

Chapter 1. Defending human rights in a mining country

Peru's Human Rights Movement

From the Internal Armed Conflict Until Today

The emergence of a national human rights movement in Peru is closely linked, on the one hand, to the internal armed conflict between 1980 and 2000 and, on the other hand, to President Alberto Fujimori's autocratic rule from 1990 to 2000.¹ Many of the civil society organizations and NGOs that fall into the heterogeneous category of Peru's human rights movement were founded during this time and were influenced by these two historical periods. Thus, compared to other Latin American countries, the human rights issue in Peru gained importance in public discussions relatively late (Kristenson 2009, 77). In global terms, however, the development coincides with the "human rights revolution" that took place in other countries of the Global South after the end of the Cold War (Sieder 2010a, 203, Goodale 2017, 101, 181, 184).

Peru's internal armed conflict began on the very day the country was to return to democracy after over ten years of military dictatorship. When presidential elections were held in May 1980, members of the Maoist guerrilla organization *Sendero Luminoso* carried out an attack on the polling station in a village in Ayacucho, in the central highlands, thereby initiating its armed struggle. After initial hesitation, the national government declared a state of emergency over large parts of the country, imposed restrictions on the population's civil and political rights, and sent the army to the affected areas. In the context of these counterinsurgency measures, there have been

¹ In comparison to other Latin American countries, such as Chile or Argentina, for example, there has been relatively little research on the history of the Peruvian human rights movement until now. The overview in this chapter is primarily based on the work by Coletta Youngers (2003, 2006, 2007, Youngers and Peacock 2002), Rebecca Root (2009), Ezequiel A. González-Ocantos (2016, 2017), and Lisa Laplante and Kimberly Theidon (Laplante and Theidon 2007, 2010, Theidon 2013), as well as on the conversations I had with members of the human rights organizations. For deeper insight into the history and the development of the movement, more structured research would have been necessary, including research into the archives of the organizations. This, however, would have gone beyond the focus of this book.

massive human rights violations and crimes against the civilian population, who got caught in the crossfire between the insurgents and the armed forces.² People disappeared and extrajudicial killings were reported. According to the official numbers of the Peruvian Commission for Truth and Reconciliation (*Comisión de la Verdad y Reconciliación*, CVR), almost 70,000 people died or disappeared as a result of the conflict, with around 30 percent being killed by state agents (CVR 2003a, 13, CVR 2003b, 315). The CVR's final report identified the *campesino* population, especially those of the central highlands, as the "main victim" (*la principal víctima*; CVR 2003b, 316): 79 percent of those killed or disappeared had lived in rural areas, 75 percent spoke Quechua or another native language. Furthermore, 56 percent had worked in agriculture (*ibid.*). Thus, the violence had a clear ethnic and socioeconomic dimension.

In response to the abuses committed by state agents and by members of the guerrilla, local groups organized themselves in the highland areas. In many cases, it was family members and relatives of those who had been killed or had disappeared who formed local associations and demanded an end to the violence. In addition, students, intellectuals, church members, and other engaged citizens became active in the coastal regions, especially in the capital, Lima. They formed groups to support the population in the areas under the state of emergency. These groups documented abuses committed by state forces and insurgent groups. Later, these groups also provided legal assistance to those who had been arbitrarily arrested under the pretext of counterinsurgency, as well as to the relatives of those who had been killed or had disappeared (Root 2009, 458).

In this context, the Peruvian section of Amnesty International was formed in Lima, as were independent national NGOs such as the *Instituto de Defensa Legal* (IDL), the *Asociación Pro Derechos Humanos* (APRODEH) and the *Comisión Andina de Juristas* (CAJ), three NGOs that were critical for the emergence of a national human rights movement in the following years (Youngers 2007, 14). Lawyers played a major role in the founding of most of these NGOs. This had a large impact on the development of these organizations. From the very beginning, the strategic use of judicial mechanisms constituted an important weapon for the movement.

Coordinadora Nacional de Derechos Humanos

In 1985, more than fifty NGOs and associations based in Lima and in the provinces joined together to form the national umbrella organization *Coordinadora Nacional de*

² Theidon (2013) wrote a disturbing, but extremely impressive and engaging ethnography about the use of violence in the Ayacucho region and its consequences for the communities in that region during the *sasachakuy tiempo*, the "difficult time," as the local population calls the armed conflict.

Derechos Humanos (CNDDHH or, as hereafter, *Coordinadora*; Youngers 2007, 16, Bebbington, Scurrah, *et al.* 2008, 56, González-Ocantos 2017, 145). The aim of the *Coordinadora* was to strengthen the human rights movement by coordinating the efforts of grassroots organizations and by improving national and international networking (Youngers and Peacock 2002, 9–10). A permanent secretariat based in Lima was created to organize the *Coordinadora*'s activities. Over the years, this office has been headed by an executive secretary, a position that has been held by leading figures from Peruvian civil society. To exchange information, the activists met in working groups on topics such as torture or indigenous peoples, for example. Over the years, the *grupo jurídico*, the Judicial Group, in which the movement's lawyers exchanged strategies for human rights litigation, has become the most influential of these working groups (*ibid.*, 20, 29, 34). In addition, in the nineties, the *Coordinadora* set up a network of professionals, such as dentists, psychologists, doctors, and social workers, who participated voluntarily in a working group for humanitarian aid (Youngers 2007, 33).

From the beginning, the *Coordinadora*'s member organizations were very heterogeneous. All of them, however, have committed themselves to following the organization's basic principles. These principles include the rejection of any kind of violence, independence from the state and from political parties, commitment to a democratic society, the unconditional defense of the right to life, and the rejection of the death penalty (CNDDHH 2019, 2, see also: Youngers and Peacock 2002, 29). Based on these principles, common strategies emerged, which the *Coordinadora* developed at the national level and which were spread to the provinces by its member organizations.

Over the years, the *Coordinadora* became one of the most powerful players in Peru's civil society, especially since other actors such as unions and political parties lost influence during the Fujimori era (Kristenson 2009, 77, Degregori 2012, Li 2015, 16). The *Coordinadora* became and still is "the unifying [...] element and acts as a voice of the [human rights] movement and of its concerns and demands" (Bebbington, Scurrah, *et al.* 2008, 43, own translation). Hence, when I write about "Peru's human rights movement" in this book, I am referring to the activists belonging to the *Coordinadora* and its member organizations, as well as to those individuals and associations that are independent of it but share its ideals and political goals. This also reflects the emic perspective from the field, for example when people affected by state and corporate abuses refer to the organization and its lawyers as "*derechos humanos*," as if the *Coordinadora* itself were equated with the principles it seeks to defend.

As mentioned above, the *Coordinadora*'s work in the late eighties focused primarily on providing legal assistance to people affected by state repression and on documenting human rights violations. This also included the defense of those who were falsely accused by the state of being supporters or members of guerrilla organizations. When Alberto Fujimori took office in 1990 and later, with his so-called

autogolpe (self-coup) in 1992, the human rights situation was exacerbated. A new terrorism legislation was created, curtailing basic mechanisms of the rule of law and obstructing the work of defense lawyers (González-Ocantos 2017, 145). The *Coordinadora* and its member organizations actively interfered in this field. In addition, the fight against torture, especially in prisons, was a further key concern of many NGOs in the nineties (Youngers and Peacock 2002, 23, González-Ocantos 2017, 146).

Due to their commitment to non-violence, the human rights lawyers intervened on behalf of members of the guerrilla movements only when the accused were threatened with extrajudicial execution, disappearance, or torture, thus when their fundamental human rights and their lives were at risk (Youngers and Peacock 2002, 18, Youngers 2007, 26). However, they did not represent defendants who had publicly admitted to armed struggle or who had demonstrably supported the guerrillas. As I discuss in the course of the following chapters, this principle has been maintained by the legal NGOs until today. Only persons who have been unlawfully prosecuted or “criminalized” have received legal assistance. Despite this clear maxim, the lawyers were – and still are – accused by parts of the Peruvian society, Fujimori’s followers in particular, of supporting “terrorists” in court (González-Ocantos 2017, 146). These forms of discrediting human rights organizations began in the nineties when the movement became the target of the increasingly authoritarian state apparatus, which acted with a hard hand against any dissenting opinions in the public sphere (Root 2009, 461). As Youngers and Peacock (2002, 15) wrote, Fujimori referred to the human rights groups as “useful fools’ of terrorist groups” (see also: Youngers 2007, 12). Like other political opponents of the regime, the activists were intimidated, harassed and prevented from doing their work (*ibid.*, 21).

Despite the obstruction of its work, however, the human rights movement achieved some successes in the nineties. A major one was the establishment of the *Defensoría del Pueblo*, the Human Rights Ombudsperson’s Office in 1996. As a body independent of other state institutions, the *Defensoría* became an important ally of the human rights movement in the nineties and in relation with the mining conflicts of the following years (Root 2009, 461). Finally, the human rights movement, and especially the *Coordinadora*, was instrumental in the campaign against the illicit re-election of Alberto Fujimori in 2000, which led to a massive protest movement. While this was not able to prevent Fujimori’s re-election, shortly after, however, a huge system of corruption was uncovered. This system had been engineered by Fujimori’s advisor and head of secret service Vladimiro Montesinos. Thereupon, the president fled to Japan and resigned by fax (Youngers 2003, 419–20, 427–8, Root 2009, 457–8).

The transition after Fujimori’s fall provided a window of opportunity during which the human rights movement gained influence. In Valentín Paniagua’s transitional government that followed Fujimori, several human rights activists were appointed to the cabinet and were thus able to carry the influence of the movement

to the highest political level in the country (Youngers and Peacock 2002, 27, Root 2009, 465). The political influence of the *Coordinadora* and the NGOs based in Lima reached a peak at that time. These NGOs were able to play a significant role in Peru's return to democracy, which led to the transition often being described as an "NGO transition" (González-Ocantos 2017, 160). The establishment of the Truth and Reconciliation Commission, which investigated the internal armed conflict, must also be seen in this context. Activists and NGO members, including several people with whom I worked during fieldwork in Lima, played an active role in the CVR's work (Youngers and Peacock, 2002, 27, Bebbington, Scurrah, *et al.*, 2008, 56). For many of the activists, this period was a formative and far-reaching experience, which, as several people told me, had a significant impact on their later work in the human rights movement.

Following the transition, and over the past twenty years, the human rights movement has become thematically more diverse. Recent campaigns by the *Coordinadora* and its member organizations have focused on the rights of indigenous groups, migrants, women, and the LGBTI community. In addition, since about 2003, the rights of population groups affected by extractive industries has been one of the movement's key focuses. Many legal NGOs from Lima have focused their work on capacity building workshops with peasant communities or indigenous groups. They have also provided legal assistance to people affected by human rights violations during protests and have attempted to take political action against the use of violence by state security forces during social conflicts. The case studies Río Blanco and Conga are excellent examples in this respect, as I will point out presently.

Fundación Ecuménica para el Desarrollo y la Paz – Fedepaz

One legal NGO whose emergence and development is exemplary for the historical background of the Peruvian human rights movement explained above is the *Fundación Ecuménica para el Desarrollo y la Paz* (*Fedepaz*³). *Fedepaz* is based in Lima and is one of the two organizations with which I have cooperated during fieldwork. The NGO was founded in April 1993, exactly one year after Fujimori's *autogolpe* – or as the NGO's director David Velazco called it, "*en plena dictadura* (at the height of the dictatorship)." *Fedepaz*' founding members were a group of lawyers. They had previously worked for the *Centro de Estudios y Acción para la Paz* (*CEAPAZ*⁴), an NGO close to

3 Ecumenical Foundation for Development and Peace. This name points to the Christian background of the NGO. Like many other Peruvian human rights activists, some of *Fedepaz*' members consider themselves to be devout, and their faith plays an important role in their private lives. Its director told me that the NGO's goal is to promote human rights "from a Christian perspective but with an ecumenical approach."

4 Center of Studies and Action for Peace.

the Catholic Church that was founded in Lima in the mid-eighties (Youngers 2003, 471–2, 495). The two lawyers of *Fedepaz*, with whom I was in close contact during my field research, have been working with the NGO from the very beginning. Rosa Quedena was one of its founding members and its first director; David started as an intern and later worked as a lawyer after completing his studies.

In the early years, *Fedepaz* focused its work primarily on the legal defense of persons who were prosecuted under the new terrorism legislation, as well as on legal assistance for persons affected by human rights violations. Since its founding, the fight against impunity of state actors, universal access to the legal system and due process and the protection of fundamental rights have been at the center of *Fedepaz'* work (Sanca Vega 2017, 195). As I discuss in detail in Chapter 2, the NGO has pursued the strategy of mobilizing the law and using judicial mechanisms to protect and promote human rights.

At the time of my field research, *Fedepaz* employed two lawyers and a social anthropologist, as well as a part-time accountant and a secretary. The NGO operated in a modest office with sparse, dark rooms and noisy neighbors in the district of Jesús María, a busy, middle-class area of Lima. *Fedepaz'* work is financed by foreign NGOs, and at the time of my stay, it was mainly by the Luxembourg NGO *Action Solidarité Tiers Monde* (ASTM), *Terre des Hommes France* and foreign sections of Amnesty International (ASTM 2018, 9, *Terre des Hommes France* 2020). Since funding is project-based and always limited to a few years, the NGO's future prospects have been – and still are – characterized by great uncertainty. In the nineties, the organization had been much larger, as Rosa and David told me, but due to problems in obtaining external funding, the team was subsequently reduced.⁵

As an NGO founded by a group of lawyers, *Fedepaz* works in different thematic areas of law. Firstly, the field of civil and political rights includes the provision of legal assistance for persons affected by human rights violations or criminalization. In addition to this work in local courts, the area of law also includes the use of mechanisms of supranational organizations, especially the IACtHR, in whose sessions *Fedepaz* has regularly participated. Together with other human rights NGOs and as part of the *Coordinadora's* *Grupo Jurídico*, *Fedepaz* was involved in the so-called Fujimori trials, in which the former president Alberto Fujimori was prosecuted and convicted in 2009 for crimes against humanity. Lawyers from *Fedepaz* represented the families of victims murdered during the massacre in Barrios Altos, both before Peruvian courts and before the Inter-American Human Rights Court (González-Ocantos 2016, 452,

5 Many Peruvian NGOs had to reduce their staff during this time. As the country experienced an economic upturn after 2000, funding agencies from the Global North ended their projects and withdrew from the country, although Peru experienced, at the same time, an increase in social conflicts, and local NGOs had to intensify their efforts to defend human rights.

Sanca Vega 2017, 195).⁶ Since the transition, *Fedepaz* has provided long-term legal assistance to communities affected by mining conflicts, such as the conflict over the Río Blanco project in Piura, for example.

Fedepaz' also works within the field of economic, social, cultural, and environmental rights. In addition to representing peasant and indigenous communities affected by the extractive industries in courts, *Fedepaz* has conducted capacity building workshops in these communities to strengthen their collective and individual rights. They have supported the communities in formalizing their institutions and territory rights and have conducted specific trainings with community leaders and women (Sanca Vega 2017, 196). During my stay in the field, *Fedepaz* worked with the *comunidades nativas* Supayaku and Naranjos, two Awajún communities from the northernmost part of the Cajamarca region, and with the *comunidades campesinas* from Ayabaca and Huancabamba, which are located in the area of influence of the planned mine Río Blanco. As I describe in the following, the NGO thereby became a central player in this mining conflict.

Mining conflict Río Blanco in Piura

Context and project description

Piura is a region in the northern part of Peru that extends from the arid coastal region to the Andean highlands. Thanks to irrigation projects, large-scale agriculture is practiced near the coast, with production for the domestic market and for exportation. By contrast, the highlands, especially the provinces of Ayabaca, Morropón and Huancabamba, are characterized by small-scale farming and represent the region's marginalized hinterland (Bebbington and Williams 2008, 192, Toledo Orozco and Veiga 2018, 328). In parts of Piura's highland region, the rural population is organized into peasant communities, so-called *comunidades campesinas*. These *comunidades* represent a specific form of social organization through which the Peruvian state grants subsistence farmers a certain degree of autonomy within their communities (Nuijten and Lorenzo 2009, 113).⁷ The *comunidades* hold special rights and obligations, for example regarding the administration of natural resources, the sale of land, or the decision-making processes in their territories (Arellano-Yanguas 2011a, 100, Salazar 2012, 10). However, as a result of the country's neoliberal

6 Case *Barrios Altos vs. Perú*, Inter-American Court of Human Rights, Judgment of March 14, 2001, p. 6.

7 In contrast, indigenous communities in the Amazon lowlands are referred to as *comunidades nativas*.

turn, the rights of the *comunidades* have been curtailed by allowing the establishment of individual land titles and the possibility to alienate communal land (Kamphuis 2012b, 222–3). This has made the communities vulnerable to large investment projects. According to estimates, more than half of the approximately six thousand *comunidades campesinas* in Peru are affected by mining (Bebbington and Williams 2008, 190, Jaskoski 2014, 874).

Before the Río Blanco conflict emerged, a dispute with another mining company had already shaped the region. In the late nineties, Manhattan Minerals, a Canadian company, attempted to build a gold mine near the city of Tambogrande. This mine's construction was, however, stopped by the resistance of the local population. A local referendum, a so-called *consulta vecinal*, in which the local population voted on the project in 2002, played a major role in this conflict.⁸ The local government had organized the referendum in collaboration with a technical committee consisting of various NGOs from Lima, including Fedepaz (Paredes 2008a, 293). Although it was not legally binding and not recognized by the national government, the referendum was decisive for the protest against the mine. The social movement's experience in Tambogrande later influenced the resistance against Río Blanco.

The Río Blanco project envisaged the construction of an open-pit copper and molybdenum mine; the project was wholly owned and initiated by the British junior company Monterrico Metals. Originally, it was led by a Peruvian subsidiary under the name Majaz, which later changed its name to Río Blanco. In 2003, the Peruvian government granted the concession to operate and the company built a mine camp (Skinner *et al.* 2013, 93). The planned mine is located in an area with an important watershed and with primary cloud forests (Bebbington *et al.* 2007, 15). It is situated on land belonging to the *comunidades campesinas* of Yanta and Segunda y Cajas, two communities in the provinces of Ayabaca and Huancabamba, respectively (Alayza Moncloa 2007, 97). The *comunidades* hold official land titles for the affected area (Arelano-Yanguas 2014, 66).

The acquisition of a mining concession and the associated land resources is clearly regulated under Peruvian law: The subsoil resources are owned by the state, which grants the mining concessions; the holder of a concession must then purchase the overlying land from the owner of that land, whereas special legal conditions apply if the land is collectively owned by a *comunidad campesina* (Szablowski 2008, 45–6). In such cases, the land can only be sold if a two-thirds majority of the communities' general assembly agrees to the sale (Coxshall 2010, 42, Velazco Rondón and Quedena Zambrano 2015, 25). In the case of the land required for the Río Blanco

⁸ The *consulta vecinal* in Tambogrande had a great signal effect: In the following years, the idea of organizing such a local consultation was adopted in other conflicts in Peru and in other Latin American countries as an instrument for exercising non-violent resistance to large-scale mining projects (Li 2015, 8, Kirsch 2016, 54).

mine, however, these legal preconditions were not met, according to the project's opponents. Community members complained that there had been irregularities in the company's purchase of land, which led to an initial conflict (Bebbington *et al.* 2007, 17, Hoetmer 2010, 187–8, Skinner *et al.* 2013, 93). Moreover, members of the *comunidades* feared that industrial mining would have a negative impact on the regional water supply and on local agriculture, on which a large part of the population depends. Therefore, they opposed the project by organizing protest marches.

Following the example of Tambogrande, the political mobilization against Río Blanco resulted in a *consulta vecinal* in September 2007. This *consulta* was again organized by the local municipalities in collaboration with a group of NGO members from Lima under the coordination of *Fedepaz* (Bebbington *et al.* 2010, 322, Velazco Rondón and Quedena Zambrano 2015, 34). The population's vote was unequivocal and clear with more than 94 percent of the participants rejecting the mine's construction (Velazco Rondón and Quedena Zambrano 2015, 27f.). The referendum was not legally binding, but it demonstrated the company's lack of a so-called "social license to operate" (Hoetmer 2010, 185).⁹

The mine's supporters, in turn, attempted to prosecute the referendum's organizers. A local association that acted as a supporter of Río Blanco filed a complaint against thirty-five members of the technical committee in 2008, among them NGO members from Lima, local activists and members of the local government. For organizing the *consulta vecinal*, the group was accused of severe crimes, such as terrorism and rebellion (Hoetmer 2010, 192, Velazco Rondón and Quedena Zambrano 2015, 46–7, 59–60). This was one of several cases in which state and corporate actors, as well as their local allies, sought to criminalize the resistance against Río Blanco. In its role as legal advisor to the *comunidades* in Ayabaca and Huancabamba, *Fedepaz* assumed the role of legal defense in many of these lawsuits.

Despite these attempts to criminalize its members, the protest movement was able to achieve some success. Due to its protest, the construction of the mine was suspended in 2011 (Velazco Rondón and Quedena Zambrano 2015, 29). However, the plan to build the mine has never been completely abandoned by the Peruvian government and by the corporation but was rather postponed in the hope that public opinion toward the project would change over time. The company has remained active in the region and attempted to obtain the "social license to operate" from the local population through CSR programs (Bebbington 2012b, 78). In 2007, the ownership structure of the company changed with Monterrico Metals' assets being taken over by the Chinese consortium Xiamen Zijin Tongguan Investment (Kamphuis 2011, 74).

9 As other authors have discussed, for some time now, mining companies in various regions of the world have been required to have a "social license to operate," in particular, but not only, when it will affect indigenous communities (see, for example: Kirsch 2007, 313, 2016, 54–5, Sawyer and Gomez 2012, 1, Jaskoski 2014, 873–4).

More recently, Peru's former government under Pedro Pablo Kuczynski promoted the Río Blanco project in the context of its attempts to deepen economic cooperation with China (Amancio 2016). Thus, the social conflict surrounding the construction of the mine has continued and has led to ongoing social tensions within the *comunidades*.

Protest march and acts of torture

As with other social conflicts over industrial mining projects in Peru, serious human rights violations occurred in the course of the Río Blanco conflict, especially from 2003 to 2006 when the protests reached a climax. When the population took to the streets against the mine, state security forces repeatedly used repression and violence against demonstrators. Several people were killed during the conflict (Coxshall 2010, 38).

In this book, I focus on one particular case of human rights violations that occurred in the context of this mining conflict. At the end of July 2005, a group of two to three thousand people participated in a protest march that led to the planned mine area where the company had built a mine camp (Skinner *et al.* 2013, 94). The protesters demanded a continuation of the dialogue with the state and called for a suspension of the mine's construction activities (Bebbington *et al.* 2007, 17–8, Coxshall 2010, 38). Since the planned mine is located in a remote area, the demonstrators had to walk for several days and spend the night outside in the field in the vicinity of the mine camp (Calderón Concha 2010, 402, Kamphuis 2011, 74–5). In the early morning on August 1, 2005, members of the DINOES¹⁰, a special unit of Peru's National Police (PNP), attacked the protesters' camp, using tear gas and live ammunition to disperse the demonstrators. One protester was killed during these clashes, and several police officers and demonstrators were injured (Bebbington *et al.* 2007, 17–8, Jahncke 2011, 51, Kamphuis 2012a, 543).

In the context of these violent confrontations, twenty-eight protesters – among them two women and one teenager – were detained by the police and brought into the mine camp where they were held captive for more than 72 hours (Skinner *et al.* 2013, 94). Within the camp, the detainees suffered physical and psychological violence as well as acts of torture. They were beaten, subjected to tear gas; forced to eat rotten food; and threatened with death, violence, and rape. The two women were sexually abused. For several hours the detainees did not receive either water or food; plastic bags containing an irritating powder were placed over their heads, and they had to remain seated during a long time with their hands bound. During these events, members of the national police's special unit and members of Forza, a

¹⁰ *División Nacional de Operaciones Especiales*, National Special Operations Division.

private security firm contracted by the mining company, were present in the mining camp (Kamphuis 2012a, 544, Velasco Rondón and Quedena Zambrano 2015, 26–7).

A public prosecutor visited the site on the second day to interrogate the detained protesters. Although he could see that the detainees were being mistreated, he did not intervene on their behalf. On the third day, the protesters were brought by helicopter and bus to the city of Piura, where they were interrogated again and then finally released. A few days later, they were reported along with nearly eighty other demonstrators for participating in the protest march (Jahncke 2011, 51, Kamphuis 2011, 75). The twenty-eight persons were thus criminalized for their participation in the protests; at the same time, the authorities were very reluctant to investigate the abuses they had suffered and opened investigation only as a result of the persistent intervention of human rights lawyers from Lima, in particular the lawyers working with *Fedepaz*. The three-day detention had serious physical and psychological consequences for the demonstrators, many of whom suffered physical injuries and have continued to suffer from post-traumatic stress disorder for many years.

With regard to the Río Blanco conflict, I limit my analysis to this one single case of human rights violations. This case, which is referred to as “the torture case” by *Fedepaz* lawyers, is an emblematic case of police violence in connection with a transnational mining project. As I discuss in Chapter 3, the case illustrates the obstacles of human rights litigation in Peru. Additionally, this case also led to a transnational lawsuit against Río Blanco’s parent company in the United Kingdom, which I analyze in Chapter 6.

Minera Yanacocha and the Conga mining conflict in Cajamarca

Operating among comunidades and rondas campesinas

The second case example in this research emerged from an expansion project of an existing gold mine. Peru’s mining era under the new neoliberal framework began in 1993 in Cajamarca, a region neighboring Piura in the country’s northern highlands, where the company Minera Yanacocha began extracting gold and other minerals by using the latest technologies in open-pit mining.¹¹ The mine was considered a prestige project of Alberto Fujimori’s cooperation with foreign investors and the World Bank (Li 2015, 18). In the nearly twenty-five years that followed, Minera Yanacocha

¹¹ For many years, most of the gold produced by Minera Yanacocha was exported abroad, with about two thirds of the export volume going to Switzerland. In Switzerland, this gold was processed and refined by the Valcambi gold refinery in Ticino, to be then traded on the world market (GfbV 2012, 23–4).

was operated as a joint venture company involving U.S. Newmont Mining Corporation, the Peruvian company Buenaventura and the International Finance Corporation (IFC), a member of the World Bank Group.¹² The initial mining area of Minera Yanacocha was located at between 3,500 and 4,000 meters above sea level and about thirty-five kilometers north of the city of Cajamarca, the capital of the region of the same name (Bury 2008, 312). Over the years, the mining area has been continuously expanded. By 2016, it had expanded to cover approximately 160 square kilometers (RESOLVE 2016, 10). For several years, the mine was among the most profitable and largest open-pit mines in the world (Langdon 2000, 1, Bury 2008, 311).

For the Cajamarca region, the mining project marked the beginning of a new economic era, as Minera Yanacocha was followed by other transnational companies building mines in the region. The presence of these companies had a considerable impact on the region and especially on its capital Cajamarca, a city with about two-hundred thousand inhabitants in 2017 (INEI 2018a, 27). In the course of the mines' expansion, the town grew into a regional center after years of being considered a relatively marginal town by national standards. Cajamarca's fate, however, had been linked to gold before the arrival of Minera Yanacocha. The course of the Spanish conquest was decided in this city when Francisco Pizarro captured Inca ruler Atahualpa in Cajamarca and had him killed, even though the Inca had filled one room with gold and two rooms with silver to buy his freedom (Paredes Peñafiel and Li 2017, 15). Until today, this historical anecdote has served as an important point of reference for the population to describe their city's difficult relationship with foreigners searching for gold.

In a national comparison, Cajamarca belongs to the poorest regions of the country, despite years of mining activities. According to national statistics, sixteen of Peru's twenty poorest districts were located in this region in 2018 (INEI 2020). Before Minera Yanacocha's arrival, Cajamarca's economy was mainly dependent on agriculture. There was only one small area, the province of Hualgayoc, where mining had been carried out since colonial times (Chacón Pagán 2005, 357, Herrera 2013, 266). Besides this, the region was – and still is – known for its livestock and dairy production. Local farmers grow crops and hold livestock primarily for their own subsistence and for the markets in the region. Some of them, however, also produce for the na-

¹² In December 2017, IFC sold its stake to its former partners Newmont Mining and Buenaventura (International Finance Corporation n.d.). Some months later, Japanese Sumitomo Corporation acquired a 5 percent share in Minera Yanacocha (Newmont Mining Corporation 2018). Newmont Mining then controlled the company with a 51 percent share, whereas Buenaventura held a 44 percent stake. In 2022, Newmont Corporation acquired all shares in Minera Yanacocha and became the sole owner of the mine (Newmont Corporation 2022). In recent years, the parent company has changed its name several times from Newmont Mining Corporation, to Newmont Goldcorp, and finally Newmont Corporation.

tional market and deliver milk and dairy products to transnational food companies such as Nestlé or Gloria (van den Berge 2011, 67, Sosa and Zwarteeven 2012, 362).

Agriculture and the peasant communities play an important role for the local populations' identity. According to the census of 2017, there were 112 *comunidades campesinas* in the region (INEI 2018b, 24).¹³ In the context of the recent international discussions on the rights of indigenous peoples, these *comunidades* have often been compared with indigenous communities, especially by foreign NGOs. Peru's government, however, has been reluctant to legally recognize the *comunidades campesinas* as "indigenous" communities and to grant them the rights to which it committed itself by ratifying international agreements, such as the Convention 169 by the International Labor Organization, for example (Kamphuis 2012b, 218).

Moreover, Cajamarca's rural population rarely identifies as "indigenous," which is also related to historical aspects. Only a few communities in Cajamarca are Quechua-speaking because the Incas had only brought the region under their control shortly before the Spanish conquest (Grieco 2016, 134). The North was consequently much less influenced by Quechua culture than other regions, and – in contrast to the Southern highlands – the concept of "indigeneity" (Huarcaya 2019) barely plays a role in Cajamarca.¹⁴ The majority of the local population identifies rather as *mestizos*¹⁵, i.e. as "mixed" descendants of both Spaniards and indigenous people; or they identify themselves based on their class affiliation as *campesinos* and *campesinas*, i.e. as peasants (Chacón Pagán 2005, 363–4, Bebbington, Humphreys Bebbington, *et al.* 2008, 2903, Sulmont 2011). Furthermore, the *comunidad campesina* is an important identity-forming characteristic in rural Cajamarca. Many *cajamarquinos* and *cajamarquinas* are extremely proud of the agricultural culture and feel

13 The data collection at the census was based on the *comunidades'* self-declaration; not all of them hold formal land titles and are recognized by the nation state. According to NGO information, 88 *comunidades campesinas* in the region of Cajamarca have been recognized and hold formal titles by the state (SICCAM 2016, 11).

14 In comparison with its neighboring countries Ecuador and Bolivia, only a weakly organized indigenous movement has developed in Peru in recent years. The reasons for this are diverse. On the one hand, the agrarian reform was decisive. This was carried out under the military dictatorship of General Velasco Alvarado at the beginning of the seventies. This reform meant that the rural population was no longer categorized under the disrespectful term of the "indios" but under the class name *comunidades campesinas* (in the highlands) or the ethnic term *comunidades nativas* (in the Amazon lowlands). On the other hand, the persistence of racism has contributed to the fact that many inhabitants in the *sierra* do not identify themselves as indigenous, as this term is considered by parts of society to be synonymous with "backwardness" and "poverty" (for a detailed discussion of this topic see, for example: de la Cadena 1998, Van Cott 2005, 144, Paredes 2008b, Sulmont 2011, Huarcaya 2015, 808, 829).

15 For a more details on the concept of *mestizaje* in the South see the work of Marisol de la Cadena (1998, 2000).

strongly connected to the countryside, even if they live in the towns of Cajamarca or Celendín.

Another element of great importance – in terms of the formation of a local identity, but above all in terms of social organization – are the so-called *rondas campesinas*. The *rondas campesinas* are community-based self-help organizations, which have their origins in the peasant communities' fight against cattle rustling. In the late seventies, peasants in the province of Chota, in central Cajamarca, organized themselves to prevent their cattle from being stolen (Chacón Pagán 2005, 353, Gitlitz 2013, 16). They gathered in small groups and conducted night patrols, *rondas* in Spanish, to guard their communities. Suspected perpetrators caught by the *rondas* were brought before the communities' *asamblea*, the communal assembly, which then decided whether and in what form the apprehended individual should be punished. Various authors described the emergence of the *rondas* as a community reaction to the nation state and its institutions' absence in the rural areas (Faundez 2005, 203, Gitlitz 2013, 19, Hoetmer 2013, 268). Since the communities lacked any protection by public authorities, they themselves began policing against cattle rustling and other minor crimes. This awareness of taking the administration of justice into one's own hands, since the state does not take responsibility for it, continues to shape the relationship with the ordinary justice system for many people in the region.

Due to the *rondas'* success in administrating justice in their territories, the organization form spread throughout Cajamarca and the neighboring regions, such as Piura, for example.¹⁶ However, the *rondas* have also been harshly criticized, especially because the sanctions in the *justicia ronderil* often include corporal punishment and because those sentenced have no possibility of defending themselves against the *asamblea*'s decision. Nevertheless, in the 1993 Constitution and in the *Law on Rondas Campesinas*, the Peruvian state recognized this form of legal pluralism. The legal frameworks stipulated that the *rondas* were entitled to support the *comunidades campesinas'* authorities in administrating local justice (Faundez 2005, 188, 206).¹⁷ According to this legal framework, the *rondas* are obliged to cooperate with state judicial authorities, such as the justices of the peace, and to hand over serious

¹⁶ At the time of the internal armed conflict, the Peruvian army itself adopted the concept and applied it in the regions of Ayacucho, Junín and Puno to mobilize the rural population against the guerrilla groups. These so-called *comités de autodefensa*, or self-defense committees, were also named as *rondas campesinas*; however, unlike the *rondas* from the North, the committees in the central and southern highlands were armed and followed the orders of the military (Fumerton 2001, 485). Orin Starn (1993, 5–6) argued that the military used the positively charged name *rondas campesinas* for the self-defense committees in response to the emerging criticism that the army was forcing the rural population to participate in counterinsurgency.

¹⁷ Article 149, Peruvian Political Constitution of 1993; article 1, Law No. 27908, *Ley de Rondas Campesinas*.

criminal cases to these authorities.¹⁸ To strengthen their political influence, the local *rondas* formed federations at the provincial level and beyond, thus establishing a widespread network, which today covers a wide area in the *sierra*. As I explain later, the *rondas campesinas* thereby became important political players in the mining conflicts in Cajamarca and Piura as well (see also: Hoetmer 2013, 268).

Minera Yanacocha's early conflicts

Minera Yanacocha thus began its operations in a social setting that has been characterized by difficult economic circumstances but in which communal organization has been very pronounced and in which a local form of administrating justice, legal pluralism, and collective ties to land resources have played a fundamental role in creating identity. Under these circumstances, the first social conflicts between the mining company and parts of the local population developed during the nineties. As in Piura, these initial conflicts resulted from disputes over land acquisition. Later, communities in the mine's vicinity, but also people from the city, complained about negative impacts on the environment, public health, and local water resources. At the same time, the economic prosperity, which the company had promised, had still not arrived.¹⁹

In 2000, the population's unrest reached a first climax when a lorry transporting mercury from the Yanacocha mine to the coast spilled over 150 kilograms of this highly toxic material in three municipalities (Defensoría del Pueblo 2001, 14, Li 2017a, 176). This incident, which is known as the mercury spill in Choropampa, severely damaged the mine's image (Sydow 2016, 235, Li 2017a). At first, the company tried to downplay the incident and later attempted to appease the affected population with compensation payments.²⁰ In retrospect, the mercury spill was decisive in fueling local resistance against the company's plans to expand its activities, and this considerably shaped the relationship between the mine and Cajamarca's population (Li 2013, 401, Sisniegas Rodríguez 2016, 30–1). While the company had previously

¹⁸ Article 8, Law No. 27908, *Ley de Rondas Campesinas*.

¹⁹ The history of Minera Yanacocha's initial social conflict in the late nineties has been thoroughly discussed, especially by a group geographers including Anthony Bebbington, Jeffrey Bury and others (see, for example: Bury and Kolff 2002, Bury 2004, 2005, 2007, Bebbington, Humphreys Bebbington, *et al.* 2008, Bebbington and Bury 2009, Sosa and Zwarteveld 2012, Li 2013, 2015).

²⁰ The spill in Choropampa has also been dealt with by the justice system, both in Peru and in a transnational civil suit against the parent company Newmont Mining in the United States (for a detailed discussion, see, for example: Defensoría del Pueblo 2001, Concha Takeshita and Navarro Elguera 2016, Sisniegas Rodríguez 2016, Torres Pachas and Conza Salcedo 2016, Li 2017a). The company was, however, able to evade legal responsibility to the greatest possible extent both in domestic and foreign courts through compensation payments.

announced that it would apply “new methods” to carry out “sustainable mining,” it had to counter fierce criticism after the spill (Arellano-Yanguas 2011a, 145).

In 2004, the first major social conflict broke out when Minera Yanacocha planned to expand its mining area to the Cerro Quilish, the mountain that provides drinking water for the city of Cajamarca.²¹ Weeks of protests followed, which united the urban and rural population and which were carried out with strikes, demonstrations, and roadblocks, some of them being violently suppressed by the police (Bebbington, Humphreys Bebbington, *et al.* 2008, Arellano-Yanguas 2011a, 145–50, Li 2015). The social movement mobilizing against Minera Yanacocha included peasant organizations, such as local *rondas campesinas*, teacher unions and students’ federations from the urban area, church associations, and other grassroots organizations, such as the so-called *frentes de defensa* (defense fronts), which were loosely organized groups (Arellano-Yanguas 2011a, 103, Hoetmer 2013, 269, Li 2013, 407–8). Due to the protests, the company announced the suspension of its plans. This was the first success of the movement against mining in the region.

In 2001, the *Grupo de Formación e Intervención para el Desarrollo Sostenible*²² (*Grufides*), a local environmental NGO emerged in the city of Cajamarca (Rojas 2009, 113). *Grufides* was founded by Marco Arana, a priest who had worked in Porcón, a community located in the vicinity of the Yanacocha mine, where *campesinos* and *campesinas* increasingly complained about being defrauded by the mining company in land transfers (Maquet 2013, Li 2017b, 122–3). Besides Arana, *Grufides* was initially run by students of the National University in Cajamarca, who after their graduation helped to professionalize the NGO (Kamphuis 2012b, 232–3). An important goal of the NGO was to document social conflicts and environmental damage caused by mining. In addition, the NGO provided legal assistance to communities and individuals affected by human rights violations committed during the social conflicts. As such, *Grufides* joined the national human rights movement and became a member of the *Coordinadora*. In the following years, the NGO became one of the main forces in the judicialization of the social conflicts in Cajamarca.

Mining conflict Conga

With the protests against the Quilish project, the local population successfully frustrated Minera Yanacocha’s expansion plans. However, given that the mine’s mineral deposits would eventually be exhausted, the company sought to secure its activities

²¹ There has been extensive research on the initial disputes between the local communities and Minera Yanacocha and on the protests against the project at Mount Quilish (see, for example: Bebbington, Humphreys Bebbington, *et al.* 2008, de la Cadena 2010, 339–40, 356–7, Arellano-Yanguas 2011a, 145–50, 2011b, 629, Kamphuis 2012b, 233, Li 2013, 2015, 31).

²² Training and Intervention Group for Sustainable Development.

with another expansion project, the Conga mine. The project involved a planned investment of around US\$4.8 billion in a new gold and copper open-pit mine in an area bordering the three provinces of Cajamarca, Bambamarca and Celendín (Arellano-Yanguas 2016, 67). Several people from Celendín, a small town about 100 kilometers northeast of the city of Cajamarca, told me that the project was initially advertised under the name Minas Congas and that Minera Yanacocha attempted to conceal its involvement in the project. However, by at least 2011 it was known who was behind this project. In 2010, the project's environmental impact assessment study had been approved by the national government; one year later, Minera Yanacocha's parent company officially launched the project (Grieco and Salazar-Soler 2013, 152).

Due to Minera Yanacocha's bad reputation, resistance against Conga grew quickly, even in regions like Celendín that had not been affected by mining activities until then. The project was met with particularly fierce criticism because it involved the destruction of various mountain lakes, which, critics said, endangered the local water supply (Paredes Peñafiel and Li 2017, 2). The Conga project was therefore *inviable*, "unfeasible," as the opponents argued. Similar to the Quilish project, the endangered water supply again united the urban and rural population. A movement against Conga emerged in all three affected provinces, mobilizing different sectors of the population.

From October 2011, the movement carried out its resistance using road blockades, strikes and protest marches to the larger cities (Jaskoski 2014, 876). In the city of Celendín, the protests were mainly coordinated by the grassroots organization *Plataforma Interinstitucional Celendina* (PIC), which I discuss below. In addition, protest activities also took place directly on the planned mine site, a remote area located at around four thousand meters above sea level and a several hours' drive from the cities of Celendín and Cajamarca. Around ten thousand people participated in these marches. In retrospect, these protests had a long-lasting impact on the social movement since they revealed its popular support. Moreover, violent clashes with police forces occurred during these marches and indicated how the national authorities would deal with the protest movement in the following months. During a march in November 2011, the police fired tear grenades and live ammunition at demonstrators, injuring several protesters.

The national government of President Ollanta Humala, who took office in July 2011, came under pressure as a result of the protests, especially because Humala had promised, during his campaign, to stop the Conga project should he be elected (Arellano-Yanguas 2016, 182). In light of the protest marches, Humala's government announced that it would again revise the environmental impact assessment of the project. Moreover, it established a *mesa de diálogo*, a negotiation meeting bringing together the conflict's main actors for a dialogue (Silva Santisteban 2013, 437). When these negotiations failed, Humala's cabinet broke for the first time, and ten ministers resigned (Jaskoski 2014, 877). The cabinet's end demonstrated the political force

the protest movement had gained, not only within the Cajamarca region, but also on the national level. In November 2011, the movement called an indefinite regional strike and largely paralyzed public life in Cajamarca. At the beginning of December, the national government responded by declaring a state of emergency (Vásquez 2015, 92).

In February 2012, the movement against Conga carried out its resistance with a “national protest march in defense of the water” to Lima (Paredes Peñafiel and Li 2017, 10). In May 2012, there were additional large street protests in Cajamarca, and another regional strike was declared, demanding that the government definitively cancel the project. This time the national government sent the military to the region to stop the protests. The cities, especially Celendín, were invaded by the military, as several activists told me, and the state security forces took repressive action against protesters. In early July 2012, one person in Bambamarca and four people in Celendín were shot dead by state security forces. Among those killed in Celendín was a sixteen-year-old boy shot from a helicopter (Silva Santisteban 2013, 436). The following day, the government again declared a state of emergency, thus preventing any further public protests. This led to the protests in the streets calming down in the following months and years, although the social movement did not disappear completely.

For the mining project Conga, however, the street protests meant the end, at least temporarily and until the time of writing. Minera Yanacocha suspended the construction work at the Conga site in November 2011 following a request by the national authorities (Newmont Mining Corporation 2016, 22). In April 2012, the government in Lima decided that the project would be suspended for two years and demanded that the company make improvements in the protection of water resources (Grieco and Salazar-Soler 2013, 154). In the following years, it was unclear whether the project would ever be realized, as the company remained active in the region with CSR projects and continued to build the infrastructure necessary for the mine. In 2016, parent company Newmont Mining announced that “[u]nder the current social and political environment, the Company does not anticipate being able to develop Conga for the foreseeable future” and that it would reallocate the project’s capital to other world regions (Newmont Mining Corporation 2016, 22, see also: Sydow 2016, 219). Therefore, although the company did not officially announce Conga’s end, there were many indications that the mine would not be built in the near future.

However, the social conflict between the mining company and parts of the local population did not cease after the project’s suspension but repeatedly broke out into smaller confrontations. A typical example is the dispute between Minera Yanacocha and the Chaupe family, a *campesino* family who owns a piece of land within Conga’s planned mining area. The Chaupe family inhabits and cultivates this plot of land and refuses to sell it to the mining company. Minera Yanacocha, for its part, claims to have acquired the land several years ago from the *comunidad campesina*, to which

the family belongs, and has therefore repeatedly attempted to clear the land and to evict the family, sometimes by force.²³

In view of such incidents, members of the local protest movement expressed doubts that they had been able to definitively stop the Conga project once and for all. Many of them told me that they believed to “have won a battle but not yet the war.” They considered these doubts to be confirmed by Minera Yanacocha’s CSR programs, which they interpreted as the mine’s attempt to obtain the “social license to operate” by means of development projects and gifts to the population. In light of these programs, many activists feared Minera Yanacocha would one day relaunch the project – for example, if the price of gold rises again and the mine becomes even more profitable. For this reason, many of them tried to maintain their resistance and to remain active in the movement.

Since the end of the political mobilization on the streets, the resistance against Conga changed its shape and shifted to other areas, including the courtrooms. On the one hand, as in Piura, the social protests were criminalized; many of the activists were prosecuted by the authorities for their participation in the protests or were charged by the mining company for crimes, such as property damage. On the other hand, the social movements, along with local and national NGOs, have sought to demand justice for the human rights violations committed during the conflict. This has mainly concerned people who were injured or killed by state security forces during the conflict. In the further course of this book I will focus on various court cases that have arisen in this context and that exemplify both the legal mobilization *from above* (Chapter 4) and *from below* (Chapter 3).

Plataforma Interinstitucional Celendina (PIC)

Regarding the Conga conflict, my field research has mainly focused on the *Plataforma Interinstitucional Celendina*²⁴ (PIC). The PIC was founded in 2010 as a grassroots organization bringing together civil society groups from Celendín, its surrounding villages and *comunidades campesinas* (Tello 2013, 372). As its members told me, the PIC was born out of the efforts of various local groups, which, since 2009, had organized public meetings to inform about the Conga project and its environmental impacts (see also: Tello 2013, 371, Paredes Peñafiel 2016, 192). “At that time, we followed the idea that ‘nobody defends what he or she does not know (*uno no defiende lo que no conoce*)’,” as I was told by Milton Sánchez, who was the co-founder and secretary general of the PIC (Paredes Peñafiel and Li 2017, 13) at the time. Many PIC activists recounted that before the social conflict they – like the majority of Celendín’s popula-

²³ In Chapter 5, I go into more detail about the land conflict between Minera Yanacocha and the Chaupe family.

²⁴ Interinstitutional Platform from Celendín.

tion – knew nothing about the mountain lakes in the higher areas of the countryside that supply the city with drinking water and that would be destroyed by the Conga project.

From the outset, the PIC was made up of various urban groups, such as members of the teachers' union SUTEP²⁵, women's organizations, or church associations. From rural areas, various *rondas campesinas*, *frentes de defensas*, and other loose associations and individuals joined the PIC, thus forming a broad alliance of *ronderos* and *ronderas*, teachers and students, housewives, urban professionals, active members of the Catholic and of Evangelical churches, *campesinas* and *campesinos* (Sullivan 2014, 131, Sánchez and Vargas 2019, 114). As has been discussed at length by others, women played an important role in the resistance against Conga (see, for example: Grieco 2016, 138–43, Silva Santisteban 2017, Li and Paredes Peñafiel 2019). Within the PIC, a separate women's group was founded. In addition, the PIC became one of the protests' most important coordinators in Celendín and also – through the exchange with other organizations in Bambamarca and Cajamarca – an important regional player.

At the regional level, *Grufides*, the environmental and human rights NGO from Cajamarca, became the most important ally for the PIC, especially in the initial phase of the conflict when gathering information on the Conga project and its impacts. With the outbreak of violence and when activists were increasingly criminalized for their participation in the protests, *Grufides* also provided legal assistance. In addition, lawyers from the *Coordinadora* in Lima intervened in the court cases. This resulted in a close cooperation between *Grufides*, the *Coordinadora*, and the PIC. Another important ally of the PIC was the *Programa Democracia y Transformación Global* (PDTG), an NGO bringing together activists and (former) researchers from the San Marcos University and other universities in Lima. In addition, the PIC also succeeded in establishing a strong international network. Particularly relevant for my research in this regard is the collaboration with EarthRights International, a U.S. NGO with an office in Lima. This cooperation resulted in various lawsuits against Minera Yanacocha and its U.S. parent company Newmont Mining, which I will discuss in the following chapters.

After the temporary suspension of the Conga project, the PIC's work shifted from coordinating protests to, first, upholding the exchange between the individual organizations. To this end, the PIC, along with activists from PDTG, organized the so-called *Escuela de Líderes y Lideresas "Hugo Blanco Galdós"*,²⁶ a capacity building

25 *Sindicato Unitario de Trabajadores en la Educación del Perú*, Unitary Union of Workers in Education in Peru.

26 "School of male and female leaders;" the *escuela* was named after Hugo Blanco Galdós, a revolutionary who led the *campesino* movement in southern Peru in the sixties and seventies, and who later became a politician for various left-wing parties. His book "Nosotros los indios"

workshop in which activists discussed ideas and strategies for social resistance against large-scale industrial projects. The *escuela* became an important framework for maintaining the social mobilization in Celendín. I participated in one of these *escuelas* in 2017 as part of my field research.

Second, dealing with court cases became an increasingly important focus of the PIC's work. On the one hand, as mentioned above, many legal NGOs with which the PIC cooperated attempted to use the law to seek justice for those who had suffered human rights violations during the Conga conflict. The PIC's activists helped to obtain information, established contact with the people directly concerned and mediated between them and lawyers from Cajamarca, Lima, and abroad. Although they were not the driving force behind the court cases and, in many cases, they were not directly involved as parties of the lawsuits, the members of the PIC thus became important actors within the judicialization of the Conga conflict and acted as a kind of "intermediary" or "translator" (Merry 2006b) in the court cases.

On the other hand, the activists and members of the PIC themselves came into the focus of the judicial authorities and thus involuntarily became actively involved in court cases since many of them had been charged with criminal offenses because of their participation in demonstrations. This increasing criminalization posed a great danger to the organization and its participants, as I demonstrate in Chapter 4.

Beyond the Conga conflict: protests against the hydroelectric dams in the Río Marañón

However, there were additional reasons why protests in Celendín continued after the suspension of Conga, as another social conflict broke out. This time, the protest emerged in resistance to the Brazilian infrastructure company Odebrecht, which planned to build several dams in the Río Marañón, a river running east of the province of Celendín. As one of the main tributaries of the Amazon, the Río Marañón is of great importance for the entire region. The national government promoted construction of several dams in this area by arguing that they would produce "clean" energy and would ensure Peru's economic development.²⁷ The protest movement that began mobilizing in 2013 against the construction of the dams in the Río Marañón complained, in turn, that the energy would not benefit the local economy or the local population, but only the planned mining projects in the area.

is considered one of the most important intellectual texts for the peasant movement in Peru (Blanco Galdós 2017). In recent years, Hugo Blanco has been involved in Peru's environmental and human rights movement.

²⁷ In 2011, the Peruvian government in Lima declared the construction of twenty hydroelectric dams in the upper reaches of the Río Marañón to be in the "national interest." *Decreto Supremo*, N° 020-2011-EM, 26.04.2011.

At the same time, the costs to be borne by the local population would be extremely high, the opponents argued. They feared that many would lose their homes and livelihoods in agriculture because areas would be flooded, forest would be cut down, and the course of the river would be irrevocably altered (Amancio 2015, Lo Lau 2016).

Among the planned hydroelectric dams were the projects Chadín 2, Río Grande 1 and Río Grande 2, and Odebrecht was awarded the concession for all of them (Hill 2015a, 2015b). Within the sphere of influence of these three projects were several communities whose members had been already involved in the protest movement against Conga. Chadín 2 would particularly affect the *centro poblado* or village of Yagen, whereas Río Grande 1 would have a major impact on the district of Oxamarca. Activists from Yagen and Oxamarca had established close contacts with the social movements from Celendín during the Conga protests. In turn, they received support from this movement, in particular from the PIC, in their struggles against the dams. In the province of Celendín, the resistance against Conga thus merged into the struggle to protect the Río Marañón.

As I discuss in Chapter 4, many activists from Yagen and Oxamarca were criminalized for their resistance against the dam projects. In addition, there were violent clashes among the inhabitants of the village in Yagen, who were sharply divided into supporters and opponents of Chadín 2. Several people were killed as a consequence of these clashes, including Hitler²⁸ Rojas, who was one of the leaders of the movement against the dams. In 2015, Rojas was shot dead by another community member and supporter of Chadín 2 (Hill 2016). His death demonstrated how social conflicts over large investment projects penetrate the communities and how they lead to violent outbreaks at the local level. Thus, the social conflicts have not only involved the use of violence by state security forces against demonstrators. Moreover, the violence has also taken on much more personal or, following Kimberly Theidon's (2013) notion, "intimate" forms between people who share their daily lives in a community. However, in this research I focus on the former form of violence, i.e. on human rights violations committed by corporate and state actors. The decision to focus on these aspects also brought with it another type of data collection, which I describe in detail in the following section.

28 As in other Latin American countries, it is not unusual that parents in Peru choose exotic sounding names like Jhonne, Sindy or Pamela, or names of historical figures like Lenin, Stalin, or Hitler for their children. A lack of knowledge about world history may be one reason for the fact that even within the social movement in Cajamarca the name Hitler hardly caused any unease or discussions.

An ethnography of Peru's mining conflicts

This research is primarily based on eight months of fieldwork that I conducted in Peru between January and May 2017 and January and May 2018. I spent most of that time in the capital, Lima, and in Celendín. In addition, I went to the regional capitals of Cajamarca and Piura and to the province of San Ignacio for various shorter stays. Thus, my data collection was relatively strongly tied to two particular places. This is related to the fact that I worked with two specific organizations and accompanied their members for several weeks. In Lima, I focused on the work of *Fedepaz*, whereas in Celendín, I mainly collaborated with the PIC.

However, as Wendy Coxshall (2005, 209) wrote, ethnographic research is “open-ended,” and my data collection continued long after I left Peru. I continued collecting data within Europe, traveling to Berlin, Aachen, and London to conduct interviews with employees of German and British NGOs as well as with a lawyer of a British law firm. All these people have worked closely with social movements and NGOs in Peru in the past or were involved in the court cases I am analyzing in my research. In these ways, I was able to complement the views and perceptions I had captured within Peru with the perspective of outsiders who were, however, in close contact with my field. Additionally, I also met activists from Cajamarca at a conference in Barcelona, conducted interviews via Skype with lawyers from the United States and Canada, and participated three times in the United Nations Forum on Business and Human Rights in Geneva. In this sense, my research also has the aspect of a “multi-sited” ethnography (Marcus 1995), but with strong ties to the places the social conflicts and the court cases took place. By tracing the court cases’ different sites, I attempted to do justice to the fact that my research field is by itself multi-sited. The social conflicts have circulated beyond Peru through the cooperation with international NGOs, transnational court cases, and transnational advocacy networks. In this sense, I also attempted to be “there... and there... and there...” and to trace my multi-sited field as proposed by Ulf Hannerz (2003).

Furthermore, my data collection continued after the end of my actual fieldwork because I remained connected to the field to a certain extent via the Internet. Social media play an important role for protest movements in Peru. Especially via Facebook, NGOs and activists inform about their activities, share photos of meetings, broadcast live presentations, or record court hearings on video, which they then share online. When judgments are reached, copies of the documents are uploaded to Facebook shortly afterwards, supplemented by video recordings in which the people involved or their lawyers comment on the outcome of the court case. This allowed me to deal with the challenges I confronted, such as the fact that court cases I analyzed often lasted a long time and that the important steps in these lawsuits rarely occurred while I was on site.

Besides the protest movements, which are at the focus of this research, there are other groups of actors involved in Peru's mining conflicts. First, there are the companies, their employees, and local supporters, who in Peru are referred to as *promineros* or simply *mineros*. Second, government institutions and their employees also play an important role in the conflicts. These groups also actively contribute to the judicialization of social conflicts by invoking the law to assert their interests. Thus, the judicialization of mining conflicts could also be analyzed from the perspective of these other two groups.

In the field, I initially attempted to gain access to these other groups of actors, too, and to establish contacts with the mining companies and judges, for example. However, I learned that studying a social conflict in a region like Cajamarca also means choosing sides, especially in the case of ethnographic research. I went to the court hearings with the activists, and as such, the judges did not perceive me as an independent observer but as part of the group of activists who accompanied the defendants. Consequently, they were not willing to talk to me about the court cases or about their work. In addition, the *mineros*, for example in Celendín, were difficult for me to grasp and remained an indeterminate group of opponents who, as the activists told me, follow what we do, where we go, and with whom we meet. Celendín is a small town where everyone knows what other people do; the activists, however, felt that they were under additional surveillance by the *mineros*. This also affected my own perception over time. Moving back and forth between the two sides, establishing contact and building trust with both groups soon proved to be unrealistic. Thus, even after eight months of fieldwork, my research remained focused on the social movements and their perception of the mining conflicts' judicialization.

Access to the field

In both cases, regarding the PIC and *Fedepaz*, the aim of my stay in the field, from a methodological viewpoint, was to accompany the employees and activists for a longer period of time and to participate in their daily (working) life. In the case of *Fedepaz*, this proved to be relatively easy, as I spent several weeks at the NGO's office. However, my expectation had been that the lawyers would constantly go to court hearings and that I could spend a lot of time with them in the courthouses. As it turned out, however, this idea was incorrect. As I explain in detail in Chapter 3, human rights litigation in Peru proceeds slowly and rarely reaches the stage of a trial. Most of the lawyers' work, therefore, is paperwork and occurs in their offices.

Furthermore, actual litigation was only a small portion of the lawyers' work; more often they were involved in legal capacity trainings with communities. Thus, my participant observation at *Fedepaz* mostly took place in the context of these activities. I studied the NGO's records on court cases, sorted files for the staff and helped them with minor research, documentation work, and the preparation of

workshops. In addition, I accompanied the team to workshops and on a field trip to Supayaku, one of the indigenous communities in the province of San Ignacio. This allowed me to gain insight behind the scenes and a deeper understanding of the relationship between the NGO staff and a local community.

Establishing contact with *Fedepaz*' team and gaining its consent to participate in the daily life at the office was relatively simple. Regarding the PIC in Celendín, by contrast, I was initially confronted with various challenges, first in establishing contact with and getting access to the organization, and then in actually collecting data. At the beginning of my fieldwork, I approached the PIC and asked its members for permission to accompany them. Milton, the PIC's leader, was skeptical about academic research dealing with social movements on the ground. "Scientific work is of no use to us," he told me from the beginning, "if the results do not return to their place of origin and if the people involved cannot themselves learn from what academics write about them. We want researchers to give something back to us." As mentioned above, the mining conflicts in Cajamarca have been studied thoroughly in recent years, which led to an overflow of academic researchers visiting the region and the local organization. The PIC had also been affected by this wave of academic interest, which did not really help the movement, as the activists complained. Despite this clear position, however, Milton was willing to discuss my aim to do research with the *compañeras* and *compañeros* from the PIC. He invited me to a meeting where I was able to present and discuss my research proposal with the group.

So, I already had a foot in the door, but I was still far from having convinced the group that I had come to Celendín not to stay for a week or two and to do a few interviews like previous researchers, but that I had come to accompany them for a longer time. However, shortly thereafter the trial began in a criminalization case in which Milton and other members of the PIC were prosecuted. The activists asked me to accompany them and to approach the judges to make them aware that foreigners were following the case. The weeks that the trial lasted were a time of great tension, as I discuss in Chapter 4. At the same time, however, it was precisely this difficult situation that helped me build trust with the activists. By accompanying them to court and by supporting them merely by being present there, I was able to "give something back" to them, like they had asked. Thus, contrary to my initial expectations, it was not the lawyers in Lima who were constantly going to court but the activists from Celendín with whom I spent much time in the courtroom.

The second challenge in collecting ethnographic data with the PIC, in contrast to *Fedepaz*, was that there was no regular working day with office hours during which I could accompany the activists. The PIC had its own locations where meetings were held. A group of activists organized the group's regular activities. Part of this also involved running a blog and, at the time of my fieldwork, a weekly radio program, and a *revista*, a magazine. These activities, however, took place on an irregular basis. Many activists followed the PIC's activities after finishing their normal jobs, as

teachers or mototaxi drivers, for example. Thus, while my participant observation with *Fedepaz* was tied to its office hours, with the PIC it was mostly limited to the activists' spare time.

In addition, my original research plan had involved the intention of spending several weeks in Ayabaca or Huancabamba to collect data within the social movement against the Río Blanco project. However, during my field trip in 2017, the environmental disaster *El Niño Costero* severely hit Peru and especially the region of Piura. Heavy rainfall, floods, and mudslides cut off road connections, which complicated traveling and made my trip to Piura impossible in the first year. Thus, I was stuck in Cajamarca for longer than I had initially planned.

When I returned to Peru in January 2018, the situation had normalized in terms of possibilities to travel, but social tensions had arisen within the communities in Piura. Despite the Río Blanco project's suspension, there were enormous social disputes occurring between the mine's supporters and its opponents. Consequently, there was a great deal of mistrust, especially toward unknown foreigners. Various people familiar with the region advised me not to travel to the communities alone my first time. Thus, I planned to accompany *Fedepaz*' team, which regularly travels to Ayabaca and Huancabamba to conduct capacity workshops with the communities.

Unfortunately, however, it was precisely at this time in 2018 that an internal conflict broke out within the local social movement, which also affected the relationship between parts of the grassroots organizations, their leaders, and *Fedepaz*. For reasons of caution, the *Fedepaz* team was unable to travel to the region for several months, which meant that my attempt to establish contact with their help also failed. I then traveled on my own to the capital of Piura and attempted from there to find an access to Ayabaca or Huancabamba through local contacts, which also turned out to be difficult. In consequence, I limited my analysis concerning the Río Blanco conflict to the work of *Fedepaz*.

"Voices of the victims"

Ethnographic research that deals with aspects of justice, human rights violations, or more generally with the processing of suffering often focuses on the perception of those directly affected, those who otherwise have no voice, "the governed" (Chatterjee 2004), the "subaltern" (Marcus 1995, 101–2), or "the weak" (Scott 1985). "Justice means many things to many people," as Sikkink (2011, 12) wrote. In addition, Sally Merry (2017, xii) noted that "[w]hat justice means, and for whom, must be answered in terms of contexts and situations," which for many anthropologists has led to the focus on the voice of the directly affected. I was confronted with this imperative to reflect the "voices of the victims" when I presented preliminary findings at conferences and discussed my research with colleagues. "And what about the victims? What

do the victims say? What is their perception?" were questions I learned to prepare for early.

This research focuses on activists of social movements, human rights lawyers, and NGO staff. These actors are all in close contact with the "directly affected persons" or the "victims" – a term my interlocutors would, however, avoid whenever possible. Nevertheless, they represent a different group of actors. During fieldwork, I had conversations with some of the directly affected people, for example, the relatives of the men who were shot dead during the protests against Conga in Celendín. In some cases, however, I was reluctant to contact the people and to ask them to talk about their experiences. I am a social anthropologist and not a psychologist, and I had considerable fear of causing re-traumatization among my interlocutors. In other cases, I was also directly rejected, for example in the case of torture from Piura. I contacted some of the detainees, but was met with rejection, which was also related to my lack of access to the *comunidades* in that region. Therefore, the "directly affected people" only appear marginally in the following chapters. The aim of this book is to contribute to the discussion about the ambiguous forces of law for social movements in their struggles for social change. A study of the "voices of the victims," in turn, would have required a completely different research approach, and would therefore mean a completely different kind of investigation, which I can neither do nor have intended to do with this book.

