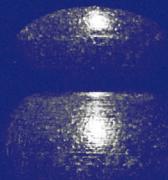
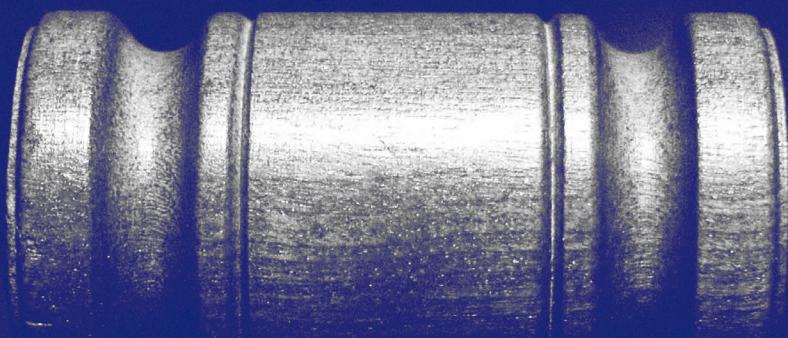




PERU
CASE
STUDY

It's Hard to Build a Lava Jato in the Amazon

Roberto Simon



It's Hard to Build a Lava Jato in the Amazon

The challenge of cracking down on corruption at the local level in Peru.

BY ROBERTO SIMON

PUCALLPA, Peru—No one in the Peruvian Amazon paid much attention at first when a low-level prosecutor was assigned a case involving missing government files.

Wilber Huamanyauri Cornelio usually spent his days investigating thefts, murders and rapes, and his nights giving classes at a law school in Ucayali state, near the border with Brazil. The files, which had mysteriously vanished from a government office, contained potential evidence of a vast land trafficking scheme involving local officials.

The officials allegedly forged deeds to thousands of acres of Amazon forest, including vast areas claimed by native Peruvian communities as their ancestral land, and sold them to a murky web of companies. Much of the land was then converted to the commercial production of cocoa and, most of all, palm oil—with palm trees, instead of native forest, stretching as far as the eye could see.

As Huamanyauri dug into the case, his phone started ringing with death threats. His car was scratched numerous times. A group of protesters appeared outside his office. His only assistant was dismissed for no apparent reason, forcing him to bring one of his students to help pro bono. Someone broke into his file cabinet—probably trying to get documents identifying a protected witness—leading Huamanyauri to buy a new cabinet with a better lock (which he paid for himself). He also built a makeshift glass and paper barrier to better isolate his office at the Public Ministry’s headquarters from his colleagues and visitors—many of whom treated him like a pariah.

“I obviously knew the risks. But if I refused to investigate, I would be taking part in all this. Not prosecuting the case would be joining the corrupt ones,” said Huamanyauri, a man in his late 30s incessantly on the move and blinking his eyes behind a pair of dark-framed glasses.

Huamanyauri’s experiences show an often-ignored side of Latin America’s anti-corruption crackdown: What’s happening outside the bright spotlight of big cities like Lima, São Paulo and Mexico City.

Inspired by high-profile cases like Lava Jato, law enforcement officials deep in the interior are trying to root out the kind of systemic corruption that produces real-life consequences for their own communities - lost funding for clinics and schools, the contamination or destruction of local ecosystems, and countless other ills. Laboring without much money, media coverage or protection, they face insurmountable challenges—and, often, the feeling of being totally alone.

Yes, it’s hard to build a Lava Jato in the Amazon. But through a combination of clever investigative techniques, a lot of recklessness and a bit of luck, some have made significant progress—sending powerful people to jail and trying, in fits and starts, to build the institutions and traditions they know are key to a lasting decline in impunity.

This is one such story.

THE UCAYALI CASE

The first allegations of land trafficking in Ucayali emerged in 2015, made by environmental prosecutors, local communities and NGOs. According to them, the agency responsible for issuing land titles—the Sectorial Agricultural Direction of Ucayali (DRAU)—was operating a well-oiled scheme to register new properties through fabricated documents. Peruvian law allows for small agricultural producers to request a property title under certain conditions, such as when they live and produce on the land. DRAU employees were accused of creating hundreds of fake petitioners to register properties, which were then sold to private companies.

Accusations of massive corruption involving Ucayali state officials were not something entirely new. The governor from 2011 to 2014 would end up in jail in a case involving the renting of private properties to government agencies. His successor faced embarrassing whistle-blower allegations of money laundering through real estate deals.

In 2017, files that allegedly contained evidence of the land titles forgery inexplicably disappeared—which was when Huamanyauri first got involved.

Despite the scope of the allegations, a probe by the anti-corruption office of the Public Ministry in Ucayali never moved beyond lower-level DRAU staff. One of the employees questioned by prosecutors had used her son to forge a petition, allegedly following orders from above. Angry about taking the blame while her superiors got off scot-free, she began recording interactions with colleagues.

In one of the recorded conversations, the director of DRAU, Isaac Huamán Pérez, seemed to imply that, with the files gone, the investigation wouldn't lead anywhere. "Everything is under control," Huamán could be heard saying.

The employee offered the tapes to Huamanyauri, and he made her a protected witness. A judge then issued an 18-month pre-trial arrest order against Huamán and another senior official at the agency—a move that was virtually unprecedented in Ucayali. (Both men have said they are innocent.)

Not coincidentally, that was also when the blowback began. Defense lawyers filed accusations against Huamanyauri for influence peddling and abuse of power, both of which were later dismissed. They also unsuccessfully tried to transform the case into an organized crime matter—a more serious charge against their clients, but one that would have put the case outside Huamanyauri's jurisdiction.

Local media in Pucallpa turned against the prosecutor. Instead of portraying him as a hero—as media in big cities have often done with protagonists of major cases—Huamanyauri was accused of abusing his power and seeking fame and fortune on the backs of dedicated public servants. On one occasion, a group of protesters and cameras waited for him outside the Public Ministry's headquarters.

"When I started working as a prosecutor ... I noticed people in the Public Ministry referred to a group called 'the untouchables': wealthy and powerful figures," Huamanyauri said. The group included many *madereros*, people involved in the timber industry, he said. They "were not subject to the law like all others—from a traffic ticket to homicide."

"I never accepted this," he said, "and I broke the rule in this case."

'IT'S THE DESTRUCTION OF OUR CULTURE'

In Santa Clara de Uchunya, an indigenous community of the Shipibo people, three hours by car and then boat from the state capital, you can see the real-world consequences of industry's privileges.

Located between two sinuous rivers, Santa Clara has around 60 families living among a strip of wooden houses. A wall-less construction in the middle of the village is where adults gather to discuss collective matters. A few steps away, villagers can buy a beer and watch TV in an improvised bar with few chairs. Most of the time, electricity is on. And although one needs to travel a few hours to get cell phone coverage, several tribe members carry around phones.

The talk of Santa Clara these days is the surrounding land—much of which has been razed to plant palm trees, and thus harvest palm oil. Certain areas are guarded by armed men.

"We can't enter the land where we used to hunt," said Luisa González, who has spent all her five decades in Santa Clara. She said the guards have on more than one occasion opened fire against members of the tribe.

Without access to hunting, the community needs to buy food in a nearby village, she and others said. "It is the destruction of our culture for future generations," González said.

Proética, the Peruvian chapter of Transparency International, has investigated several land trafficking schemes in Ucayali and elsewhere around the country. In a 2018 report, it said the land that has been razed near Santa Clara was acquired by companies registered to Dennis Melka, a Czech-American businessman. The Proética report also said Melka's companies received lands as part of the trafficking scheme at DRAU.

In response to questions from *AQ*, Melka said the accounts related to him in the Proética report are "totally false ... misleading and shameful journalism." He cited several Peruvian court cases in which allegations of falsified documents and usurpation of land had been dismissed.

Through tax breaks and a global marketing campaign, the Peruvian national government had been incentivizing the production of palm trees in the Amazon since 2000, ironically as a policy to fight deforestation. At the time, local communities were engaged in so-called "migratory agriculture:" They chopped down trees to establish a small production in a given region and, after exhausting the land, moved on to another one. The idea was that the monoculture would offer higher and more stable income to local communities, also making them stay in one area only. The result, however, was that foreign investors, particularly from Asia, bought massive land properties to produce palm oil in large scale. Meanwhile, local authorities were in charge of regulating part of these activities, creating new opportunities for corruption.

The community of Santa Clara, with the help of Ucayali's Federation of Native Communities (FECONAU), has been battling in court to win the rights over the land for themselves. But one of the elders of the tribe, Manuel Silvano, said that even if the palm oil company leaves, it will take time to reverse the damage: "The palm trees are everywhere, and you can't do much about that."

Magaly Ávila, a project manager at Proética, has been in touch with both the villagers and Huamanyauri in an effort to help. She said "the lesson from Ucayali is that you cannot address the problem of deforestation without looking at corruption in local governments."

The prosecutor and the tribe members share one thing in common, she added. “When you talk to them, you hear the same message: they feel abandoned by the state.”

PERU'S CORRUPTION FIGHT

Indeed, Huamanyauri has struggled in recent months to keep his investigation afloat. It's a different reality from Lima, which is going through an “anti-corruption spring,” in the words of former Congressman Sergio Tejada, who chaired the commission that investigated corruption in the second Alan García presidency (2006-2011).

The Odebrecht probe has directly implicated all Peruvian presidents from 2001 to 2018, and many observers expect an investigation into another Brazilian construction company, OAS, to further expand the crackdown. The purge has also reached outside the realms of politics and business. In 2018, a new scandal dubbed “the white-collars from the port” implicated high-ranking judges and prosecutors, who were caught on a police wire negotiating bribes and sentences. In January 2019, then-Attorney General Pedro Chávay was forced out of office after trying to remove two senior investigators in the Odebrecht case.

President Martín Vizcarra—who came to power after former President Pedro Pablo Kuczynski’s Odebrecht-related demise—has seized the opportunity and made the fight against corruption his signature policy proposal. In 2018, 80% of Peruvian voters supported his proposed anti-corruption constitutional reforms in a national referendum.

Meanwhile, corruption is the talk of town in the capital. From the main pages of newspapers’ Sunday editions to prime-time TV, the crackdown on graft and Vizcarra’s reforms dominate the political conversation. Non-fiction books on corruption are a new genre, prominently displayed in Lima’s bookstores.

Several factors allowed for the “anti-corruption spring” to flourish—at least in big cities. Peru has a new generation of top prosecutors without the political ties of the Public Ministry’s old guard. Tejada also believes that, in the case of Odebrecht, investigators were smart in starting with relatively low-hanging fruit—politicians with less influence, such as former President Ollanta Humala—to build momentum before going after more powerful players.

The media also played a critical role in keeping the issue of corruption on the top of the agenda. The complexity of the cases forced a group of reporters working for prominent media outlets to specialize on anti-corruption, including the technicalities of the law. These journalists also cultivated more sources within the Public Ministry, police, courts and law firms. Meanwhile, the media space also became more diversified, with portals like Convoca—Peru’s version of ProPublica—dedicating more time and energy to investigative journalism and anticorruption stories across the country.

THE CAPITAL AND THE STATES

These improvements, however, have largely remained restricted to the biggest cities. In faraway Ucayali, law enforcement agencies and courts are partially filled with political appointees and very exposed to private interests, including from *madereros* or the palm oil industry. Prosecutors and police are chronically underfunded. Investigative journalism is almost non-existent and local media lacks independence from important business leaders or party bosses—frequently, the owners of media

outlets are politicians or powerful political operators themselves. More broadly, the region is significantly behind the capital in terms of socioeconomic development: GDP per capita in Lima is three times higher than in Ucayali.

There are also worrying signs that the scale of corruption in Ucayali and the rest of Peru's interior might have increased in recent decades. Starting in the 1980s, Peru began an erratic decentralization process that, in many ways, increased opportunities for corruption in the countryside. A key element for Peru's transition from military to civilian rule, the 1979 Constitution established some autonomy at the "local" and "intermediary" levels of government. Peruvians began electing municipal authorities, but not officials at the regional level, and the government's financial structure remained very centralized in Lima. With the emergence of President Alberto Fujimori in the 1990s, Peru re-embarked on a centralization process: administrative regions were suppressed, and municipal elections were suspended. Only in 2002, through a broad constitutional reform, did Peru fully resume a process of decentralization, seeking to grant political, financial and administrative autonomy to regional governments.

Several crucial government attributions and tax revenues were transferred from Lima to local governments. But these local administrative bodies lacked institutional and human capacity to perform the new tasks. States like Áncash, where part of Peru's copper and zinc production is concentrated, began receiving a much larger share of mining taxes. With the booming commodity prices of the 2000s and 2010s, this soon became a monumental windfall—and corruption spiraled out of control. All Áncash governors from 2006 to 2017 were incarcerated and, at one point, 17 of its 20 mayors were under investigation for corruption.

States also received the power to assign land titles, which shifted from national authorities to the DRAU in Ucayali and similar regional agencies. Meanwhile, local and foreign investors were pouring money in monoculture productions in the Amazon.

"The decentralization process began while Peru was fighting inflation crises and the Shining Path guerrillas. Then, in the early 1990s, came *fujimorismo*. The context was extremely difficult," argued Paula Muñoz, a political scientist at Universidad del Pacífico and a member of the High Commission for Political Reform. According to Muñoz, today the regions have substantial governing power and increased tax revenue, but still insufficient oversight and low institutional capacity—an explosive mix for corruption, she said.

In a white paper on preventing corruption, the "National Integrity Plan," the Vizcarra administration listed decentralization as one of its top challenges. "We recognize that there has been an absence of the state in various sub-national levels and this has led to grotesque levels of corruption and crime," said the secretary for public integrity, Susana Silva Hasembank. "We haven't implemented a well-thought plan to transfer capabilities and responsibilities."

Silva believes that steps like strengthening a career civil bureaucracy, less permeable to political interference, and justice reform are key to fighting corruption in regional governments. Outside Peru's larger cities, most prosecutors are political appointees, in many cases with strong connections to business and political interests where they live.

The secretary also wants to implement ideas from the private sector, including creating "chief public compliance officers" inside local government agencies. But she recognizes that any progress will come slowly.

For his part, Huamanyauri was planning to expand the investigation, going after other members of the Ucayali government who masterminded and executed the corruption scheme. But by doing that, the probe would become a criminal case with more than three defendants and a prosecutor specialized in organized crime would have to replace him.

Huamanyauri fears his colleagues in the organized crime office in Ucayali might simply stop the investigation altogether. Or worse: they could overturn his decisions, freeing the DRAU director and senior staffer, and go after him with misconduct and abuse of power allegations.

The best solution, said Huamanyauri, would be to push the case to prosecutors in Lima. According to him, private companies that benefited from the Ucayali scheme are registered in the capital, which gives Lima investigators jurisdiction over the matter.

"I know they are going to do a serious investigation," Huamanyauri said "They are competent and have no ties to people here. I fear if the case stays in Ucayali." Indeed, the best thing for the case in the long run might be if it leaves the Amazon altogether.