NOTES

Introduction

1. There is no universal definition of “Indigenous Peoples.” This book adopts the most commonly cited definition by José R. Martinez Cobo, the special rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Cobo defines Indigenous communities, peoples, and nations as “those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present nondominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems” (1987, 7 adds. 1–4).

2. The term hydrocarbons refers to both oil and gas.

3. Among some of the classic works that make a connection between civil war and natural resources are Bannon and Collier (2003) and Ballentine and Nitzschke (2005).

4. The Bolivarian Alliance for the Americas was created by Chávez in 2004 as an alternative to U.S.-sponsored trade relations in the hemisphere. Member countries include Cuba, Bolivia, and Ecuador.

5. Departments in Latin America are equivalent to states in the United States.

Chapter 1. Tracing Oil- and Gas-Related Conflicts

1. OPEC is an intergovernmental organization formed by the world’s largest oil-producing countries responsible for some 40 percent of world oil production. Of its twelve member countries, half are from the Middle East: Iran, Iraq, Kuwait, Qatar, Saudi Arabia, and United Arab Emirates. Among the rest there are four from Africa: Algeria, Angola, Nigeria, and Libya; and two from South America: Venezuela and Ecuador.

2. The definition of nonconventional oil in this book refers to crude that is not easily found and that usually requires more costly techniques than conventional oil to be extracted.

3. Peru’s national census does not identify or quantify its population according to ethnic or Indigenous origins, but only with regard to its native language. Indigenous
Peoples are not recognized as such by Peruvian law, as they were merged into farming communities in the Andes and the coast and native communities in the Amazon. This creates a vacuum of information that probably explains the large disparities of the percentages of the population considered Indigenous: 13 percent versus 30 percent according to official and nonofficial figures, respectively (UNICEF-FUNPROEIB Andes 2009).

4. The name in Spanish of the first oil worker’s union was Sociedad Union Obrera, which later became Union Sindical Obrera.

5. Initially, the Negritos and Lobitos fields were owned by two UK companies: London and Pacific Petroleum, and Lobitos Oilfields, respectively. They were later bought by Standard Oil in 1913. Zorritos was operated by a company called Piaggio, which had been created by an immigrant merchant who settled in Callao on the Pacific coast.


7. In 1974 and 1975 decrees 2310 and 743 excluded private investments in the oil industry. The decrees established that only Ecopetrol would be allowed to explore and develop oil in the future, either on its own or in association with other companies.


9. These laws include the Law of Foreign Investment (Ley de la Inversión Extranjera), Legislative Decree 662; the Framework Law for the Increase of Private Investment (Ley Marco para el Crecimiento de la Inversión Privada), Legislative Decree 757; and the Law for the Promotion of Private Investment in Public Service Infrastructure Work (Ley de Promoción a la Inversión Privada en Obras Públicas de Infraestructura de Servicios Públicos, Tuo approved by Supreme Decree 059-96-PCM (Proinversión 2011).

Chapter 2. Indigenous Peoples and Natural Resource Development

1. Particularly innovative were three Constitutional Court rulings concerning customary law in relation to Indigenous groups, pursuant to Article 246 of the 1991 Constitution. This article delegates the exercise of judicial functions to authorities within native territorial areas, in accordance to their own rules and procedures, as long as these are not contrary to the constitution and laws of the republic. According to the constitution, the law has to establish the forms of coordination of this special Indigenous jurisdiction with the national judicial system.

2. The UN Declaration on the Rights of Indigenous Peoples was adopted by General Assembly Resolution 61/295 on September 13, 2007. Initially, a total of 143 countries voted in favor, 4 against, and 11 abstained. The 4 states that opposed it were Australia, Canada, New Zealand, and the United States. Australia finally endorsed the declaration in 2009; and New Zealand, the United States, and Canada did so in 2010.
3. The Gini coefficient is a number between zero and one that measures the degree of income inequality in a given society. A zero coefficient reflects a society where everyone receives exactly the same share, and a level one coefficient is when one member would get all the income and the rest none.

Chapter 3. Structural Causes of Local Conflicts

1. Law 27506 of 2001, known as “Canon Law,” established the distribution of natural resource revenues among regional and local governments. Supreme Decree 005-2002-EF, passed in 2002, developed six different types of Canon to be charged according to the various natural resource-based economic activities: mining, gas, oil, hydroelectric power, forestry and fishing.

2. The three departments receive 45 percent of all royalty revenues in the following proportion: Casanare (70 percent), Arauca (60 percent), and Meta (20 percent). Decree 1747 of 1995 established the following minimum goals: 1 percent infant mortality; 100 percent basic health coverage; 90 percent access to education; and 70 percent supply of drinking water.

3. Two of the main laws governing national parks extensively address the issue of Indigenous protected areas—the Law 2 of 1959: Which Dictates Norms for the Nation’s Forestry Economics and Renewable Natural Resource Conservation (Por el Cual se Dictan Normas sobre Economía Forestal de la Nación y Conservación de Recursos Naturales Renovables); and Decree 2811 of 1974: Which Dictates the National Code of Renewable Natural Resources and Environmental Protection (Por el Cual se Dicta el Código Nacional de Recursos Naturales Renovables y de Protección al Medio Ambiente), from Colombia’s 1991 Constitution and its 2005 amendments, arts. 63, 286, 287, 329, 330.


6. Interview with Oleoducto de Crudos Pesados (OCP) official, April 2010.


8. IACHR 2012, art. 220 (translation by author).

Chapter 4. Transient Triggers of Local Conflicts

1. In 1991 Judith Kimberling wrote Amazon Crude, a book that became the first written chronicle about the environmental and social effects of the Texaco oil development
in Ecuador. Around that time, the campaign Amazonía por la Vida was organized by various national and international environmental organizations to protect the Amazon forest.

2. Interview with Talisman representatives, Peru, February 2010.

3. Interview with Pitiur Unti Saant, leader from the Achuar community and elder from Unkum, a community that lives in the area of Block 64, close to the Ecuadorean border, where Talisman was exploring for oil, March 2010.

4. The International Labor Organization Indigenous and Tribal Peoples in Independent Countries Convention 169 came into force in 1991. Peru’s 1993 ratification is Legislative Resolution No. 26253; Colombia’s 1991 ratification is Law 21; and Ecuador’s 1998 ratification was Executive Decree 1387. The UN declaration came into force in 2007.


7. For Peru, see Supreme Decree 046-93-EM, passed in 1993. For Colombia, see Law 99, passed in 1993, and Decree 1220, passed in 2005. For Ecuador, see Executive Decree 1215, passed in 2001.

8. Citizen participation in hydrocarbons activities in Peru is defined by several laws and regulations: Lineamientos para la Participación Ciudadana en las Actividades de Hidrocarburos, Ministerial Resolution 571-2008-MEM-DM; Reglamento de Protección Ambiental en las Actividades de Hidrocarburos, Supreme Decree 015-2006-EM; Reglamento de Participación Ciudadana para la Realización de Actividades de Hidrocarburos, Supreme Decree 012-2008-EM; and ILO Convention 169.


10. Interview with Beatriz Merino, ombudsman, New York, April 2009.

11. Indigenous federations located on the border with Ecuador and Colombia opposed the arrival of Brazilian oil company Petrobras to develop Block 117, located in their territory (Office of the Ombudsman 2009a, 253).

12. The gas plant belongs to the Consorcio Terminales GMT-Terminal Ilo. The contamination fears were related to Block 155, located in the province of Moho, where Argentine oil company Pluspetrol has an oil development license (Office of the Ombudsman 2009a, 259).

13. Usually the term “major” refers to the largest privately owned oil companies in terms of production and reserves, revenues, market capitalization, and cash flow. Today, those companies include Chevron (United States), BP (United Kingdom), ExxonMobil
(United Kingdom), Total (French), Royal Dutch Shell (United Kingdom and Holland), and Conoco (United States).


15. Blocks 8/8x and 1AB were transferred from Occidental Petroleum to Pluspetrol in 1996 and 2001, respectively.


17. Colombia’s second largest producing company, Meta Petroleum Limited, was created to develop oil specifically from the Rubiales and the Piriri oil fields in Colombia’s Llanos basin.
This page intentionally left blank