyzed through NVivo 10 in which the interviews were coded through concepts, categories and propositions (typologies) through a weak form of inductive or conventional content analysis (Patton 1987 p. 150; Miles and Huberman 1994 p. 56; Taylor and Bogdan 1998 pp. 144-146). The inductive analysis was combined with analyst-based and indigenous or emic typologies (Patton 1987 pp. 150, 152) to make sure that I “heard” the voices of my participants and utilized them in a way that did not sully or change their voice. To support the coding process, a loose research storyline based upon the PEV theoretical framework encompassing initial concepts and categories was developed.

Secondly, primary data collection was supported by secondary source based analysis of Peru’s political environment. This included analysis of the constitution, regional and international treaties and data statistics and specific hydrocarbon voice mechanisms (environmental impact assessments (EIAs) and prior consultation). Together, this formed an evaluation of the PEV political environment and freedom of voice for stakeholders.

## **RESULTS**

### **Freedom of voice: assessing Peru’s PEV political environment**

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<sup>1</sup> The Peru Mission representative had three interviews labelled a, b and c (NGO21a, b, c). A similar categorization was used for the ProNaturaleza representative 2 (NGO4R2) and Catholic Church interviewee 1 (CBO4R1).

As the PEV theoretical framework highlights, a democratic country should offer greater freedom of voice than an authoritarian country. My 2015 fieldwork coincided with a period of democratic stability marked by successive free elections since 2001 (Department of Electoral Cooperation and Development, no date). However, modern Peru can also be categorized as undergoing a period of democratic consolidation. This explains its mediocre Voice and Accountability score under the Worldwide Governance Indicators (based on the perception of citizen political participation and the freedom of the media, expression and association) (World Bank, no date) and its evaluation as a “flawed” and “defective” democracy within The Economist Intelligence Unit (EIU) Democracy Index (EIU 2015 p. 14) and The Bertelsmann Stiftung Transformation Index (BTI) (Bertelsmann Stiftung 2016a) respectively. To understand these classifications and what they mean for Peru’s PEV political environment and freedom of voice, one must explore the rights and privileges given to society through national, regional and international law.

The nation’s current constitution, enacted on 31<sup>st</sup> December 1993 (revised 2009), sets out various rights under Title 1: The Person and Society Chapters I and II which provide a strong freedom of voice for citizens in individual and collective settings. Citizens cannot be ‘persecuted on a basis of his ideas or beliefs’ and there exists ‘no crime of opinion’ (Chapter 1, Article 2, Point 3) whilst ‘freedom of information, opinion, expression, and dissemination of thought ... without previous authorization, censorship, or impediment is guaranteed (Chapter 1, Article 2, Point 4) (Constitute 2016 p. 4). Equally, people have the right to their ‘own voice and image’ (point 7) (ibid. p. 5). Given that this PEV paper is specifically focused on voice vis-à-vis hydrocarbon development, citizens also have the right to the protection of their health, family and community environment (Article 7, Chapter II) (ibid. p. 8).



At regional and national levels, several mechanisms and laws strengthen Peru's legal freedom of voice. These include membership of the Organization of American States (OAS) and its Inter-American Commission on Human Rights and Inter-American Court of Human Rights. At an international level, various treaties have been signed, including the International Covenant on Civil and Political Rights (ICCPR) (ratified 1978) and the International Labor Organization's Indigenous and Tribal Peoples' Convention, 1989 (ILO Convention 169) (ratified 1994).

These constitutionally enshrined laws and international conventions and treaties theoretically provide an open Peruvian PEV political environment and freedom of voice. However, contemporary democratic Latin American countries have faced 'difficulty integrating the agendas and dynamics' of social movements, which aided the establishment of representative democracy 'into the constitution and functioning of institutions' (Vilas 1997 p. 6). In Peru this has helped lead to institutionally weak state mechanisms and regulation (CBO2R1; IJ1; NGO8R1; NSI2R1; NSI4R1; NSI5R1; RGR4) as the example of post-2001 Peruvian police reform indicates (Costa and Neild 2005; Costa 2006). As a PhD student among my interviewees noted, "the government can say many things on paper but [pause] it's another thing to implement the law ... bring it into effect, make it real" (IUS2). Consequently, '[a] state that is unable to enforce its legality supports a democracy of low intensity citizenship' (O'Donnell 1993 p. 14), a situation also due to the country's diversity and social discriminatory practices (Bertelsmann Stiftung 2016b) discussed later.

It's these 'problems in governance' (EIU 2015 p. 45) which contribute to Peru's classification as a flawed and defective democracy, particularly surrounding civil liberties which are violated, neglected and see 'citizens ... discouraged from claiming their rights'

(Bertelsmann Stiftung 2016b). ‘Violated’ and ‘neglected’ are important evaluative terms. By moving away from a generalized overview of Peru’s PEV political environment into the contextual focus of the PEV surrounding hydrocarbon development, a more accurate evaluation can be made. In this setting, it becomes apparent that Peru’s PEV political environment for hydrocarbon stakeholders to voice is greatly restricted, intolerant and suppressive.

Upon reflection, the Loreton Catholic Church’s human rights commission representative believed that the state is “more willing to listen” (CBO4R1a) to *selva* citizens’ voices than REIs. Other interviewees agreed. A national government civil servant argued that “the [indigenous people] know they have a voice and it is being heard” (NSI4R1) because, as an indigenous federation leader mused, “they [the state] can’t promote investment by stepping on indigenous Peruvians’ rights” and require agreement “on at least some points of convergence” (CBO3R1). However, as the study region section outlined, contemporary Peru has aggressively pursued Loreton oil exploitation, often over existing and proposed indigenous territories, a process supported by the state’s constitutional ownership of natural resources (Article 66, Chapter II: The Environment and Natural Resources) (Constitute 2016 p. 19).

These hydrocarbon policies symbolize an “ultra-liberal/capitalist” (RGR2) “pro-business and ... private investment” (IUA1) national development policy vision for the *sierra* (mountain highland region) and *selva* orchestrated by the Ministry of Energy and Mines of Peru (MINEM), Perupetro and Petroperu. For the Amazon, the “state knows very clearly what it wants ... and ... is preparing a set of very controversial measures ... involving the pipeline ... the waterway ... the dams in the Marañón [River] ... the electricity concession coming from

Moyobamba to Iquitos” (CBO4R3) and other large transport projects.<sup>2</sup> This hydrocarbon and development agenda has a significant impact on Peru’s PEV political environment and freedom of voice for affected stakeholders.

The International Co-operation for Development and Solidarity (CIDSE), an umbrella organization for Catholic development agencies from Europe and North America note that Latin American countries have routinely tried to criminalize social protest, particularly surrounding large investment projects (CIDSE 2011 pp. 1-2). New or adapted legislation has sought to ‘convert legitimate protest into criminal acts. The aim of criminalization is to create fear, tarnish reputations, weaken resistance, force opponents to expend time and resources defending themselves and to justify the use of force against them’ (ibid. p. 2). An example is Peru’s broad terrorism law (1992 Article 2 of Law No. 25475) which has been criticized due to its application to non-terrorist acts (Inter-American Commission on Human Rights 2000 Ch. II Section C.1.c; Ruebner et al. 2004; Scheinin 2010 p. 16), such as those surrounding development, environmental and indigenous issues. In 2014, almost 400 citizens and human rights defenders (HRD) protesting against mining operations faced court proceedings on terrorism and other charges (Front Line Defenders (FLD) 2014 p. 2).

Other laws have built on this. In December 2008, Supreme Decree 012-2008-DE/CFFAA removed the requirement for the government to declare a state of emergency

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<sup>2</sup> The pipeline is the 10.5-kilometer extension to the Camisea Gas pipeline project in Block 88 in the Ucayali Basin, south-eastern Peru. Almost 75 percent of this Block overlaps the KNN Territorial Reserve and Manu Buffer Zone (Hill 2014a).

The waterway is a reference to the Amazon Waterway project (InfraPPP 2015).

On the Marañón River, 20 dams have been proposed (Hill 2015a).

The Moyobamba-Iquitos electricity concession is a project to construct a 600 kilometer 220kv transmission line across the *selva* to Iquitos (ProInversión no date).

The transport projects include the Pucallpa-Cruzeiro do Sul road that would link the Peruvian city of Pucallpa in eastern Peru to the western Brazilian town of Cruzeiro do Sul (Mandle et al. 2013 p. 4) and the Twin Ocean Railroad, a 5,300-kilometer inter-oceanic railway between Brazil’s Porto do Acu Atlantic port and Peru’s Puerto Ilo on the Pacific coast (Lee 2015).

before army deployment (Latin American Andean Group Report 2010 p. 12). In September 2010, Law No. 1095 permitted armed forces deployment in public security operations, including protests and regulated the use of lethal force against “hostile groups” (FLD 2014 pp. 1-2). This was witnessed in March 2014, when police forcibly dispersed a group of mining protestors with live ammunition and tear gas surrounding the Seca, Negra, Mishacocha, and Mamacocha lagoons in Cajamarca Region (FLD 2014 p. 3). In January 2014, Law No. 3051 (an amendment to country’s Criminal Code (Article 20 (11)) ‘granted members of the armed forces and the national police exemption from criminal responsibility if they cause injury or death, including through ... use of guns or other weapons, while on duty’ (ibid. p. 2; see also FLD 2014 p. 3; OAS 2014).

Overall, despite these laws being widely condemned (Scheinin 2010 pp. 2, 16; OAS 2014; Peru Support Group 2014), they and other regulations (Aiello, no date) have been used to brutal effect by the state. In 2009, the state sent heavy riot police in response to indigenous protestors occupying Andoas airfield (Andoas District, Datem del Marañón Province, Loreto Region). This resulted in the death of one police officer and protestor and the arrest of 25 indigenous protestors who were taken to Iquitos prison, tortured and sentenced (CBO1R1). However, they were later exonerated in a December 2011 court ruling due to lack of evidence (NSI7R1). In May 2015, troops were deployed and a state of emergency declared near the Tia Maria copper mine in Islay Province, Arequipa Region, after several deaths (BBC News 2015a). This was followed by a second state of emergency later in the year, this time for 30 days over events at Las Bambas copper mine in the Apurimac Region (BBC News 2015b), leading to at least three citizen deaths (BBC News 2015c). According to the latest report by Peru’s human rights Ombudsman, 271 deaths and 4,662 injured persons are attributable to social conflicts turning violent since 2006 (Peru Support Group 2017).

More widely, a FLD report reveals that environmental human rights defenders

... have been the direct target of death threats, physical attacks, surveillance, stigmatization, smear campaigns, and judicial harassment. Reports from the [National Coordinator for Human Rights] (CNDDHH) found that, in 2012 alone, 70 [percent] of the attacks reported in Peru against HRDs were to environmentalists and those working on indigenous issues (FLD 2014 p. 2).

Most recently, 12 land and environmental defenders were killed in 2015, the fourth highest figures in the world that year (Global Witness 2016a pp. 8-9). These add to the 38 fatalities witnessed between 2010-2014 (Global Witness 2016b).

This Peruvian PEV political environment should be understood as part of a wider government effort to clamp down on organizations and individuals that agitate against the state's *selva* extractive development. A lawyer working for Alianza Arkana, an NGO specializing in community based solutions and sustainable support for indigenous communities, felt that "NGOs are really attacked by the Peruvian government" (NGO7R1). The "official discourse of the government" is to de-legitimize these organizations' work in the eyes of society by "painting" a falsified image of what they are there for (ibid.) and causing them to "effectively [become] a dirty word" (IJ1). For example, IUA1, an anthropologist and former national government employee believed that "whenever there is an oil project in [an] area ... NGOs bring these films, and show them to people to scare them" whilst a researcher from the Research Institute of the Peruvian Amazon suggested that indigenous communities were being "taught wrong" by NGOs (IUA3). "Some say we are anti-mining, anti-hydrocarbon

... that we are here to encourage protests, some others say that we are trying to protect the interests of the USA and Europe, so it is complicated to work in this environment” (NGO5R1).

An illustration was provided by Red Ambiental Loreana (CBO1R1). Peruvian law stipulates that oil contracts signed after 2005 must stipulate that contaminated waters are reinjected (Vasquez 2014 p. 93) but this does not apply to retrospective contracts like Block 1AB (now Block 192). In 2004, this CBO began campaigning against this situation through “sit downs, protests ... meetings, talk[ing] to the press ... [and visiting] schools ... [and] universities.” Initially, the government viewed these actions as “a nuisance” but “became very sensitive to our ... voice” and moved to expel the CBO coordinator back to their native country (CBO1R1). However, significant support from citizens, CBOs and NGOs at the local, national and international level helped force a government back-down. A second example was given by a teacher and human rights lawyer (ILP1), who described the experience of Gregoria Santos, governor of Cajamarca, regional capital of Cajamarca, who has led the opposition to Newmont Mining’s \$5 billion Conga copper and gold project since 2011 (Jamasmie 2014). Santos was subsequently jailed on corruption charges for fourteen months at the end of 2014, charges which many felt were the culmination of a government campaign against him (ibid.).

So far, Peru’s PEV political environment shows state orchestrated suppression and intolerance for stakeholder voice surrounding hydrocarbon development. The freedom of voice is further restricted when analysis of hydrocarbon voice mechanisms is made. A report by the Due Process of Law Foundation for Oxfam described Peru’s legal and regulatory provisions as ‘fragmented, inadequate, and insufficient’ (Galvis 2011 p. 13) and two contextual examples illustrate this; the 2011 law of prior consultation and EIAs.

### **Freedom of voice: assessing Peru's hydrocarbon stakeholder consultation mechanisms**

The law of prior consultation was based on ILO Convention 169 and the UN Declaration of the Rights of Indigenous Peoples which set out the need for consultation with indigenous people prior to natural resource development in their territories. Until this point, the right to consultation had been broadly regulated by the 2005 General Environment Law (no. 28611) (Vasquez 2014 p. 79):

The law of prior consultation's Article 8 lists seven stages to the consultation process:

- a) Identification of legislative or administrative measures subject to consultation.
- b) Identification of indigenous or native peoples to be consulted.
- c) Publication of the legislative or administrative measure.
- d) Supplying information pertaining to the legislative or administrative measure.
- e) Internal evaluation of the legislative or administrative measure by organizations of indigenous or native peoples.
- f) Process of dialogue between government representatives and representatives of indigenous or native peoples.
- g) Decision (Peru Support Group, no date).

Whilst the new law provided a more comprehensive framework and to some extent increased dialogue (CBO3R1), objections were raised by indigenous organizations. These centered on the stringent criteria for initiating prior consultation, the inflexible (short) consultation time-scale and the state's leadership in carrying out each stage of the process (IUA1; Schilling-

Vacaflor and Flemmer 2013 pp. 14-18). Two prominent flaws vastly narrow the space, freedom and value of voicing for hydrocarbon impacted stakeholders.

Firstly, the fourth information stage for all affected communities and citizens therein “is the most important stage” of the process (CBO3R1). However, “[t]he information in other [later] stages is not shared with everyone ... only ... with the leaders” (ibid.), meaning that “[t]he ordinary people in the village very often don’t know what’s been agreed [or] what’s been talked about” (CBO1R1) since the fourth stage. Narrowing vocal engagement onto civil society leaders directly contravenes stipulations laid out in the American Declaration of the Rights and Duties of Man (Articles XVIII and XXIII) (Inter-American Commission on Human Rights 2002 *Mary and Carrie Dann v. United States*, supra. para 140 (University of Minnesota Human Rights Library 2002) and 2004 *Maya indigenous community of the Toledo District v. Belize*, supra. para. 142 (University of Minnesota Human Rights Library 2004)).

The subsequent lack of wider civil society involvement or information will also prevent clear, concise opinions to formulate making community consensus (a difficult prospect when extractive industry projects can split communities and/or cause tensions between those who see it as a potential benefit and others a threat) (CBO3R1; IUA3; NGO4R1; NGO4R2b) harder to gain. Crucially, if no community(ies) consensus is reached, the lead state entity will take the final decision (Schilling-Vacaflor and Flemmer 2013 p. 15; Vasquez 2014 p. 109).

Secondly, in an interview with a GOREL Manager of Health and Environment, they stated that the state and REI “need the approval from the communities directly affected by that [REI] intervention” (RGR1). This is incorrect. The law is only consultative and ‘does not give the communities the right of veto’ (Villanueva M 2013 p. 100). Subsequently, the Peruvian



government can legitimize its hydrocarbon development drive under the guise of the law of prior consultation. No extractive development projects can be stopped. Interviewees summarized it as “a salute to the *bandido* [bandit]” (NGO2R1c, English language interview), a top-down (ILP1), non-transparent (NSI2R1), unequitable process (NSI7R1), required by law but not considered (NGO4R1) and “conditioned by international [REIs]” (ILP1). This ILO interpretation has been done for the benefit of the state (RGR2) that fails to satisfy local citizens concerns (CBO3R1) creating a PEV political environment surrounding hydrocarbon development that effectively ignores citizen voice.

The second consultation mechanism, EIAs, were introduced through the 1990 National Code for Environmental and Natural Resources (Legislative Decree 163) (Castro et al. 2014 p. 1). They are carried out before the commencement of ‘any hydrocarbon activity likely to cause environmental impacts, such as seismic exploration, drilling of exploratory and development wells, construction of production facilities, etc.’ (Perupetro, no date). Despite their importance, two CBO interviewees described them as merely “formalities” (CBO1R1; CBO4R1a) and one can see this in the two citizen participation mechanisms; informative workshops and public hearings (NSI2R1; Stetson 2012 p. 85). These do “not allow ... its citizens [to] know the impact” these development projects have (CBO4R3).

For example, CBO4R1 recounted that in the case of the Amazon Waterway project, the environmental impact report and the contractor’s study “should have been done with the involvement of the population and they haven’t.” Discrepancies are also found in relation to oil projects. In Perenco’s Block 67, they had “actually started work” building heliports and establishing camps “before their studies had been finished” (CBO1R1) an indicator of the level of REI contempt to this “weak” and uncontrolled system of participation (NSI2R1).

Efforts to improve EIAs have been taken. They were originally controlled by each government ministry, which meant that those for hydrocarbon projects were approved by MINEM, specifically the General Directorate of Energy-Related Environmental Affairs, (DGAAE) (Powers 2012 p. 6). This situation '[set] up a direct conflict of interest: the mining industry has responsibility for both promoting investment and enforcing social and environmental regulations' (Slack 2009 p. 6). However, in December 2012, a new agency, National Service of Environmental Certification for Sustainable Investment (SENACE) was established and is now part of Ministry of Environment of Peru (MINAM) (Watts and Collins 2012), helping remove conflict of interest.

Nevertheless, the prominence given to hydrocarbon development remains. The July 2014 Law No. 30230 'reduces to 45 days the time allotted to governmental entities for reviewing [EIAs with] civil servants ... subject to sanctions for failing to meet the deadline' (Organization for Economic and Co-operation and Development (OECD) 2015 p. 188). This "ridiculous" timeframe (NGO2R1c) made them irrelevant formalities (RGR2), but was useful to speed up hydrocarbon project implementation. Recent reforms continue this trend. In May 2015, Law No. 30327 was enacted which allowed investment projects to obtain global environmental certification (GEC) combining EIA and environmental permitting. This enabled projects in the same geographical area to share the same baseline (reducing EIA implementation by an estimated year) and for environmental permits from different government agencies to be granted in a simultaneous rather than sequential manner (OECD 2015 p. 188).

Accordingly, one finds that community consultation via informative workshops and public hearings ‘take place *after* the government has already negotiated and signed leases with oil and gas companies’ which is unlikely ‘to cancel already signed concessions’ (Stetson 2012 p. 86 author emphasis). Indigenous citizens are “the last ones to know something” (Interpreter in ILP2 interview). Moreover, they appear to remain rubber stamping exercises. CBO1R1 concluded that he’d “known of no case ... where the previous studies have ever said no, you can’t carry on. Their always approved” (CBO1R1). This provides further evidence of the state’s zealous pursuit of *selva* hydrocarbon development and the constraint placed upon hydrocarbon stakeholder freedom of voice in Peru’s PEV political environment.

## DISCUSSION

Overall, this article shows that the freedom of voice in Peru is fragile. Peru’s consolidation of democracy does bestow societal civil rights though there are issues in their implementation (governance) due to weak state mechanisms and regulation. However, more crucially, the state’s aggressive *selva* hydrocarbon and wider development agenda, which can be categorized as a “*selva* hydrocarbon and development vision” (SHDV), significantly impacts upon the PEV political environment and freedom of voice for hydrocarbon stakeholders. This confirms research showing the negative impact that oil has on democracy, especially in developing countries like Peru (Ross 2001).

Peru’s aggressive hydrocarbon expansion is proliferated through and protected by various laws governing citizen consultation and engagement where one can see a ‘closure of the democratic spaces in which people struggle for redistributive policies’ (North and Grinspun 2016 p. 1485). Though one must acknowledge that the Peruvian state has increasingly

recognized the need for citizen notably indigenous participation, their 'opportunity' (Tilly 1978 p. 55) to voice is curtailed by a limited consultation process within two mechanisms, the law of prior consultation and EIAs.

While vertical voice dialogue between citizens and state is always better than a lack of communication, it serves no purpose if the parameters of the exchanges set by the state occur through limited and irrelevant rubber-stamping mechanisms that fail to listen to the people to gain their consent. Though such processes will undoubtedly lead to cases of NIMBYism (not in my back yard), one can see that, in this case, the government's aggressive SHDV wholly displaces its own citizens' approval and fails to protect and strengthen Peru's most marginalized and vulnerable communities.

This is no accident. A symbolic Peruvian phrase is to see their country as 'a beggar sitting on a bench of gold' (Drinot 2006 p. 12), an expression illustrative of 'the highly racialised character of development thinking in Peru' (ibid. p. 15). The beggar is handicapped and cannot properly exploit the country's riches due to the predominance of Peru's indigenous masses who are characterized as 'dirty, ignorant, dependent on others, as well as devious and untrustworthy' (Drinot 2006 p. 15). This historic "silent racism" (de la Cadena 2001) and 'culturalist forms of exclusion and discrimination' (ibid. p. 11) remain entrenched in Peru's social and political structure in which there is an absence of equal opportunity (Bertelsmann Stiftung 2016c) and limited indigenous voice in the Peruvian political system (Thorp and Paredes 2010 p. 204). This discrimination is fed by a state which continues to view the indigenous, particularly those in the *selva*, as an obstacle to the SHDV's fulfilment. For example, in a 2007 *El Comercio* newspaper article, former President Alan Garcia defined indigenous people as second-class citizens and went on to describe them as obstacles to

transnational privatization of the Amazon indigenous land (Andean Air Mail & Peruvian Times 2007).

The SHDV therefore has been built through three interlinked influences. Firstly, the state's constitutionally enshrined ownership of natural resources. Secondly, its ability to overrule indigenous land rights and exploit natural resources on protective reserves for people in voluntary isolation if deemed to be in the public interest (via the 2006 Law for the Protection of Isolated Peoples in Voluntary Isolation (Law 28736)) (Finer et al. 2008 p. 6). Lastly, the deliberate disregard of indigenous voices through hydrocarbon consultation mechanisms which have been designed to minimize state engagement with society and the risks posed towards the SHDV.

Unsurprisingly, these restrictive consultation mechanisms are a major cause of Peru's widespread social conflict. In a 2009 report by the Due Process of Law Foundation (DPLF), 126 (44 percent) of the 288 reported social conflicts were related to problems with the consultation process (DPLF 2010 p. 46, cited in Vasquez 2014 p. 108; see also Peru Support Group 2017). A 2016 report by three environmental NGOs (CooperAcción, Fedepaz and Grufides) found that under the former Humala administration, government social conflicts averaged 217 in any one month (Peru Support Group 2016) of which just shy of 70 percent were social-environmental in nature (CooperAcción et al. 2016 p. 16). Almost two-thirds of these are related to mining (ibid.; Latin American Miners Conflict Observatory (OCMAL) no date). Nevertheless, 15.9 percent of these conflicts are caused by the hydrocarbon sector (CooperAcción et al. 2016 p. 16) due to the consultation issues, the overlapping of indigenous lands, the impact of ongoing environmental pollution (Hill 2016) and the difficulties in gaining environmental legal justice (NSI7R1).

As described above, the state has responded with indifference and legal obstacles when not with brutal suppression. At the same time, the state has labelled anti-mining and wider *selva* indigenous protestors as “anti-mining terrorists” (Post 2016) and “intransigents” (CBO3R1). Its use of these highly evocative terms represent a deliberate effort to directly connect these citizen actions to the Shining Path Maoist guerilla insurgency which ravaged Peru during the 1980’s and early 1990’s (Gorriti 1999). By doing so, it is clear that supporters of the state’s SHDV are seeking to de-legitimize genuine stakeholder grievances in the eyes of wider society to try and prevent any national solidarity movement from forming. CooperAcción concluded that there is ‘an intent to present all this [the anti-mining movement] as a kind of plot against investment, against development, against the country’ (Hill 2015b). There is also a perceived effort by the state to overcome a geographical and perceived societal (i.e. indigenous) barrier to the Loreto Region and wider country’s progress.

At this point, one can return to CBO3R1, CBO4R1 and NSI4R1’s belief that the state is more willing to listen to *selva* communities than REIs. For CBO4R1, potential improvement in this regard over the next ten years was dependent on “who’s in government” (CBO4R1a). This opinion can be challenged. Both the main 2016 Peruvian Presidential election participants were “very neoliberal” adherents of capitalism with a focus on resource use rather than social development and sustainability agendas (NGO5R1). Both shared a belief in hydrocarbon development and whilst specific policies may have differed, their pledges run in a similar vein to contemporary former administrations.

One sixteen-year-old girl, a member of a Loreton young people’s environmental group, concluded that “oil is one of the most important activities for Peru and it’s something that [is]

not going to ... go away” (CBO2R1). For hydrocarbon-affected stakeholders, no matter the 2016 victor, their PEV political environment remained shaped and restricted by the importance that the state has placed on hydrocarbon activities, the defence of REIs, “even against its own people” (CBO4R3) and the protection of industry rights (ILP2; IUA1; NGO8R1; NSI7R1).

## CONCLUSION

This article has provided evidence of state-sponsored suppression and intolerance which restrict Peru’s PEV political environment and freedom of voice for stakeholders’ surrounding hydrocarbon development. Alongside the efforts by the state to present environmental and HRD individuals and groups as being against development and thus, by extension, anti-progress and anti-Peru, political elites are clearly intolerant to any citizen and wider collective voices that raise concerns about the neoliberal economic and development choices which the country takes. This confirms the fact that voice is risky when organizations (and the state) try and silence protests (Hirschman 1981 p. 244). Critical protest voices standing in the way of the SHDV are consequently repressed when efforts should instead be made to implement dialogue and provide information to all affected citizens so that they can reach informed decisions and crucially, provide consent.

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## Appendix 1: Grouping of stakeholder interviews

### State representatives:

National government. Coded as: **National state institution *n* representative *n* (NSInRn)**

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- **NSI2R1.** National Environmental Monitoring Agency (OEFA).
- **NSI4R1.** Office of the Ombudsman (DDP).
- **NSI5R1.** Public Prosecutor Specialized in Crimes of Corruption for the decentralized Judicial District of Loreto.
- **NSI7R1.** Judge (Justice), Superior Courts of Justice, Judicial District of Loreto.

Loreto regional government (GOREL). Coded as: **Regional government representative *n* (RGR*n*)**.

- **RGR1.** GOREL Manager of Health and Environment.
- **RGR2.** Loreto Regional Councilor.
- **RGR4.** GOREL regional development and intercultural advisor.

CBO's. Coded as: **CBO *n* representative *n* (CBO*n*R*n*)**

- **CBO1R1.** *Red Ambiental Loretana*. Indigenous environmental watch-dog organization.
- **CBO2R1.** National Network of Children and Adolescents (REDNNA).
- **CBO3R1.** Regional Organization of Indigenous Peoples of the East (ORPIO).
- **CBO4R1** and **3.** Catholic Church (The Apostolic Vicariate of Iquitos) and the Commission for Justice and Peace - Human Rights of the Vicariate of Iquitos.

NGO's. Coded as: **NGO *n* representative *n* (NGO*n*R*n*)**

- **NGO2R1a, b, c.** The Peru Mission.
- **NGO4R1-2a, b.** ProNaturaleza (Peruvian Foundation for the Conservation of Nature).
- **NGO5R1.** Peruvian Society of Environmental Law (SPDA).
- **NGO7R1.** Alianza Arkana.
- **NGO8R1.** Law, Environment and Natural Resources (DAR).

Other citizen voices:

- Two academics with knowledge of the hydrocarbon industry. Coded as: **Iquitos university academic *n* (IUAn)**:  
**IUA1.** Anthropologist researcher at Research Institute of the Peruvian Amazon.  
Formerly government civil servant in the office of the Prime Minister.  
**IUA3.** Research director at Research Institute of the Peruvian Amazon.
- University student. Coded as: **Iquitos university student *n* (IUSn)**.  
**IUS2**
- Two legal professionals. Coded as: **Iquitos legal professional *n* (ILPn)**.  
**ILP1.** Iquitos teacher and human rights lawyer (working pro bono) for indigenous communities.  
**ILP2.** Iquitos lawyer.
- One journalist. Coded as: **Iquitos journalist *n* (IJn)**.  
**IJ1.** Environmental journalist for an international newspaper based in Iquitos.