

7. The hillside poor at risk? Land trafficking in Jose Carlos Mariátegui at the outskirts of Lima, Peru

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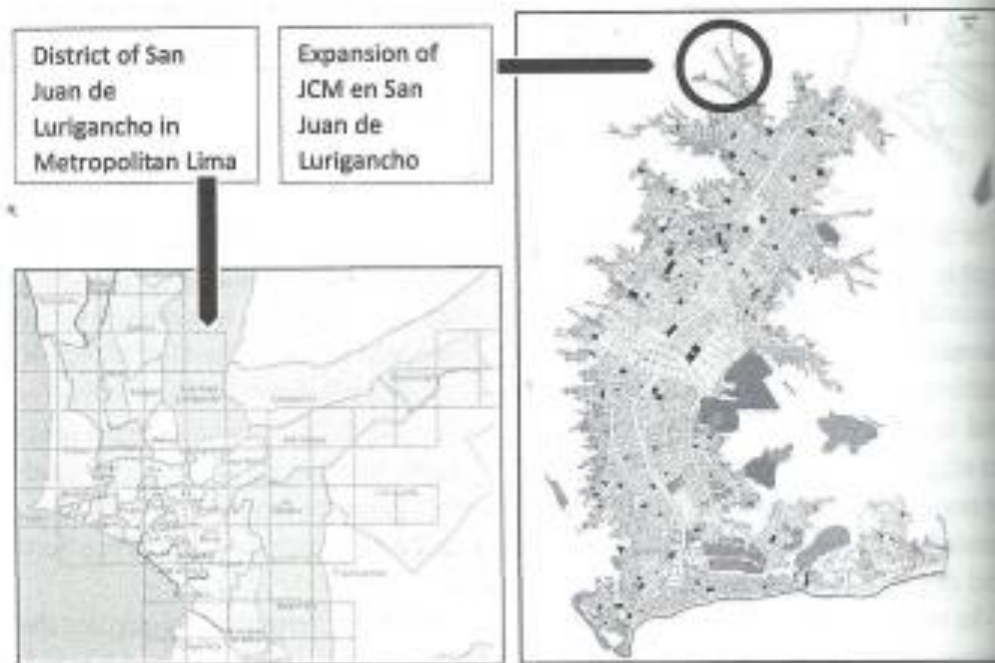
1 INTRODUCTION

The interactions between inequality, social exclusion, land access and tenure within the social construction of disasters (disasters being socially constructed, hazards being natural) are critical topics in the discussion on sustainable urban development for policy makers and practitioners in cities of the Global South. Subirats et al. (2005) argue that the formal housing market is socially selective and spatially segregated. Furthermore the formal housing market represents an oligopolistic and speculative structure which, in addition to having a weak or residual public presence with little attention given to environmental issues, generates social exclusion and segregation, and extensively consumes territory and degrades the environment (Subirats et al., 2005: 105, 152).

In relation to risk governance, the political science literature investigates the processes of deliberation in changing policy and decision-making. Although we recognise that knowledge construction may not immediately affect risk tolerance and risk (mis-) perceptions of different actors (Miranda, 2015; Miranda et al., 2016), this case shows that it is directly connected with the results of unfair housing markets such as social exclusion, segregation and degradation of the environment, surrounded by corruption and illegal land trafficking.

Three strands of debates in the current literature on risks, disasters, and climate change are relevant for this chapter: (1) the social construction of disasters, (2) disaster risk reduction (including climate related risks) and (3) climate change governance, all of which are complementary and overlapping. This chapter takes up the issue of these connections by unpacking the social construction of knowledge processes and their embedded risk perceptions; it also explores their relation to how actors interact and coordinate or '*concertate*'¹ together within risk governance processes which develop policy decisions (if any) resulting in adaptive and/or coping actions.

Lima's² housing development is highly unequal; the poor are being pushed to the outskirts of the city onto unsteady slopes (as it occurs in the case of José Carlos Mariátegui, JCM). Residents living in these types of poor settlements are permanently under the threat of several daily risks (such as accidents related to falling, rockfalls, landslides, mudslides, strong winds, diseases and precarious constructions³). Additionally, the city faces multiple hazards such as earthquakes, tsunamis, increasing water scarcity, heavy rainfall and extreme temperature periods related to climate change, with very limited attention being paid to them.



Source: From the authors.

Figure 7.1 The district of San Juan de Lurigancho and the expansion José Carlos Mariátegui

The urbanisation process that has led to the rich – poor divide in Peru has seen different stages during the 1970s, 1980s and 1990s. Urbanisation generated new settlements on very dangerous slopes with various accessibility difficulties, occupying territories that belonged not only to the State but also to traditional peasant communities. Furthermore, these new settlements affect the ecological structure of Lima since some of these lands were coastal *lomas*⁴ considered to be fragile ecosystems.⁵ Land traffickers lead the expansion process, imposing their own rules and high prices on traditional families. The newly occupied lands are not realised through any urban planning,⁶ due to the

socioeconomic and cultural change in Peru, land is accessed through economic transactions. An ambiguous role is played by some of the neighbourhood leaders who ally with land traffickers and replicate the expansion into their settlements. This is added to the fact that public investments that seek to improve conditions in precarious neighbourhoods ultimately result in an increase in land values, thus facilitating conditions for new occupations higher on the slopes and creating a perpetual cycle of risky urban expansion.

This chapter intends to present and systematise historic and more recent information about the urban expansion on the slopes of JCM, paying particular attention to the strategies of social organisations and peasant communities as well as the (absence of) policies from local governments, the housing ministry and even real estate companies.

The chapter begins with an analysis of the relationship between the formal and illegal land markets and the expansion process in Lima on the slopes of its periphery, as a context to better understand the case of Jose Carlos Mariátegui. The urbanisation process in this area, the role of land trafficking and the new municipal regulations will be reviewed as factors that intervene in this process, as well as the predominant modalities of access to land, the role and relationships among various actors such as the peasant community, land dealers, community leaders, the District Municipality of San Juan de Lurigancho and the settlers, among others. The connection between the urbanisation process and the construction of risk for the urban poor will be reviewed and finally some guidelines will be outlined to address this type of problem.

2 THE URBAN LAND MARKET: FORMAL, INFORMAL AND ILLEGAL EXPANSION IN THE PERIPHERY

Inequality and fragmentation characterise Lima's urban development. The peripheral areas surrounding the centre of Lima are turning into slums with the typical issues of overcrowding, vulnerability, pollution and insecurity, while the centre has the best residential infrastructure, environmental quality, green space, security and a relatively low population density albeit a higher construction density (Miranda et al., 2015). So far, there is no indication that these trends will change. The periphery is constantly being occupied by new groups, which perpetuates risk for the poor and further increases their difficulty in enjoying the benefits available in the metropolitan city.

Urban sprawl of Lima Metropolitan area has increased by more than 20,000 hectares from 1981 to 2007 (MML, 2013: 178), occupying *eriazos*, uncultivated and unproductive⁷ land in the periphery. Lower income sectors occupy the desert terrains that are of poor quality, low price and high risk (see Figure 7.1). Twenty per cent of the whole city (about 56,300 hectares) is made up of human

settlements located on hillsides with slopes greater than 15°.⁸ In Lima and Callao, the population exposed to seismic hazards is around 638,000 inhabitants, or 7.6 per cent of the total population (MML, 2013: 268). According to SENCICO⁹ more than half a million homes have been built on unstable hillsides and sandy soils. In the same way CENEPRED¹⁰ (2015) indicated that houses on hillsides, dry ravines and river edges are vulnerable to hazards related to heavy rain.

As noted earlier, the occupation of risky slopes by the urban poor is a result of the absence or inadequacy of land policies for them, as the current focus prioritises the formal housing markets. The result of almost two decades of this urbanisation process is inequality, vulnerability, fragmentation and exclusion of the poorest in society.

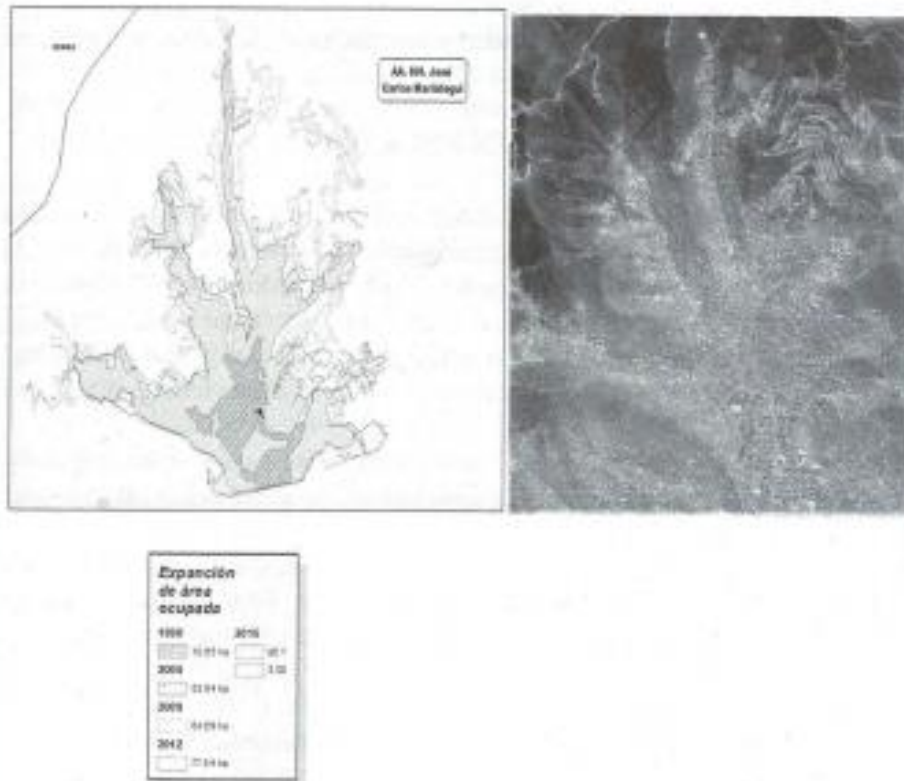
In Lima, there are three patterns of land production and marketing which serve the segmented demand:

1. Large real estate companies like Graña y Montero, Centenario, COINSA and Encanto, focus their land and housing market activities on the districts of Carabaylo, San Martín de Porres, Villa El Salvador, Lurin, Ate (Santa Clara) and accumulate the best located land provided with services, mainly in former agricultural areas and offer it to the richer groups.
2. The land that informal dealers or so-called land traffickers offer to the poor is mainly located in the periphery, the most inadequate and risky plots.
3. Government housing for the poor is quite reduced. The Housing Ministry mainly sells the public land to real estate companies, prioritising private investments to provide social housing, which in fact is not happening in our case study.

Each year on a national level, 77,000 new households enter into the housing market, meaning 339,000 persons (INEI¹¹) where Lima represents at least 30 per cent.

A 2015 study from the Peruvian Association of Market Research (APEIM) based on data from the National Institute for Statistics and Census (ENAHO) shows that around 72.5 per cent of households in Metropolitan Lima are of middle or low socioeconomic status (SES). As these households mostly cannot afford the prices to buy a house from the private formal market, they turn to other options, such as occupying hillsides, beaches or wetlands on the periphery of the city beside others (APEIM, 2016).

3 CHARACTERISATION OF THE CASE OF JOSE CARLOS MARIÁTEGUI (JCM)



Source: CENCA – Clickman Pedraza, Aerial photo of A.H. Jose Carlos Mariátegui, Google Earth.

Figure 7.2 Case study location and occupied area (from 1990 to 2015)

In the early 1990s, the expansion of human settlements, such as JCM (see Figure 7.2) occurred on the slopes of five narrow dry ravines with difficult access and high steep slopes. Three of these (Portada de Belen, Quebradas Verdes and Los Angeles) are currently degrading and destroying the temporary coastal *lomas*. These are the latest waves of informal occupations occurring in Lima, in the district of San Juan de Lurigancho (see Figure 7.1). Its population is relatively small (only four settlements have over hundred families, although they are growing), mainly comprised of young couples or single mothers (Espinoza, 2015).

Most of these households have not completed the land title process for ownership of their plot. Only 8 per cent hold ownership, while 75 per cent are *poseionarios* (landholders) and 17 per cent declare a kind of mixed tenure (Survey 2015, cLimasinRiesgo research project¹²). About 20 per cent have provisional electricity, water and sanitation connections while the rest are serviced by tanker trucks for water supply.

4 THE URBANISATION PROCESS

The process of transformation of desert and unoccupied land to an urban area has two stages: (1) transfer from original owners to new landholders, (2) various forms of access to land according to the new conditions. This process consists of several essential elements transforming original land ownership, including the transfer process to 'intermediaries', the role of land trafficking, new municipal regulations and the main modalities of access to land (Escalante et al., 2016).

In the highlands of JCM, most human settlements occupy land originally owned by the peasant community of Jicamarca. This community extends over a large area comprising 100 hectares, which stretches from the mountains of Lima to the borders with Chosica, Huachipa, San Juan de Lurigancho and Carabaylo. Their communal recognition titles were formalised in the years 1863 and 1984, when their land titles were registered in the Property Registration Office of Lima.

4.1 The Land Transfer Process to Informal Intermediaries

While the former Constitution of Peru (1979) established communal land transfers, the current constitution (1993) does not tackle the issue of communal lands transfers. However, on 13 April 1987, President Garcia enacted law No. 24656, which exceptionally allowed the disposition of communal lands. Even though the lands of peasant communities cannot be seized, neither prescribed nor alienated, they can be transferred on exception, subject to the agreement of at least two thirds of qualified members of the community (Article 7 of the Law 24656). In relation to the peasant community of Jicamarca, there are complaints about the legality of land transfer processes, which would include the participation of two former presidents and community processes in the Mixed Judiciary Court of Huarochiri, Matucana. In this context, it is easy for land traffickers to operate as invasion financiers and promoters, taking advantage of the community's autonomy in the use and free disposal of their territory. The peasant community blog,¹³ for example, indicates that in June 2012 there were cases of forged signatures of community members in alleged communal assemblies, where sales or transfers of communal lands were approved.

4.2 Land Trafficking

From a legal perspective, land trafficking is understood as the violation of landownership, possession or the exercising of a housing right, through deception. Traffickers offer land without property rights to obtain economic benefits from these illegal actions. Trafficking is part of the process of giving land access to many low-income families who, needing a place to live and lacking other alternatives, are forced to participate in land invasions organised and/or promoted by so-called land traffickers. This process is practiced by a growing number of illegal developers, who are reaching out and extending their networks and contacts and becoming central actors in the expansion of Lima. The police have identified a network of land traffickers in Lima, operating in 22 municipal districts throughout the capital¹⁴; even though police work with a special team called DIVIAC¹⁵ to finally arrest several of them, new gangs appear and replace them. Traffickers are becoming quite dangerous, being associated with murders and street battles with injured and even killing people.

4.3 New Municipal Regulations

The Municipal Ordinance No. 110 MDSJL of 2007¹⁶ established *visas* (stamps) on the maps of informal settlements and social organisations as a requirement to gain access to basic services (electricity, water, sanitation, telephones), as these settlements cannot formalise the possession of their plots in the short run due to legal obstacles. This procedure – which is also applied in similar areas in Lima – is providing faster access to land while also allowing land traffickers to bypass the legal obstacles (missing land titles) that prevent households from formalising their land possessions. *Visas* are being used to *endorse* the expansion of areas within the settlement or those adjacent to it, in areas generally catalogued as *green areas or areas for landscaping* (hills), or in high-risk areas. *Visas* thus facilitate the expansion and sale of land plots in those very risky areas.

4.4 Modalities of Land Access

Progressive autonomous occupation is done by groups of people and is promoted by neighbourhood leaders (taking advantage of the *visa* maps procedure). After a period of living at the foot of the hills, they move higher up to invade and establish a new settlement on the slopes. Many of these people have followed both a process of consolidation and expansion. All newly sold plots generate new risks, since people cut and fill the steep slopes and create precarious retaining stone walls made by hand, to create habitable land.

Occupation organised directly by land traffickers happens when traffickers send people who represent and promote the land sales. Traffickers often invest in acquiring some kind of ownership, developing layout maps to sell the plots and enabling access roads and stairs. Sometimes they also build educational facilities and other kinds of infrastructure to attract buyers.

Progressive occupation, including an alliance between neighbourhood leaders and traffickers, happens when traffickers and neighbourhood leaders reach an agreement to develop land (usually in expansion areas or *coastal lomas*). The original occupation of the settlement is expanded with the consent of the leader; the trafficker opens paths to new lots and proceeds with the plot sale. Profits are shared amongst all partners.



Source: CENCA.

Figure 7.3 Leaders and traffickers together expand the settlements, dealers fund the road and new areas of expansion are generated

Progressive autonomous occupation in conflict with traffickers is conducted by a group of people who, after occupying land, begin a process of development without the traffickers. In this case, the traffickers claim payments for the land. It is also the case with new settlements organised by traffickers, who expand on the perimeter (expansion area) of a neighbouring settlement.

Transfers and plot sales in human settlements by 'owners' usually occur when the community is acquiring basic services, public lighting, household electricity and water connections and has made some earthworks, such as the

flattening and *pircado*. Although this is a private transaction that does not yet involve a land title, buyers make a *payment* to the community so that the new owner is incorporated into the neighbourhood organisation and also into the possible benefits (if they are managing processes to secure land titles and/or basic services, as these processes are carried out for the neighbourhood organisation and all its members as a whole). The incorporation of a new member in the neighbourhood organisation's registry gives him or her the right to benefit from the work the organisation is already carrying out to obtain a land title or to gain access to basic services such as water and sewage (Carranza, 2017).

5 THE ROLE OF THE ACTORS

Lima has many authorities with overlapping territorial management powers and mandates, which creates fragmentation and weakens policy implementation. Below we briefly present the actors involved in this case (Escalante et al., 2016).

The rural peasant community owns the land and makes the transfer to intermediaries (neighbourhood leaders or dealers). There have been cases of double or even triple sale of the same land due to conflicts between three groups of leaders of the peasant community. Usually these sales are not registered in the Public Registry Office or sometimes registration is rejected for lack of the representativeness of the seller. However, this official response occurs when the sale has been made. This generates land tenure insecurity, a very problematic situation that requires verifying the correct procedures and identifying possessors with true land rights.

Land traffickers organise the process of urban expansion through often-irregular acquisition of land and investments for the marketing of land.

Neighbourhood leaders organise the occupation of the territory on its perimeter and sometimes sell new plots, thus contributing to the social construction of disasters via informal employment. They develop community standards and provide the *living* certificate, which initiates the recognition process of land possession dealt by the District Municipality. They are also responsible for interacting with public authorities to manage basic services and other works for the community.

The District Municipality of San Juan de Lurigancho recognises the social organisation and its leaders, granting the certificate of possession and settlement maps and layouts, approving *visas* and giving access to basic services. However, if the approval does not detect the lack of free areas and/or if villagers live around the perimeter indicated in these plans, it can facilitate informal expansion and even micro land trafficking. Due to its weak capacities and insufficient employees, the District Municipality does not have enough resources to carry out control over all urban informal (and illegal) settlements,

to make proper use of the hazard maps nor to develop and implement a risk management plan for the district. Some leaders even participate in an action research process reflecting on their reality.

The villagers who need housing and who lack alternatives are forced into informally occupying abandoned land, and to eventually continue looking for additional plots for their relatives. Their perception of risk differs from that of the authorities or experts and generally from those who do not belong to their settlement and reality. The risk is part of their daily life, producing a fatalistic attitude and making them assume they will handle the disasters when they appear. However, they have a high mobilisation capacity in gathering to build or improve community facilities.

The social organisation, although not very stable, has organised several settlements, at times based on shared demands. For example, the management of water requires coordination, joint actions (demonstrations and others) and the confluence of several initiatives. The same is true for the creation of road access to several settlements (only accessible by stairs), linking several settlements and other districts across the hills such as Comas and Huarochiri (from Wiese avenue in JCM and Revolution avenue in Collique, with a branch to Jicamarca). In the last case the road informally links up to three districts and provides new jobs in high-risk areas, unless urban control and land use planning are exercised.

Other public actors involved occasionally, like COFOPRI, have given some land titles on public land to settlers and have declared the area as highly risky. The Ministry of Agriculture declared the *coastal lomas* of Lima as an area of priority and high sensitivity but without further investment or action on them. MINAM (the Ministry of Environment) is the regulatory governmental entity for the protection and conservation of the environment, but it has yet done little to protect the hills in JCM. CENEPRED, the governmental entity for the prevention and reduction of disaster risk, advises municipalities for the development of risk management plans, although these have not yet been developed for JCM. The Municipality of Lima got the approval for the creation of a Natural Conservation Area with the *Coastal Lomas* but not including those in SJL.

There are two types of actors: (1) those directly involved in the process of land use and generation of risks (such as land traffickers, neighbourhood leaders and slope residents); and (2) those involved in a more periodic manner (formal real estate companies, central government entities, the Lima Municipality, San Juan de Lurigancho (SJL) District Municipality and Jicamarca Peasant Community).

For the first type, there is a relationship of conflict and dispute over land and over who appropriates the sales and revenues between land traffickers, neighbourhood leaders and the residents. Sometimes neighbourhood leaders can

collaborate and form an association with land traffickers and share the income by selling land. There is a relationship of mistrust between peasant community members and leaders due to a lack of transparency on the fate of profits or over the negotiations carried out with local authorities.

The inaction of the SJL Municipality supports this process, evidenced by the lack of urban control, the continued occupation of hill slopes, and the weak application of rules to approve plans. In addition, malpractices regarding small 'municipal works' in informally occupied land can result in occasional reports of connections between municipal officials and land traffickers.

The Jicamarca Peasant Community has its own internal contradictions and, in any case, their relationship is with informal intermediaries (neighbourhood leaders and/or land traffickers) and not directly with the population.

The Lima water company Sedapal, COFOPRI (Informal land property regulatory commission) and the *Techo Propio* Programme (Ministry of Housing, which allocates subsidies to build social houses) act sectorally and without much coordination among them, attending specific needs but always with insufficient budgets.

Unfortunately, the Ministry of Housing does not recognise the relationship between the formal market (holding the best land with basic service availability) and land traffickers (who cater to the high demand of the poorest via the informal and even illegal housing market), and therefore does not regulate nor promote a formal market where the poorest can have access to land. As such, demand is served by traffickers and, complementarily, by neighbourhood leaders. The Ministry should also implement a strategy with viable alternatives for the poorest (densification of land, planning and relocation to lower-risk areas or other alternatives).

6 THE RISKS OF URBANISATION FOR THE POOR

The absence of a formal land market, adequate government regulations, land control and social housing programmes on an adequate scale – together with ambiguous government control and warnings not to settle into high risky land and a *laissez-faire* urban policy – are generating a risky urbanisation process in Lima.

Older residents who already hold a land title and who have a formal service connection are in fact encouraging newer settlers to perpetuate this process. Nowadays, the use of the mechanism of municipal district 'visas' (stamps) on maps allows inhabitants to get utilities and social services, thus leading to the continuation of the social construction of disaster, while most of them do not even consider being relocated.

The foothills are unsuitable for habitation due to the steep slopes on the dry ravines (quebradas), causing accidents on the stairs (people falling), rockfalls,

this requires an active presence of municipal authorities in which the combination of urban control and land management policies and regulation to prevent the occupation of hazard land and support the occupation and relocation to safer areas, with technical assistance and housing subsidy programmes.

3. This may be complemented with effective policies for land use regulation in the periphery (landscaping, economic enterprises, relocation from areas of high non-mitigable risk); protection and conservation of the *coastal lomas*; promotion of the recycling and reuse of land used for irrigation; delineation of programmes for the direct intervention of the central and municipal government; as well as citizens oversight.
4. Citizens organisational strengthening programmes for the actual populations of the area, showing the advantages of occupying the safer land and development of participatory knowledge construction processes for their understanding of their situation to generate their own solutions.

NOTES

1. 'Concertación' has no proper translation into English. It refers to the process of building up socially supported agreements, decisions for taking coherent joint action through dialogue and deliberation.
2. Lima is the capital of Perú. According to the National Institute of Statics and Informatics INEI, the estimated population for 2016 is about 10 million inhabitants. The district of San Juan de Lurigancho is the most populated in Perú, with 1 million 91 thousand inhabitants. Nearly two million inhabitants live on hillsides in Metropolitan Lima.
3. Survey 2016, cLimasinRiesgo research project, funded by CDKN, www.climasinriesgo.net.
4. These are vegetal formations native for the Andean foothills of the coast of Peru with ephemeral vegetation found typically in the winter. They develop as a result of winter mists on slopes between 200 and 800 meters above sea level. They constitute a continuous strip of vegetation only broken by dry gorges and dunes. Its importance is related to its use for cattle, agriculture and other climate controls.
5. Natural spaces with one of a kind richness of flora and fauna species, which are endangered by diverse factors mainly due to human pressure. The Ministry of Agriculture has declared these as legally protected zones.
6. Metropolitan Municipality of Lima developed a proposal of the Lima Urban Development Plan in 2014, PLAM 2035, but it was not approved. There is a new process for developing the Urban Development Plan of Lima with the present administration, whose results remain to be seen.
7. Eriazo land is the unit of a land surface that is nonproductive and uncultivated due to lack of or too much water. Construction national code – Housing Ministry Lima, June 2006.
8. UNDP (United Nations Development Program). (2007). *Capitales Andina 2007: Catálogo de Instrumentos en Gestión Municipal para la Reducción de Riesgos y preparativos ante Emergencias*. Lima, Peru. 2007.

9. 'Servicio Nacional de Capacitación de la Industria de la Construcción' National Institute of Construction Training, www.sencico.gob.pe.
10. Centro Nacional de Estimación, Prevención y Reducción de Desastres, National Centre for disasters estimates, prevention and reduction, www.cenepred.gob.pe.
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13. Blog W. Germinal <https://wgerminal.blogspot.com/2012/06/comunidad-campesina-de-jicamarca-ultima.html>.
14. *La República*, 27 March 2012.
15. High complex crimes squad from the national police of Peru, Division de delitos de alta complejidad, <https://elcomercio.pe/peru/diviac-cumple-dos-anos-lucha-frontal-crimen-organizado-noticia-550938>.
16. Approved by former Mayor Burgos, fugitive of 16 years, finally recently captured with a criminal conviction by the Judicial Power in 2018.

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