

Using Habilitación-Enganche to Reform the Law:
An Unorthodox Approach to a Complex Problem

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Introduction

Forestry remains a profitable industry in the Peruvian Amazonia in part because of foresters' reliance on the *habilitación-enganche* system. By forcing workers to extract lumber in exchange for goods or menial wages and by illegally exploiting loopholes in law and in government, the forestry industry ensures itself high profits and adroitly avoids legal complications. Yet as a result, *habilitación-enganche* creates high levels of social disparity and environmental damage, harming most directly the local residents and workers (Bedoya and Bedoya 2005; Salisbury 2007). *Habilitación-enganche* seems to bring about tremendous cost and little benefit; why does the system still exist—and thrive—in the first place?

Part of the answer may rest with the “hidden” benefits of the system. Overall, *habilitación-enganche* imposes a set of norms upon the people and the land of the Peruvian Amazon. Logging takes place far from roads and thus government oversight, and loggers lack many resources prevalent throughout the “developed” world (Sears and Pinedo-Vasquez 2011). Despite the law's attempts, no formal, national, government-sanctioned logging structure actually exists. Instead, *habilitación-enganche*, as a set of norms, fills the void and delivers an informal yet necessary structure. Without this structure, no major logging operations could feasibly occur in Peru. Logging via the *habilitación-enganche* system additionally provides a livelihood for the local people, often the only form of employment and the only opportunity for advancement in rural, isolated areas (Salisbury 2007). But despite these advantages, the Peruvian people and the natural environment suffer at the hands of *habilitación-enganche* and the logging it promotes. Nevertheless, reform should not seek to eliminate *habilitación-enganche* completely because it offers benefits other legal reforms cannot provide.

This study investigates the current structure of *habilitación-enganche* to determine how the Peruvian forestry law fosters the system's prevalence. The study then takes an unorthodox approach by identifying and analyzing the benefits of *habilitación-enganche* and the shortcomings of the Peruvian law, rather than the problems of the former and the strengths of the latter. The study's findings indicate *habilitación-enganche* needs reform in order to attain any level of equity or sustainability. This reform should not “come” from the law, however, but rather should come from the workings of *habilitación-enganche* itself; the system's benefits should guide legal reform. Specifically, the future law should incorporate the aspects of decentralized, local governance; ready access to credit; and a “chain of command” in the logging

system emphasizing local individuals' participation.

Methods

This study reviewed various online databases for research discussing the *habilitación-enganche* system and the political and social impacts of forestry in the Peruvian Amazon. The search gave specific emphasis to journal articles, government publications, dissertations, and books. Given the controversial nature of this topic, the search avoided news media publications or other publications on the Internet since they may present bias or false information. The study then analyzed the “quality” sources, with a focus on understanding the current system’s effects, the reasons *habilitación-enganche* continues to thrive, and the legal solutions others have proposed.

A few difficulties arose during this search process. For instance, the authors of many of the sources wrote in Spanish. I put forth considerable effort to interpret these sources as correctly as possible, but I must recognize the possibility of having glossed over some larger themes or ideas. Additionally, most of the online searches looked for the entire term or either word of “*habilitación-enganche*.” While this study refers to the system by this name, other variants exist, such as debt-peonage, debt-merchandise, or forced or bonded labor. I worked to search for these terms as well, but the study may unknowingly exclude some sources if they use other terms to refer to this same system.

The study’s primary goal involves contrasting *habilitación-enganche* to the current Peruvian forestry law. The Peruvian government, however, recently enacted changes to the previous, 2000 law to better address issues of equity and environmental sustainability. Because of the recent nature of these changes, little if any analysis exists in the literature regarding the new law; much analysis does exist for the forestry law of 2000. Due to this transition period, as well as this study’s reliance on the literature, the study considers the 2000 law (Ley 27,308) as the basis for comparison while leaving the 2008 reforms (Decreto Legislativo 1090) without discussion. This decision may unwittingly invalidate some of this study’s conclusions, but few problems will likely arise: the study recommends general, *habilitación-enganche*-based reforms, rather than reforms that explicitly address the current language of any one law.

Literature Review

Most research on *habilitación-enganche* emphasizes the detriments of the system, calling attention to its problems and decrying its consequences. The degree of dissatisfaction varies

among sources. At one extreme lies Bedoya and Bedoya's (2005) study. Vocal opponents of *habilitación-enganche*, they call the system "one of the worst forms of exploitation [and] a loss of freedom" (ix), immediately setting the tone of their research. White (1978) does not hold such an extreme tone, but does highlight the social disparities and environmental impacts resulting from such a system—especially worthwhile considering the date of his research. Neither does Salisbury (2007) attack the system vociferously, but does mention how the system remains "entrenched in the past" (167) and does give direct quotations from disillusioned, rural workers in the field regarding the inequities of *habilitación-enganche*. Galarza and La Serna (2005) take the most neutral view, stating how Peruvian forestry leads to high levels of poverty and depression, but these authors do not offer any direct criticism or personal narratives.

Despite *habilitación-enganche*'s ubiquity throughout the Peruvian Amazon, first-hand research of the system remains limited. Many researchers, rather, consult secondary data to make their conclusions. For instance, Bedoya and Bedoya (2005), Smith et al. (2006), and Sears and Pinedo-Vasquez (2011) rely on personal interviews but also on secondary information from sources as varied as the Peruvian government, non-governmental organizations, producers' associations, and academia. Granoff (2008) and Salisbury (2007) principally utilize first-hand information to construct their findings, offering a level of legitimacy and comprehension missing from the sources using both primary and secondary information. Both these researchers worked in the Ucayali province, located in eastern Peru. However, whereas Salisbury (2007) spent ten months in the field, Granoff (2008) spent merely one month; Salisbury (2007) also spent time in the neighboring Brazilian state of Acre. No general trend exists among researchers who studied in the field and those who did not; Bedoya and Bedoya (2005) and Salisbury (2007) voice their disapproval of *habilitación-enganche* equally. Nonetheless, the studies with only first-hand information likely achieve a level of understanding with minimal bias and few prefabricated opinions about this complex system. This study cannot exclude those sources with secondary information—truly, the general public tends to learn about these sorts of issues through these types of sources—but must remember and consider the bias they potentially contain.¹

The critical topic most research on *habilitación-enganche* seeks to address regards solutions or reforms. Again, a variety of opinions exist, most of which involve alterations to the

¹ Of course, this study relies chiefly on secondary sources, so its own conclusions may be subject to this same sort of bias. As mentioned, I have tried to minimize the use of potentially-biased sources.

law. Bedoya and Bedoya (2005) lie again at the extreme, calling for a drastic reduction or elimination of the system via legislative changes.² Likewise, Smith et al.'s study (2006) states the government must aim for radical reform, strong enforcement, and visible governance. The authors note, however, how law must also enact a change in norms, a potentially challenging and unattainable goal. Granoff (2008) appears to offer a middle-ground solution: the author recommends legal reform in order to benefit local individuals, but also suggests involving these people in local governance and enforcement systems. Salisbury (2007) does not seek a legal remedy but rather one based in political ecology: reduce the demand in first-world, Northern nations for forestry products and provide more geographic information. Galarza and La Serna (2005) also argue for an economic solution, especially the development of an improved financial system for the forest sector, but also advocate for a strong judicial system, local citizen participation, strengthened government oversight of forest concessions, and an end to government corruption.

Sears and Pinedo-Vasquez (2011) offer the most intriguing solution, the one serving as the launching point for this study. The authors push for legal reform, but they draw attention away from the binary, legal-versus-illegal discourse pervading most other studies. Instead, they enumerate the various, extralegal, structural features *habilitación-enganche* offers, claiming the system survives because of these attributes. In so doing, Sears and Pinedo-Vasquez (2011) make a bold claim: “the legal framework is deeply flawed” (610), rather than *habilitación-enganche* itself. This atypical but unique solution warrants attention, precisely because it differs so considerably from (unsuccessful) solutions other studies have proposed. The analysis of this study continues from this perspective; instead of criticizing *habilitación-enganche* for its problems and seeking to exterminate it, the study seeks to improve conditions by incorporating *habilitación-enganche*'s positives into legal reform—by legalizing aspects of the very system under fire.

Analysis

This study proposes three major areas of reform to Peruvian forestry law, as inspired by aspects of *habilitación-enganche*: decentralized governance, ready access to credit, and a chain of command with much local participation. To see how these aspects would fit into the system and

² Notably, these authors separate forced labor from illegal logging, although they state how solutions addressing one of these problems likely will attend to the other (Bedoya and Bedoya 2005).

lead to improvements, this section first explores the current layout of *habilitación-enganche* as well as major provisions in the 2000 Peruvian forestry law. The analysis then investigates each suggestion individually to determine the variety of improvements the suggestion has to offer, and to explore possible implementation methods.

Structure of Habilidadación-Enganche

Many studies have examined the structure of *habilitación-enganche* and have described its tendencies in more detail than this study permits (see especially Bedoya and Bedoya 2005; Salisbury 2007; and Sears and Pinedo-Vasquez 2011). In short, “*habilitación-enganche*” describes the structure of human resources in the forestry system in Peru. Thanks to a complex and intricate web of actors, loggers can harvest timber products, transport them out of the rainforest, and sell them on the global market. One of *habilitación-enganche*’s key tenets involves the acquisition of legal documents to allow loggers access to forest concessions, which themselves allow for timber harvesting. Loggers in the system couple these often-falsified documents with money and resources in informal credit operations to allow harvesting to begin (Sears and Pinedo-Vasquez 2011). Laborers come from either the local areas of logging, since no other employment opportunities exist for these people, or from distant cities. Once they begin working, their bosses pay them minimally and introduce debt peonage: to grant them access to necessary resources, the bosses force the workers into debt; this debt increases as workers strive to harvest more wood in order to pay off the original debt (Bedoya and Bedoya 2005; Salisbury 2007). Workers remain doubly trapped in the system because no other employment opportunities exist to make money to pay off their debt (Bedoya and Bedoya 2005). Clearly, reform of *habilitación-enganche* should work to eliminate this exploitative labor system. But law reform should maintain certain aspects of *habilitación-enganche*’s structure and framework given the inherent complexities of the forestry system.

Structure of the Law

In 2000, Peru rewrote its legal structure surrounding forestry in an attempt to curb abuses of the prior law and to emphasize national governance of forest resources (Granoff 2008). The 2000 law additionally seeks to draw attention to environmental sustainability and poverty alleviation (Sears and Pinedo-Vasquez 2011). Under the law, Peru recognizes all its forests through a system of “national patrimony” (Granoff 2008); Peru retains jurisdiction over both public and private forests and therefore can mandate similar regulatory requirements on both

sectors (*ibid.*) and can raise revenue by collecting taxes on timber operations (Sears and Pinedo-Vasquez 2011). The law uses economic mechanisms, primarily a system of private sector concessions resulting from full-scale rezoning of forestry land, as its principle method of forestry management and sustainability. These long-term concessions, while technically on public lands, give the appearance of private ownership and thus encourage the foresters to carry out better management practices. Small loggers and indigenous communities have access to much smaller concessions, which also require management plans similar to the larger concessions. And, perhaps surprisingly, the law acknowledges a *habilitación-enganche* style of financing and timber production, through which local businessmen contract with bigger logging companies to help fund and run their logging operations (Granoff 2008).

Potential holes in this law become immediately apparent, stemming largely from the geographic realities of Peruvian Amazonia. For instance, the concession system appears in theory to solve issues of management and sustainability; however, loggers can easily misrepresent their total yield or the areas from which they harvest. While the government requires loggers to report their operating and management plans annually, Peru infrequently monitors the physical logging operations and does not check the validity of the loggers' statements (Granoff 2008). This condition results in part due to governance failure but also due to various geographic conditions: concessions lie in remote areas, deep within the rainforest, so government oversight carries with it a high economic cost (Sears and Pinedo-Vasquez 2011). Further, reliance on concessions—paper, government documents—presents an economic opportunity for an illegal concession market. Indeed, such a market has sprung up in Peru, blurring the line between legal and falsified forest concessions (*ibid.*). Moreover, while the law discusses the general finance and operation structure, it ignores the laborers and the conditions they face under the logging process. As a result, loggers can easily trap these workers in the debt-peonage system.

By definition, the law claims forestry operations under *habilitación-enganche* as illegal. Foresters acquire forged documents, hire workers for menial wages, over-harvest or harvest outside of concessions, and evade government oversight. Yet in this sense, “illegal” imposes a misleading connotation. If loggers were to follow the law, logging would come to an abrupt halt: geographic factors, such as distance, landscape, and travel, and economic factors, such as access to credit, would and do make compliance with the law a lengthy, expensive process (Smith et al.

2006; Sears and Pinedo-Vasquez 2011). In short, illegality becomes the only choice for these loggers; *habilitación-enganche* becomes the informal framework to accommodate these “illegal” actions. If the government runs into these types of problems under the current law, policy-makers make naive assertions in assuming complete legal reform will yield a difference. Regardless of the legal structure, local loggers in remote areas will continue to practice the system to which they have grown accustomed. The government can change the law but they cannot change the norms, and indeed future, unsuccessful law reform can reinforce those norms even further (Smith et al. 2006). Given these considerations, a full-scale legal change seems unwise, foolish, and contrary to progress. In the light of this realization, two goals become apparent: first, small-scale legal changes must occur; second, legal changes must incorporate methods to address the very problems causing a desire for reform in the first place. In this case, law reform must emulate and codify specific aspects of *habilitación-enganche*, those which would lead to improved conditions, despite *habilitación-enganche*’s apparent flaws. This action will remove any discussion about the legality of the system, opening the door for more in-depth analysis about the positives and negatives of both the system and the law.

Legalized Decentralization

Habilitación-enganche offers most plainly decentralized governance. While the law aims to monitor forestry and to enforce concessions, the government has neither the time nor the resources to keep track of logging actions in remote, Amazon rainforest areas. *Habilitación-enganche* steps in to respond to the deficiency, offering governance—or, more appropriately, structure—the law had promised. In the Amazon, no single forester could feasibly expect to make any profit operating independently. A logger, for instance, would have to find the physical location of particular trees, attain the right to harvest on the land, transport necessary machinery and tools to the location, hire workers to harvest the wood, and transport the wood out of the rainforest and to a regional port (Sears and Pinedo-Vasquez 2011). The current Peruvian forestry law attempts to ease this pressure by formalizing certain actors’ roles and presence within this system (Granoff 2008), but *habilitación-enganche* essentially expands upon those roles in order to take advantage of the gaps in the law and the inadequate, national governance the law tries to offer. The law’s “problem” relates not to the imposition of governance, but rather to the application of a large-scale governance which intrinsically lacks the ability to take into account the physical and social conditions of Peruvian Amazonia. Decentralization would solve this

problem because a system of governance would still exist, but the actors involved in this governance could tailor the specifics to best accommodate the local or regional conditions over which the governance would have jurisdiction.

Truly, *habilitación-enganche* in its current form reflects the variety of structures local governance can take; for instance, while both studies list similar actors, the exact setup of the systems Salisbury (2007) and Sears and Pinedo-Vasquez (2011) describe do differ. This result essentially counters what the law had tried to establish, a standardization of the governance system across all forms and sizes of forestry operations. This study, therefore, can merely generalize about how localities will construct their respective governances. For example, localities will likely maintain a large chain of command (i.e., many different actors with widely varying roles) as present *habilitación-enganche* systems possess; indeed, as discussed below, Peruvian forestry must maintain this chain of command as a key component of the “legalization” of *habilitación-enganche*. Local governances may also create methods to establish communication or trade agreements with other local governances, agree to local policies related to forestry, and seek to involve inhabitants of the land in governance decisions to the greatest degree possible. But regardless of the specifics, decentralized governance will “work” because its flexibility allows it to adapt to the exact local traditions, customs, and manners, rather than to a generalized set of conditions created by the national government. The Peruvian government must now make the slightly ironic decision to legalize decentralization, to encourage localities to adopt local governances and to support these localities’ decisions to do so.

Decentralization also offers to resolve conflicts regarding land titling, especially for indigenous peoples. As part of its implementation of the 2000 law, the Peruvian government had to formalize the right to land of traditional and indigenous groups and to delimit physical locations of their land. The Peruvian government carried out this process with little consultation of these native populations, suddenly placing groups in new areas or in areas deemed by the government as state-owned (Granoff 2008). A decentralized forestry system would not require local groups to hold official title to their land, since loggers would make decisions at the local level and would therefore have awareness of local, informal claims to land. Moreover, a decentralized process would ideally involve those local or indigenous peoples in the decision-making; no national governance could exclude them or ignore their presence. Logging may still occur in the lands traditionally held by these peoples, but the decentralization ensures this

logging takes place with the full knowledge—and hopefully approval—of the peoples themselves.

In a related manner, the law does contain a few provisions allowing local communities to access and to lay claim to forest resources (Granoff 2008). The law establishes a complex procedure in order for the people to attain this right, resting in some instances on the assumption locals have title to the land in the first place. Individuals can acquire small concessions through a procedure not requiring title, but few individuals favor this option due to the small size of the concession and to the lower economic value these concessions hold than do the large, private concessions (*ibid.*). Legal decentralization would effectively eliminate these law-based points of access, mostly because a decentralized system does not necessitate nationally-recognized concessions. Rather, the localities would establish “concessions” of various sizes and uses; the decentralized governance system with the input of the local inhabitants would distribute these concessions to various, local individuals.

Yet this entire discussion evades a serious concern: if the Peruvian government steps away from the process of assigning and enforcing forest concessions, and if the government yields forestry responsibility to local governance structures, what mechanism prevents a wealthy forester or a national corporation from laying claim to all the land? One can easily imagine a circumstance where a large company hires small, local loggers throughout the forest to supply lumber for the company; local governance would still regulate the loggers but their harvested timber would eventually fall into the hands of one company, thus giving that company a high degree of power over the supposedly independent loggers. Truly, the 2000 law sought to fix this very problem from occurring, as it did under the framework of the 1975 law (Granoff 2008). Two answers addressing this concern readily materialize: First, having a combination of local governances and large companies may actually benefit all players involved. The large companies would become another actor in the chain of command, enabling smaller, local loggers to have access to national and international markets. The government would have to regulate these large companies to ensure they are equitably distributing their profits back to the local producers, an acceptable “centralization” in this decentralization policy because the government would have a much easier time regulating national corporations than small, local loggers. Second, the existence of a broad chain of command spreads out and dilutes power throughout the system, so a company would have a hard time attaining or wielding excess power. One actor alone cannot

accumulate dangerous levels of power because their role in the chain of command acts as a built-in limitation; *habilitación-enganche* unintentionally but beneficially incorporates checks and balances into its structure. In short, decentralized governance may give the appearance of being weak and susceptible to exploitation, but its loose structure actually gives it strength.

Ready Access to Credit

Habilitación-enganche enables logging because the system grants access to credit to individuals along all stages of the chain of command. This credit's vitality stems not only from the ability for loggers to have the adequate monetary resources to conduct their operations, but also from the separation of the credit from the timber; loggers do not have to worry about their yields influencing their ability to access credit. This practice reduces risk and streamlines the logging procedure (Sears and Pinedo-Vasquez 2011). Currently, however, actors in the system—most notably the *patrones*—establish credit for low-level workers by advancing goods to the workers and demanding timber as payment, ultimately leading to the inequitable, circular, and long-lasting debt-peonage system (Bedoya and Bedoya 2005; Salisbury 2007; Killick 2008). The legalization of *habilitación-enganche* should not include this type of credit, since some of the worst atrocities of *habilitación-enganche* result from debt-peonage: notably, forced labor and the continuation of environmentally unsustainable practices as workers strive to harvest as much as wood as possible in order to pay off their debts (Bedoya and Bedoya 2005).

Credit in the reformed forestry system, therefore, must come from a formal source, perhaps one offered by the Peruvian government or an international organization. This credit must allow workers as well as other actors along the chain of command to attain access to necessary resources but must not continue the debt-peonage so typical of today. Yet problems immediately arise surrounding this idea. The first objection relates to the previous section: formal credit appears contrary to the goal of decentralization. While by definition this accusation speaks the truth, a formal credit system would in fact enable decentralization to attain the best social and environmental results. The current law imposes centralization in the forestry process, with which *habilitación-enganche* has paired informal credit; these aspects have combined to result in debt peonage. Decentralization plus informal credit would only make the problem worse, since no oversight would exist to prevent the logging actors to continue debt-peonage practices. Decentralization plus formal credit, however, would place a large dent in the scale of debt peonage and may eliminate it completely, since some third party would ensure the proper

use of credit distribution. In this sense, therefore, access to formal credit becomes a form of regulatory oversight; the formal credit system supersedes the government's presumed role.

The second objection discusses an issue present today: how would actors along the chain of command actually access and take out loans from the formal credit system? If government cannot enforce the current laws because it cannot physically get to the logging areas, would not a formal credit system run into the same types of problems? This study does not deny this concern's legitimacy; a good solution seems difficult to construct. For instance, any government-run credit system likely would face these same roadblocks. A system run by an international non-governmental organization (NGO), however, may have the incentive and the ability to channel credit to these remote areas. Criticisms of NGOs aside,³ these institutions already have access to large monetary resources, already work in these rainforest areas and thus have familiarity with the cultural and environmental landscape, and already have connections to international development banks and governments willing to help establish and maintain a formal credit system. The Peruvian government will have a role in this setup, namely, to ensure the NGOs do not use their power as creditor to force Peruvians to harvest certain areas or certain quantities of timber; decentralization and the chain of command will address those questions. This structure serves as another example of the checks and balances these reforms would deliver: neither the actors, nor the government, nor the NGOs would hold complete power over the credit system. Formality in the credit system should help promote socially and environmentally sustainable practices.

Chain of Command

This suggestion may be the most surprising of all: an observer can easily point to the complex web of actors and argue small loggers have no chance of success unless reform removes the chain of command. On the other hand, this study argues, small loggers need this chain of command in order to have any success whatsoever. The complex Peruvian forestry system will likely remain complex in spite of any reform; by having split responsibility, small loggers can focus on the logging most directly while relying on others "up the chain" to accomplish other tasks, such as government compliance, loan operations, or international trade. Indeed, large

³ Prior to actual implementation of this recommendation, the Peruvian government must carry out a thorough review of specific NGOs, given the scope of existing complaints about their actions. For the purposes of this study, NGOs and the characteristics they demonstrate offer the most feasible solution to the problem of distributing credit, but the government must be sure not to place blind trust in NGOs.

loggers would completely push small loggers out of the system if the chain of command did not exist, since the large loggers would have access to adequate levels of human resources to complete the necessary tasks. The Peruvian government, therefore, would legalize this chain of command by both encouraging its development (i.e., recognizing the chain of command exists and acknowledging the actions of the various actors) and allowing the chain of command to fulfill many of the roles the government currently undertakes. The government should not try to dictate the exact structure of the chain of command, as they attempted to do in the 2000 law (Granoff 2008). Rather, the chain of command will mold itself to fit in with the local governance; as mentioned previously, each local governance will differ to some degree, so each chain of command will differ as well. Chains of command will likely hold in common certain actors, such as financiers or large companies, so the government could exercise some sort of regulatory oversight by monitoring the actions of those common actors and intervening only when those actors exhibit corrupt practices. By maintaining these localized, decentralized chains of command, both small and large loggers should have the opportunity to participate in the forestry system.

Yet this discussion leads to an important consideration: under the *habilitación-enganche* system, who qualifies as a small logger and who as a large logger? The simple answer turns to the law and suggests large loggers hold large concessions of public land, whereas small loggers hold small concessions in name of their local community or their indigenous population (Granoff 2008). But this answer assumes the law achieved the desired reforms; primary research demonstrates otherwise (Salisbury 2007; Sears and Pinedo-Vasquez 2011). Foresters holding concessions for small areas of forest likely exist, but the large loggers, under the *habilitación-enganche* system, dwarf those numbers. At this current stage, therefore, *habilitación-enganche* appears to discourage the existence of small logging operations. The codification of *habilitación-enganche*, however, would hopefully avoid this outcome. *Habilitación-enganche* currently achieves success because the chain of command functions primarily to attain concessions and to exploit the forest resources as efficiently as possible. By refocusing the chain of command's purpose toward distributing resources equitably—by shifting its purpose away from merely acquiring documents and exporting product—, both small and large loggers can have an opportunity to harvest wood and to sell it on the global market. Incorporating the chain of command into law, therefore, does not simply require maintaining its existence but also entails

the need to redirect its efforts toward participation among all loggers.

The chain of command also emphasizes local participation in forestry and thus encourages environmental protection. Indeed, the 2000 law recognized how participation from local individuals in the forestry system would help to promote sustainable forestry practices (Granoff 2008). These people, especially those indigenous or traditional communities who have relied on the land for long periods of time, serve as the most vocal proponents for sustainable practices. Logging puts at risk their very home, so the local people will act in a way to protect it. Currently, the *habilitación-enganche* system silences these peoples' opinions, especially in instances where these people inhabit land containing high-value tree species. But by reforming the chain of command to include these people—even if they rest at the “bottom” of the chain⁴—the forestry system in general cannot ignore their voices and truly must involve their ideas in the ultimate decision-making process. Thus, these people serve as the environment's most direct advocates, making sure to draw attention also to sustainability in addition to social equity and economic profit.

The remaining variable in this discussion of the environment involves the degree to which local people will want to harvest their land. While this study cannot predict the exact decisions each community will make, it can generalize about some likely outcomes. In some circumstances a community may want no harvesting whatsoever, while in other circumstances the community may welcome logging as a way to improve their economic and social conditions. In either instance, the mere existence of a chain of command with local individuals' involvement should ensure the loggers make reasonably environmentally-sustainable decisions. But in those communities embracing logging, the law faces a challenge in determining how to make sure the communities truly act in a sustainable manner. The simple answer would appear to be assigning a sort of regulatory duty to some third party. But the law encounters another difficulty when choosing the entity: the task should not belong to the decentralized governance or the chain of command, since both those aspects deal most directly with the method of production and with social rather than environmental impacts. Nor should it belong to the government, since the government would encounter the same problems as it currently faces with access; nor should it

⁴ This study's use of the word “chain” does not indicate the most appropriate metaphor to describe the arrangement of the actors. Indeed, there exists no strict linear relationship among the actors, nor can one identify exactly who resides at the “bottom” of the chain and who at the “top.” For simplicity's sake, however, this study opts to use “chain.”

belong to the NGOs, since their sole role in the system must remain as facilitator of the formal credit system. Instead, the law should set name no entity at all. Ironically, by incorporating aspects of *habilitación-enganche* into the law, the law itself becomes a less-noticeable force in the daily lives of the loggers; indeed, this study proposes to make changes mimicking currently-unlawful systems. Since no entity presently exists, the law should not attempt to create or to name one—lest any of the problems reform attempts to fix spring up again—but should rather give each community the freedom to make its own decisions. In a worst-case scenario, all communities will harvest wood, but this outcome seems so unlikely nobody can realistically take issue. In no location does any law completely eliminate all environmental degradation, and these reforms do not attempt to counter the trend. As long as the local communities and their members have an active voice in this process, however, Peru can expect to minimize any harm.

Conclusions

Most texts have portrayed *habilitación-enganche* as a detrimental, dangerous system, exploiting people, harming the environment, and encouraging development and growth. This study agrees with those general statements—but at the same time, suggests future reform should not seek to eliminate *habilitación-enganche* but rather to co-opt some of its components into the law. *Habilitación-enganche* must be doing something right if it continues to exist; this study argues those “somethings” consist of decentralized governance, which offers structure and employment to areas the government cannot reach; access to credit, which provides local, low-level workers the fair chance to access resources; and a chain of command, which imparts assistance to small, rural loggers with navigating the forestry sector and creates opportunities for local participation in forestry decisions. Of course, this study has done the easy work in making these reform suggestions; the Peruvian government faces the daunting task of somehow codifying the recommendations into reasonable statutes. As a good first step, the government should acknowledge the existence of *habilitación-enganche* and drive the debate away from its legality. Additional, first-hand research—from academia and the government—would clarify the specifics of *habilitación-enganche* and would indicate openings for legal change.

But beyond the government actually enacting reform, the greater challenge lies in instituting reform. Fundamental questions remain: How would the government disseminate the new information? How would they convince loggers to adopt a “revised” *habilitación-enganche* system? How would they change the norms while avoiding backlash? This study cannot predict

the answers, primarily because of the novel, untested nature of these reforms. The study would advise the Peruvian government, however, to involve the rural and indigenous people from the start of the process, since they likely will give the greatest support to these changes and since they know their specific, local situation better than anybody else. Local knowledge and participation remains key to the success of any of these *habilitación-enganche*-based reforms.

And of course, one overarching question looms: even if the government could legislate reforms, and even if the actors involved in *habilitación-enganche* embrace the changes, would any of these suggestions actually lead to social, economic, and environmental improvements? Again, the study cannot predict the answer. Yet at the risk of sounding cliché, what does Peru have to lose? The previous series of reforms have achieved some progress but problems still exist. Current reforms imply much of the same, so the problems likely will remain. This study suggests radical but also unique solutions, which at this point may actually be the best option moving forward. *Habilitación-enganche* will not disappear anytime soon, so Peru should accept its presence, adapt to its characteristics, and work with it as best as possible.

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