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**‘Enemies of Progress, Enemies of Development’:
Black Communities’ Territorial Claims in
Northern Cauca, Colombia**

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List of Acronyms

AFRODES: Association for Internally Displaced Afro- Colombians

BACRIM: Criminal Gangs

CC: Communitarian Councils

CVC: Autonomous Regional Corporation of the Cauca Valley

ELN: National Liberation Army

EPSA: Pacific Energetic Enterprise

FARC: Colombian Revolutionary Armed Forces

FPIC: Free Prior Informed Consent

INCODER: Colombian Rural Development Institute

INCORA: Colombian Institute for Agrarian Reform

LRL: Land Restitution Law

NC: Northern Cauca

NDP: National Development Plan

OIT: International Labour Organization (ILO)

PCN: Black communities' Process

PCNT: National Plan for Territorial Consolidation

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Map 1: Geographical location of Cauca Department and Northern Cauca Region

Map 2: Afro Colombians' Collective Territories

Abstract

This paper emerges from a concern with the confluence of the following three inter-related issues, all of them concerning Black communities' territories in northern Cauca region of Colombia: (i) renewed, intensification of violent conflict during the year 2011-12; (ii) the rise of development megaprojects and proliferation of land dispossession; and (iii), a national peace-building plan through land policies and 'consolidation' zones.

During the last 10 years, the number of private enterprises and foreign investment initiatives in Colombia has increased creating a considerable economic growth that is expected to enhance the much-sought-after state of stability and peace. At the same time, there have been important efforts to create an atmosphere of transitional justice by demobilizing armed groups and creating the Victims' and Land Restitution Law. Despite this apparent positive panorama, black communities or 'Afro descendants', among other marginalized groups, have had to reinforce their claims and social struggles to protect their territories from dispossession by multinational mining companies and public-private joint venture enterprises.

This paper examines how government's dual strategy of mega development projects and peace-building have rendered Black communities, their organizations and their territorial claims 'enemies' of development, progress, legality – and even peace. This categorization as development opponents has in turn legitimized the intensification of violence against Black communities. How then do we explain the seeming contradiction between the Colombian's purported effort at peace-building largely via land restitution on the one hand, and the aggressive pursuit of mega development projects that result in land dispossession of and violent conflict against Black communities? This work seeks to address this apparent contradiction.

RELEVANCE TO DEVELOPMENT STUDIES

Development as we know it has become a hegemonic discourse that places all claims for alternative ways to develop as subversive and illegal. Within the Colombian State and society this hegemonic discourse reigns, in the sense that the assumptions about the benefits of development (development as progress and aggregate, national economic growth) prevail uncritically over the urgent need for processes of social and agrarian justice. This paper is an attempt to understand the social and political dynamics surrounding Black Colombian communities' claims for land redistribution and alternatives to development that contrasts with the ever-present hegemonic discourse of development that is central to the Colombian State and society's views, and which is contributing to their further marginalization.

KEY WORDS

Black communities, Colombia, land, state, territory, development projects, legitimization, de-legitimization, northern Cauca (NC), armed conflict, violence.

Preface

This research paper is the result of several personal questions regarding the increased mobilization of people claiming against the unequal distribution of land, resources, revenues, opportunities, etc and the presence of violence within all these processes. Even though this study explores a specific geographical space in Colombia, the reflections here proposed are the result of ‘shared realities’ around the world. These realities such as the Marikana Massacre in South Africa (August, 2012) and thousands of India’s landless poor protests (October 2012) highlight the importance of contesting current structures of control and power ideologies, and of connecting the analysis to a global level and global struggle.

This work seeks to address the paradox of the Colombian State efforts to achieve peace through land policies and economic development, but by addressing structural issues on land in such a way so as not to tackle the problems of distribution and dispossession. These development goals, namely peace and economic development, seem contradictory to the historical context of the violent conflict over land.

It is necessary to mention that initially this work intended to analyse the implementation of the Victims’ and Land Restitution Law (LRL) over dispossessed land in northern Cauca (NC).

Despite the importance of the LRL, this research had to change focus after the fieldwork stage in NC. I assumed that within socio-political processes in Black communities, the LRL entailed an empowerment tool and that it was going to support their territorial claims. Instead, the LRL, even if it relates to relevant issues for these communities, represents an insufficient tool to address the immediate priorities for survival and territorial protection and therefore, it was necessary to take a step back from the original research focus. The research scope thus turned into a more reflective question that could help to understand structural reasons behind the intensification of violence within this context.

Finally, the idea of titling this paper ‘Enemies of progress, Enemies of Development’ came from a conversation with Professor Axel Rojas in Popayan (Cauca), who mentioned the categorization of Black communities’ organizations as *Enemigos del Desarrollo* by so-called criminal gangs.¹ This labelling is present in violent threats against black communitarian leaders who oppose extractive development projects and claim their collective land rights. In my opinion, this categorization blankets all the complexities that these communities face in relation to their territorial struggles and their position in relation to the State’s development agenda.

¹ These ‘new paramilitary’ groups called Bacrim, or emerging criminal bands, and their numbers are estimated to be around 5,000 (Sanchez-Garzoli, 2012). They emerged after the demobilisation of paramilitary groups during the period of the Justice and Peace Law (2005-2010).

Chapter 1. Technical Matters: Problem, Questions and Methodology

1.1 Introduction

Black communities' territorial claims in NC and other Colombian regions bring the agrarian question to the front of violent conflict and development studies in Colombia. NC is well known for being one of the epicentres of the Colombian Violent Conflict for the last 60 years due to the confluence of colonial and post-colonial processes of disputes for land. Within this context, this paper reflects on the situation of black communities in NC and the economic, political and social dynamics that have placed them in a marginalized situation nowadays. Studying these elements gives the ground for analysing the State's role in pursuing capitalist development and its relation to the increase and persistence of violence in these territories.

The case explored in this paper exemplifies why it is necessary to first understand and address structural issues that can erode the good intentions of policies such as the Victims' and LRL (Rey, 2011). This analysis integrates into the discussion peace-building efforts like the LRL amongst other policies, that do not entail a change in the patterns that lead to violence, but instead only tackle the final expressions of violence such as illegal armed groups, poverty and displacement.

Three main pillars of analysis are interlinked throughout this paper about the confluence of black communities' territories: the current intensification of violent conflict (2011-2012), large-scale development projects and mining exploitation, and peace/stability building efforts such as the LRL and 'Consolidation Zones'. As well, this paper seeks to go beyond the already known relationships of the *guilty-state* and *rescuer-state* that has been exposed in polarized discourses in Colombia, and to engage in a broader discussion about the state as a centralized form of class power that negotiates state-society interests (Das, 2007).

Throughout the analysis I discuss the legitimization process of the state and the subsequent de-legitimization of black communities' claims. Thus, the concepts of legitimization and de-legitimization interconnect the state, private sector, military, 'illegal' armed groups and communities. I attempt to do this by exposing three main sets of reflections:

(1) First, a multidirectional relationship between development and conflict where the presence of development projects increases violence whilst the solution to conflict is believed to be achieved through development projects.

(2) Second, I discuss a much clearer strategy of de-legitimization through the discursive labelling of black community leaders and miners as enemies of development and illegal miners. I argue that even though the communities' claims rest on the defence and protection of their territory (their physical, cultural and environmental habitat) neoliberal-type-of development discourses frame these claims as opposing development.

(3) Third, I engage in analysing the pursuit of collective land titles by ethnic communities as a preventative and defensive mechanism against dispossession and violent conflict threats (causing displacement). Also, I discuss these efforts as part of the formalization and legitimization of these territorial spaces under the state

1.2 Research Objectives and Questions

The major objective of this research is to examine the context of black communities in NC as a way of analysing state's role in the multifaceted conflict that takes place in their territories. This study departs from the hypothesis that the legitimization of the State in their territories has entailed the de-legitimization of these communities' territorial claims. Thus, this paper aims to answer the key question: *How have development strategies of the Colombian state – especially development megaprojects and 'peacebuilding' actions – de-legitimized the territorial claims of black communities in northern Cauca? And, how are these strategies related to violence in their context?*

This question is embedded in a broader interrogative analysis about the State's nation building schemes of land exploitation and expropriation in contradiction with its current policies of peace building and development. Thus, I ask further sub-questions regarding the nature of development projects that are being implemented and the relation of these projects to ethnic territorial struggles:

What are the specific links between violence and large-scale development projects within these ethnic territories?

What are the communities' claims against development megaprojects and why is it that their resistance is seen as a threat to development?

And finally, within this complex panorama, how are these communities enhancing or not their territorial claims?

1.3 Methodology

The methodology employed in this study developed from the hypothesis that black communities in NC constitute a case of exclusionary development and thus I saw the need to dig further into the dynamics of land control and conflict under capitalist development in these territories. NC first called my attention because of all the complex processes that are interlinked in such a specific geographical space. I assumed from the beginning that the implementation of the LRL would be a good approach to help understand the bigger picture in this territory. After some preliminary research, I decided to focus on the communities' claims for territorial sovereignty and autonomy, and the political and economic elements surrounding these claims.

The strategy for gathering data stemmed from Participatory Action Research (PAR) where the researcher writes about what the community thinks is relevant instead of imposing his/her views and interpretations. This was the result of a reflexive process where I questioned whether I had the authority and knowledge to write 'about' black communities in Cauca and if this research could help to conceptualize their marginalization processes. Thus, I

approached people from these communities with a broad idea of what I wanted to research but asking them what they wanted me to write about. According to PAR definitions, academic research becomes an act of denouncing and looks for creating the theoretical ground for posterior actions (Kindon, et al, 2007). Hence, this paper seeks to address each of the topics as a call for reflection and denouncement of the current power structures in the country.

Data collection and fieldwork was conducted in the cities of Bogotá and Popayán and the municipalities of Suarez, Santander de Quilichao and Buenos Aires in NC during the period of 4 weeks between July and August 2012. These three municipalities were chosen because of the accessibility to contacts within the Communitarian Council (CC), which have been central actors in the recognition of Black peoples' territories. I conducted 14 in-depth interviews, both individual and group interviews and participated in one institutional meeting in Suarez organized as an emergency meeting in order to denounce the violent confrontations that were happening during the first week of August 2012.

Different types of people were approached during this study. Regional organizations such as the CC were included as some of the members of these Councils are active members of the Process of Black Communities (*Proceso de Comunidades Negras* PCN), a national socio political movement.² As well, three people were interviewed from the Internal Affairs Department, The People's Defence Department and the National Office for Land Registration, and two interviews were conducted with people involved in the juridical section of ethnic rights -one from Afrodes, the organization for black communities in displacement situation and the other from the ethnic section of the People's Defence Department. Academics from the Cauca University, Javeriana University, the Ethnic Territories Observatory and Colombian National University kindly gave their opinions and their political and academic perspectives on the topic of this study

In terms of secondary data, the most relevant economic policies during the last 20 years in the region were reviewed. For example, Ley Paez 218 of 1995 under which the *Industrial Parks* were created and the National Plan for Territorial Consolidation (PNCT) of 2007 designed to create zones of peace and development as a counterinsurgent strategy through different processes of militarization. Additionally, web pages, newspapers, governmental and human rights reports, NGO's documents, video documentaries about NC, mining and conflict were also explored. Lastly, it should also be mentioned that opportunities were taken to do random sampling and interviewing in order to have a grasp of what is perceived by people about the situation of black communities in Cauca.

² The PCN (Proceso de Comunidades Negras), Process of Black Communities is a network of more than 140 local organizations, mainly in the Pacific region. It has had a leading role in the struggle for the constitutional rights granted to Black communities and the defense of their territories. They emphasize in the 'social control of the territory as a precondition for the survival, recreation, and strengthening of culture' (Escobar, 1998: 64 and 2008).

1.4 Content of Chapters

The overall format of this research paper gives an initial theoretical discussion of the main concepts and a posterior analysis of the results engaging with additional theoretical intakes throughout the last chapters. It is organized in the following manner: Chapter 2 explains the theoretical key concepts. Chapter 3 gives the contextual background of NC, the historical and territorial inventions of black communities as ethnic political groups and the general perspective of violent conflict in Cauca. Chapter 4 de-codes the State and its relation to NC dynamics as well as sets out a brief discussion on the peace-building policy of the LRL. Chapter 5 analyses the relationships between the issues explained in Chapter 4 and over black communities' territories. Finally, Chapter 6 gives a brief reflection towards the originally research questions and summarizes some of the main insights.

Chapter 2. Theoretical Tools for Analysis: Land, Legitimacy, Violence and Ethnicity

2.1 Introduction

Since post-colonial times, the history of development and nation building in Colombia has relied on the understanding of development as capital 'accumulation' and economic growth by all means. If development, or economic growth, is what determines the existence of a nation, then state and society actions should be directed towards capitalist development. 'Developing' countries then aim to achieve development as the way to ensure the existence of the state and to reinforce its political legitimacy. Within this process, state and society actors are involved in a journey of 'clashing of interests' determined by struggles for power and subsistence.

NC represents a perfect example of the complexities of the never-ending nation building project. The reflections presented in this paper highlight the paradoxical and illusionary characteristics of that project called Colombia. David Bushnell's piece (1996) titled 'Colombia, a nation in spite of itself' describes the absurd and at the same time enigmatic historical aspects of the country. NC is just one of the many Colombian regions with the presence of diverse and conflictive aspects such as: struggles for power over land, state sovereignty vs. ethnic communities' sovereignty, capitalist development and violence. This study specifically focuses on black communities in NC because this author sees the need to counter the arguments that *actual* Colombian economic growth is the final achievement and end to its development process. On the contrary, black communities' territorial claims expose that Colombian agenda for development needs either to address marginalized communities demands in order to formulate inclusive strategies for nation building or allow decentralized forms of development.

On this regard, black communities territorial claims in NC can be grouped in the following broad matters: (i) Black communities demand for a stop of violent hostages in their territories and against members of their communities, as well as territories free of armed actors. (ii) They ask for the accomplishment of the laws that assure the protection of fundamental rights for afro-descendants victims of forced displacement (such as the Auto 005 from 2009 of the Constitutional Court). (iii) They claim for social and economic welfare and protection mechanisms that take into account artisanal mining by establishing special mining zones for Indigenous and Afro-colombians. (iv) Finally, the aim for collective land titling and demand the accomplishment of Free Prior Informed Consent (FPIC) mechanisms. Here, they claim for the rejection of already given mining titles in their territories that have been made without FPIC (MNOA, 2011; Fieldwork Notes, 2012; PCN, 2010).

Thereafter, in order to analyse the relation between state's development projects and the claims listed above, it is essential to analyse the following big sets of theoretical aspects: land control, territory and territorialisation, legitimacy and de/legitimacy strategies and hegemonic discourses,

development as accumulation and its links with violence and finally ethnicity as a fundamental mechanism for supporting struggles from below.

2.2 Land Control, Territory and Territorialization

Black communities' claims for territorial sovereignty and autonomous decisions over development projects in their land leads to one of the main underlining questions of this paper: who owns and controls land in Colombia? The field of political economy has tackled the question of land ownership, and reflected upon the value of land as more than resources and physical location but as a source of power where many political and economic interests intersect. Ownership, as the main source of conflict in Cauca, is accompanied by a conceptualization of land control mechanisms that have defined the territorial formation of Black communities since colonial and post-colonial times.

In this sense, this paper exposes how land control mechanisms such as territorialisation, legalization processes, force and violence (Peluso and Lund, 2011) as well as industrial programs such as land demarcation and dispossession have defined contemporary territorial claims of black communities. It also reflects on up-to-date patterns of land dispossession such as accumulation by dispossession (Harvey, 2003 and 2006) and property rights (Pottier, 2002; Ribot and Peluso, 2003, Peluso and Vandergest, 2011). These reflections are embedded within the conceptualization of capitalist development as attached to land expansion and control.

Certainly, these processes of territorialization are the result of nation building policies and processes in which the state plays a major role. In this sense, state, territory and sovereignty are intertwined concepts that reinforce one another. Chapter 4 reflects on the role of the state and its processes of sovereignty construction by the control of territory (or territorialization). Thus, the concept of sovereignty is grounded in International Relations theories about the autonomous decision of every nation within their territories (Biersteker, 2002). The concept highlights two aspects that are relevant for this paper: the principle of non-intervention and sense of recognition.

Thereafter, territorial sovereignty of the state and of ethnic communities relies on the recognition of the autonomous capabilities of taking decisions over the territory. It is of big concern the contradiction that emerges when thinking about ethnic sovereignty in opposition to state's sovereignty. In order to achieve ethnic sovereignty (one of the black communities' claims) over their territories, the state needs to recognize this fact and take a step back regarding its interventions (principle of non- intervention). Throughout the paper, I will attempt to reflect on the fact that state's sovereignty is pursued through policies that enhance the control of ethnic territories by mechanisms such as the juridical system, mechanisms that are also used by the ethnic communities to attain their autonomous decision power in their territories.

Colombian state is defined as a heterogeneous body and as a centralized form of class power where its state building actions are directed towards maintaining 'power relations' through land control. Following Bob Jessop's work on theories of state, this paper understands this institution as a relational

system of political domination with specific effects on the class struggle, therefore giving special emphasis on state's forms of intervention (1990:28).

Thus the state is conceptualized within a neoliberal hegemonic frame that enhances the embodiment of policies that enhance foreign investment, trade liberalization and deregulation. Hence, neoliberalism is understood as a theory of political economic practices based on the presumption that human well being is best achieved by liberating individual entrepreneurial freedoms within a frame of strong privatization, free trade and the withdrawal of the state from areas of social provision (Harvey, 2005). Neoliberalism, as a hegemonic discourse de-classifies or de-legitimizes all other alternatives to these hegemonic practices.

2.3 Legitimacy and de/legitimacy strategies and hegemonic discourses

States engage in a dual strategy of accumulation and legitimacy (O'Connor, 1973 in Fox 1993). These two concepts explain the forms of intervention of the state and justify its modes of operation. This dual strategy incorporates a continuous contradiction where accumulation mechanisms do not always assure the legitimacy of the state and legitimacy does not always entails accumulation. To better understand the relationship between accumulation and legitimacy, and later, de-legitimacy, a brief definition of the relevance of these concepts to this paper will be discussed. But firstly it is necessary to give an intake of the concept of hegemony in order to analyse how certain discourses legitimize or de-legitimize counter arguments.

Departing from orthodox Marxism Antonio Gramsci's first advances on *hegemony*, Carroll (2006) states that the concept has an objective basis in material conditions and is integrally linked to capital accumulation (*ibid*, 2006). Hegemony is a form of dominance that refers to the consensual process in which most members of a society synchronize their ideology and practices with the productive forces for development (Cox, 1981; Gramsci, 1971). This paper touches upon the hegemonic development ideology that is hand-in-hand with neoliberal ideology because of its focus, in Colombia, on land accumulation, private property, and capitalist development.

Now, taking into account that the dual strategy of the Colombian state is embedded within a neoliberal hegemonic discourse, accumulation and legitimacy follow its prescriptions. Accumulation, understood as economic growth within development policies, is sometimes contradictory to the function of legitimacy in the sense that accumulation processes do not necessarily engage the State in activities that maintain its legitimacy as a political institution. In Colombia, the function of accumulation, within the capitalist development path, has been reflected in policies towards industrial modernization of rural areas and resource extractive projects. The transition towards the expected level of progress and development is typically brutal (Cramers, 2006). In Colombia, these actions have resulted in a series of

exploitative and violent processes that have challenged the political legitimacy of the state.

Based on Habermas's work (1979), G. Reyes (2010) explains the term "legitimacy" as the way a 'government or a social system attempts to justify its existence and power. All governments need to legitimize their rule, to justify their right to power, to promote their authority as a means to gaining popular support' (*ibid*, 2010: 146). In this definition, legitimacy is understood as a political virtue of political institutions reached either by the decisions of the institution in itself (normative justification) or by the authority given by society (descriptive aspect of political legitimacy) (*ibid*, 2010).

Even though the concept of legitimacy and the problem of state legitimization are generally grounded on the normative understanding of the concept –i.e: justification of the political authority of the state -the definition of what is a legitimate political institution remains, for the purposes of this paper, rooted in Weber's descriptive legitimate authority. Max Weber (1964), explained legitimization as a process of becoming legitimate, or giving legitimacy unto people, ideas or structures by others within a society, based upon expressions of acceptance or willingness to obey the authority and normativity of that power. This paper navigates through the two dimensions in relation to this concept: firstly it elaborates the political legitimacy of the Colombian state by analysing its development actions in NC; and secondly, it reflects upon the way legitimate political state authority has been described and contested by ethnic communities.

Intertwined with the maintenance of legitimacy of the Colombian state lies the main concern of this paper: the processes of de-legitimization of Black communities' claims. Here, the analysis focuses on a different location of legitimacy, not only the static property of a particular institution (Stel, 2011), but also the discourses and practices that devalue, neglect and silence counter-hegemonic narratives of development.

More reflections about the legitimization and de legitimization in relation to territorial claims and counter-claims of Black communities and the state will be further elaborated in Chapters 4 and 5.

2.4 Development as accumulation and violence: Relating legitimacy to violence.

In the context of Colombia, we cannot exclude the presence of force and violence from a discussion and analysis of disputes between the legitimacy of the state and the counter hegemonic narratives to capitalist development (whether legitimate or not). This paper looks at multi-directional relationship between development and violence, both within the context of the Colombian armed conflict and current expressions of violent capitalist development, such as land dispossession and violence in rural and ethnic communities. Additionally, labour exploitation as a violent feature is analysed within the processes of industrial modernization.

The lack of solutions to the violent conflict in Colombia, its insecurity and inefficient service-delivery all undermine the legitimacy of the State. In a reactionary move, the State has pushed forward policies for development

growth and secured spheres for development, which have resulted in heightened military presence. As explained above, these development objectives, responses to the conflict via militarization and other forms of violence against the civil population, contradictorily, also undermine the State's legitimacy (because the state is not supposed to attack its citizens). Thus, conventional assumption of development as the solution to violent conflict is contested. Developing agencies and institutions such as the World Bank have emphasized the importance of economic development as 'conflict reconstruction' and peace building paths. These views are premised on the 'greed and grievance' precepts that separate violence (understood as poverty and criminality) from development, as two exclusive aspects (Collier, 1999).

In opposition to interpretations developed by Paul Collier of the Colombian conflict, where he argues that Colombia is an example of greed-based civil conflict (*ibid*, 1999; Thomson, 2011) because of the links between the drug trade and criminality, NC exemplifies the links and a more nuanced relationship between development policies/projects and violence. Instead of solely looking at resources as a basis for conflict, this case refers to ideas of development as violence, where processes of land dispossession and displacement are 'to make way for development schemes that are being imposed from above without consent or public debate' (Nadeu, 2005: 334 in Holden, *et al*, 2011: 158).

Limiting the theorization of the violent conflict in Cauca to the relationship between resource marketization and violence as an aspect of greed (i.e. the drug trade and criminality) fails to recognize or locate the role of the state, military and socio-political elites within the Colombia's violent history. Colombia's 60-year conflict cannot be treated in such a simple and unengaged way. Jenny Pearce (1990) presents a more nuanced description of Colombia's history by discussing peasant struggles or the formulation of left-wing guerrilla groups as a result of Colombia's unequal capitalist development. She does, however, attributes diverse forms of violence against the state and general criminality to economic rationality³, in-line with the concepts of greed and grievance.

These conceptualizations of violence are connected to a brief discussion in Chapter 4 about peace-building efforts and its relation to development projects as a way of enhancing state's legitimacy. Following liberal notions of peace, peace-building efforts aim to create employment and effective exploitation of resources. This is the case for the LRL, where paradoxically, in pursuing its legitimacy goal with peace policies, the state finds a way to 'maneuver without under-doing fundamental economic and political change' (Fox, 1993:4).

Lastly, regarding violence and development, the legitimation of political violence in order to enforce counterinsurgency policies is discussed (Peluso and Vandergest, 2011). In doing so, I engage in a discussion of 'consolidation plans', which aim to militarize "unprotected" areas in NC under the pretence of combating an a-political civil war; interestingly, violence is de-linked from the ideology of consolidation plans (Thomson, 2011). Mary Kaldor's theory on

³ In general terms, economic rationality refers to a decision making process based on economic interests.

‘new wars’ is useful for understanding new forms of war in which the political character is unclear and civilians are the ones affected, and will be referenced in this paper (Kaldor, 2007). Additionally, Mark Duffield’s work on the convergence of development and security as a political legitimization strategy will be drawn on to help analyse the assumptions the Colombian government use to encourage military intervention in all sectors of society/social life that the State cannot enter otherwise.

Ethnicity as a Mobilisation Tool

If we consider that counter hegemonic practices and discourses usually address state-centred and civil society issues (Carroll, 2006), then it is necessary to ask if black communities’ claims are an example of counter hegemonic ‘struggle from below’? If we understand that counter hegemony struggles occur in direct opposition to the aspects of capitalist hegemony (*ibid*, 2006:20), then we should distinguish that black communities contest only some aspects of state-centred issues that maintain capitalist hegemony. For example, elements such as ethnicity and ancestral land rights are mobilisation tools that do strike against homogenizing and exploitative practices but do not clearly establish an opposition to the system. However, the question of ethnicity gave rise to some difficulties in terms of categorizing or labelling the population in NC⁴, and for this reason post-development theories and post-coloniality (multiculturalism) fields provide good insight to draw from and tackling the intersectional way black communities are marginalised.

The conception of identity plays a major role when discussing the ethnic dimension of social resistance for agrarian justice. As some liberal notions have assured, identity can be interpreted as a self-made construction (Spinner, 1994). However, identity is also defined by socio-historical constraints and by the utility of the identity discourse for achieving socio-political claims (Escobar, 2008).

Ethnic identity seemingly carries a sense of counter-hegemonic discourse by claiming from the beginning a sense of difference. In his work, Escobar elaborates on the processes of territorial resistance of black communities PCN in opposition to large-scale development projects, and states that local organizations develop strategies in order to resist capitalist infiltration within their livelihoods and *cosmovisión* (*ibid*, 2008). This paper attempts to engage and critique this apparent resistance to the capitalist system by broadening this fight against capitalism development to include all the practices that threaten territory sovereignty. Whether the community makes claims for structural changes within the system and in the way development has been pushed forward is something to be contested.

⁴ Literature on issues of land, structural dimensions of power and violence remain limited in addressing identity, the subjective construction from which claims appear to raise. In attempting to categorize the population, it was not clear whether they could be labelled as peasants, rural or urban populations, traditional communities or industrial labour workers, ‘agro miners’ with artisanal and sustainable practices or reproductive rural dwellers. This task also led to other questions such as: are they smallholder farmers or are they employees of industrial enterprises in the region? Do they exploit mines only for subsistence means or do they engage in marketing and accumulation processes?

Limitations

Each of the theoretical sets discussed above (land control and territory, development as violence, legitimacy and de-legitimacy and ethnicity) come from different schools of thought and, by merging them all to look at this case study, there is a risk of focusing on too many aspects without concluding anything concrete. However, considering the complexity of realities, experiences, and history of NC black communities, it was necessary to take this risk in order to analyse a broader picture of the problem.

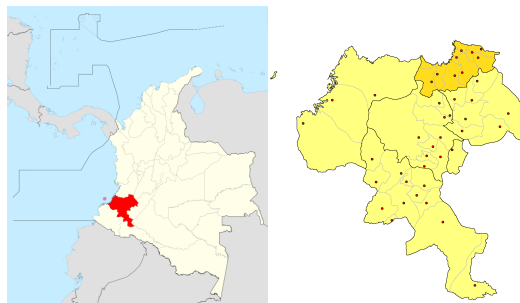
Chapter 3. Locating the Northern Cauca Region

3.1 Introduction

This chapter reflects on the specific elements that have shaped the context in which Black communities live in NC. The issues that they face are a product of various historical, political and economic patterns that have been part of the capitalist development process of NC. Their socio-political processes are embedded within the process of integrating the region into the national and global economy.

As such, Cauca department is situated in the southwest of Colombia and is made up of 39 municipalities (Map 1a). As will be elaborated further, the Cauca department synthesises the general features of the country, by having a multicultural population⁵ and the presence of strong socio-political and economic conflicts (Vanegas and Rojas, 2012).

Map 1. Geographical location of Cauca department and municipalities of northern Cauca



Source: cauca.gov.co

This study is focused on NC because of the dynamics and confluence of an agribusiness economy, development megaprojects, mines and mining exploitation, land and territorial conflicts, and complex ethnic relations. The north is constituted by 13 municipalities: Santander de Quilichao, Buenos Aires, Suárez, Puerto Tejada, Caloto, Guachené, Villa Rica, Corinto, Miranda, Padilla, Jambaló, Caldono and Toribío (Map 1b).

It is a highly favoured region for commercial plantation ventures because of its favourable agro-ecological conditions and vast land frontier. This region has been the centre of development agendas based on the expansion of sugar cane mono plantations since the second half of the 20th century. This extensive dependence on agribusiness and the influence of the Cauca River in those territories have been one of the main reasons for development projects and it

⁵ The population breakdown, from a total of 1.182.022 people, 22.2% is Black population, 21.5% indigenous and 56.3% mixed or *mestizo* population (National Census, 2005; Vanegas and Rojas, 2012).

is also what has determined the relations with the main industrial centres. In the following chapters I elaborate on two of these projects: the water dam La Salvajina and the Industrial Parks created during the 90's under the Paez Law or Law 218 of 1995.

3.2. An Ultra-Colonial Construction

Many authors have studied colonial legacies in Latin American countries and the consequences this had on current structures and institutions (Kay, 2001; de Janvry, 1989; Escobar, 2008; Espinosa, 2007; Bebbington, 1989; Pearce, 1999). Colombia, like many other countries with colonial inheritances, has deep rural inequality in property and social relations as a result of the agrarian system that emerged from Iberian colonization. According to Cristobal Kay (2001), these colonial agrarian systems are a major source of conflict and violence in the contemporary countryside.

The current agrarian structure of NC stems from landownership structures that concentrated land in the hands of the Spanish, and later in hands of local mestizos who were post-colonial elites. Forced labour regimes were adapted from feudal institutions and practices in Spain, allowing the Spanish settlers to establish themselves as a colonial aristocracy (Bernstein, 2000: 256). A central factor of these patterns of organization was race (Escobar, 2008:47). Black settlements, for example, were created according to the need of labour exploitation in gold mines and *Haciendas*.

In post-colonial times, the patterns of land control and the expansion of agriculture and mining in the region continued. The current center-periphery relations are rooted in the development of capitalism in Cauca at the end of the colonial period, that demarcated Cauca department as a rural producer and other departments as urban industrialized places (Cauca University student's seminar, 2012). Furthermore, the current power relations stem from the capitalist development in the region where colonial labour structures continued. Instead of becoming a system with employees or *asalariados*, elites in Cauca privileged colonial methods where they could maintain their workers. As a result, a labour-intensive, low wage, and repressive economy emerged full of under-educated workers (Acemoglu and Robinson, 2012).

Colonial and post-colonial legacies of social and productive relations, as explained in the maintenance of feudal systems, still affect the context and social dynamics in Cauca today. As I will elaborate further, social and productive relations and dynamics surrounding the mining enclaves and agribusiness projects are product of colonial patterns based on labour and resources exploitations. Up to the date, these dynamics have been reproduced in the marginalisation of black communities showing neo-colonial and imperial processes of appropriation (Harvey, 2003).

3.3. Black communities in northern Cauca: Territory and 'Ethnicization'

Colonial ways of labour and land distribution created the social marginalisation dynamics of the spaces where Black communities live nowadays. Afro-

Colombians, Black communities or Afro-Descendants constitute one of the ethnic minorities in the Colombian imaginary of a multicultural and pluri-ethnic nation. As well as indigenous communities and Rom population, Afro descendants communities represent an example of identity politics where historical, social and economic dynamics have influenced their formation as a political ethnic subject. There are approximately 4.31 million people self-identified as Afro Colombians (10.4 % of the total population) according to the national census of 2005.

As was mentioned earlier, race was one of the main factors in the colonial patterns of territorial formation. Since the Spanish colonization ‘the story of the Colombian Black population has been framed in tales of slavery and discrimination’ (Rey, 2011: 30). In contrast to the processes in which Indian slavery was questioned and abolished, black slavery and posterior post-colonial use of the ‘black labour force’ was never contested until recently (Wade, 1993).

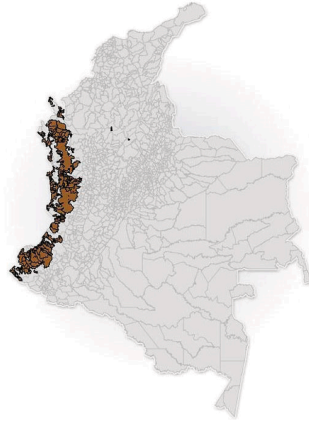
The formation of black settlements was mainly influenced by the dynamics of slavery for work and territorial exploitation. Black settlements in NC for example, were the result of colonial enclaves for mining exploitation in the 1600s. Even today, black communities in those regions practice mining based on artisanal, traditional or as they call it, “ancestral practices of mining exploitation”. These factors of socio-spatial location of Black communities among others will constitute a main aspect for posterior territory defence discourses.

From the Independence of Colombia in 1810, the process of nation building was (and continues to be) marked by a strong mobilization and struggle for territory control and recognition of ‘traditional peoples’ or *Indigenas* and Afro-descendants. As Wade (1993) elaborates, indigenous people began to gain some legal recognition, and their resistance movements helped them to gain recognition.⁶ In contrast, black mobilisation and recognition at the political level took several decades because of rooted patterns of discrimination.

The construction of an ethnic identity was a turning point in all these mobilisations. A series of socio-political processes such as the new constitution in 1991 and the Law 70 in 1993 (*Ley de Negritudes*) in hand with Indigenous peoples mobilisations generated recognition for NC as a recognized territory of ethnic struggles (Escobar, 2008). Arturo Escobar refers to a new identity regime that emerged and took shape during the 90’s when the concept of ethnicity became part of the political discourse for marginalised groups. The constitutional reform of 1991, ‘created the conditions for an intense period of cultural and political activism by local black and indigenous groups’ (*ibid*, 2008: 10). By declaring Colombia as a multicultural and pluri-ethnic space, black peoples among the other minorities, were officially recognized as an ethnic group with collective rights. Thus, as Ulrich Oslender (2007) explains, the 90’s were a turning point in the relations between the state and black communities.

⁶ NC is well known for indigenous peoples resistance and land movements. The armed indigenous movement Quintin Lame in 1914 and the CRIC in 1971 have shaped the struggles for official existence of indigenous reservoirs. Nowadays the ACIN (Indigenous *Cabildos* of NC Association) is the most relevant indigenous socio-political organization in NC (Espinosa, 2007)

Map 2. Afro Colombians Collective Territories.



Source: (IGAC in Sanchez-Gorzeli, 2012)

In 1993, the Law 70 (*Ley de Negritudes*) was the first law that addressed normativity for land rights, enabling black population to claim collective land rights in the Pacific Coast (Map 2). This new legal frame would empower future ‘conditions of access to governing institutions for Afro-Colombians’ (Oslender, 2007:752). Furthermore, diverse organizations such as the PCN started to appropriate these legal tools and pushed forward a whole set of socio-political claims.

One defining aspect is the relevance of the emergence of the category *Comunidades negras* (black communities) (Escobar, 2008: 10). In 1993 with Law 70, the categories of land and peasant (categories that were used in peasant movements since the 1960’s all over Latin America) became insufficient to respond to the institutional, economic and political context of the apparent new multicultural socio-political environment. These categories were instead replaced by the concepts of “black community” and “territory” (*ibid*, 2008: 52).⁷ There was a new conceptualization of the territory ‘as fundamental to the physical and cultural survival of the communities,’ (*ibid*, 2008: 54) which have unique ways of using the space.

In relation to the construction of the territory concept, a relevant tool that highlighted territorial protection by legal means was the Free Prior Informed Consent under the convention 169 of the International Labour Organization (ILO/OIT). The FPIC assures that ethnic groups have the right to decide over the extractive activities in their territories. Colombia ratified this declaration on 2009 by signing the UN’s Draft Declaration on the Rights of Indigenous Peoples, which for the case of Colombia also integrated black communities (Fierro, 2012; Sánchez-Gorzeli, 2012).

The political tools and processes explained support the current processes in which black communities’ territorial claims are embedded.

⁷ Ley 70 defined *comunidad negra*: ‘Black community is the group of families of Afro-Colombian descent who possess their own culture, a shared history, and their own traditions and customs in the context of the town/country division, and who exhibit and preserve a consciousness of their identity that makes them distinct from other ethnic groups’ (Ley 70/Article 2, 1993 in Escobar, 2008: 211).

3.4 Violence

Violence in Colombia has always been ‘a complex web of interacting, multifaceted and evolving factors’ (Kay, 2001: 752), whether it be related to the Colombian armed conflict or to different expressions of violence such as inequality and poverty. Land, as a source of power, has always been at the heart of socio-political conflict in Colombia. Among various scholars that have studied the violence in Colombia, Cristobal Kay states that ‘the land question is a major factor in explaining the country’s violent history’ (2001:753; See also Thomson, 2011; Reyes, 2009). The location of violence in rural areas, such as NC, can be explained as resulting part due to uneven geographies of capitalist development and unaddressed distributional land reforms. The origins of rural violence are related to a weak distribution of ownership and control over land since post-colonial times and socio-political institutions that have reinforced this unequal distribution of resources (*ibid*, 2001).

Generally, when violence is referenced in Colombia it is related to the Colombian Armed Conflict. This conflict has evolved across the decades and it is difficult to untangle all the possible complexities of it. However, recent attempts to solve the problem of violence understand the Armed Conflict as been triggered by illegal armed groups (paramilitary forces like the AUC and guerrilla groups, mainly the FARC and ELN) and the Military. Some of the main characteristics of this conflict have been violent massacres and HR abuses against civil society, HR activists, trade unionists and a massive displacement of rural population.⁸ (Explanation on the Colombian Violent Conflict in Annex I).

Governments have tried to resolve ‘the conflict’, but the constant changing nature of it has resulted in solutions being focused on the immediate problems that fuel violence, without addressing proper structural changes. Since ex-president Alvaro Uribe’s administration, addressing the violent conflict was reduced to the problem of armed groups and their links to drug and illegal substance trafficking. Either by demobilizing or by killing illegal armed group members, the focus remained on addressing the armed actors and not the causes that maintain violence.

Within this panorama, the Cauca Region is defined as one epicentres of the Violent Conflict where armed actors and land interests conflate (Cisalva Institute, 2008). This importance relies on the fact that one of the sub divisions of the leftist Revolutionary Colombian Armed Forces (FARC) was created in Riochiquito, Cauca department in 1964. Moreover, the ELN has had a notorious presence up until today, as well as the movement M-19 since the 70’s until their demobilization in 1989. The Indigenous Armed Movement Quintin Lame, had also a great relevance until its demobilisation in 1991. Lately, at the end of the 90’s, the paramilitary presence gained strength in the region, reaching its greater point in 2006 (Rojas and Vanegas, 2012: 29). The Cauca has also been a relevant geographical strategic point for the conflict

⁸ Colombian armed conflict casualties are undefined. Authors talk about thousands of casualties (killings plus injures), reaching the maximum in 2000-2001 with approximately 1.600 casualties. In general, the period 1988-2003 presents approximately 50.000 casualties (Restrepo and Spagat, 2004).

dynamics because of it represents a ‘natural corridor’ for transportation of coca and marijuana towards the Pacific coast.

In NC, the violent conflict has been marked by a strong persistence of the Sixth Front of the FARC and the ELN division called Compañía Lucho Quintero in Suarez, Caloto, Santander de Quilichao and Buenos Aires (Ávila and Nuñez, 2010: 28). Besides, Paramilitaries of “Bloque Calima” arrived to the province of Buenos Aires in 2000. These groups were allied with powerful sectors of the region as well as with the Army (Escobar, 2008:63; Rojas and Vanegas, 2012: 30). Lately, after the demobilisation of paramilitaries (2005-2010), the Bacrim (or new gangs) appeared reproducing the practices of old paramilitary groups. The Bacrim in NC are the “Rastrojos”, “Aguilas Negras”, “Nueva Generación” and “Bloque Sur Independiente” (*Ibid*, 2012: 31).

The provinces of NC have been affected in several ways throughout the decades of armed conflict. The critical years are 2001 and 2002, when paramilitaries organized to dismantle guerrillas in the region. Within a total of 3,75 million displaced people in the whole country (UNHCR/ACNUR) around 19,549 people were displaced from their land including ethnic population (Codhes, 2012). As this paper will elaborate, the presence of large-scale development projects, mining corporations and the creation of the industrial zones is interrelated with the intensifications of armed conflict in NC.

In his work, Jacobo Grajales (2011), elaborates on the links between paramilitary violence and industrial projects and the way in which paramilitary forces became an extension of the armed forces and participated in the production and control of territories. Studies also how the links between members of the military, political elites and business interests with these paramilitary groups (Sanchez-Garzoli, 2012: 2). Thus, there exists three vectors of violence within NC: one stemming from the military to ensure that there is good business climate for private investment and megaprojects, the second from paramilitary groups or criminal gangs that use force, and terror to restrain social protests (Rey, 2011: 25); and a third one that comes from violent confrontations between military and FARC as actions embedded within the Colombian armed Conflict frame.

3.4.1 Discursive violence

During the last years of ex-president Uribe’s (2002/2010) administration there was an increased number of violent threats against black community leaders, trade unionists, and human rights activists. Within its political agenda of ‘Democratic Security’, the government delegitimized labour, peasant, indigenous and other movements through ‘smear campaigns’ that portrayed social leaders and government opponents as leftists, guerrillas and in some cases terrorists (Thomson, 2011:350).

The process of labelling these groups was rooted in and supported by global discourses of international security. New frames of international security, like the War on Terror focused on addressing issues of terrorism and organised crime (Yilmaz, 2010: 196). With the support of the US, Colombian government started a securitization campaign (Guaqueta, 2006). This global

discourse helped to create a national hegemonic discourse where guerrillas and left wing actors were depoliticized and turned into rebels and terrorists. In 2008, Uribe stated that guerrillas, essentially the FARC could not be legitimized as belligerent groups, otherwise, that would be a threat to the Colombian Justice (Adn, 2008).

Supported in this discourse of anti-terrorism, militaries, paramilitaries and Bacrim perpetrated actions against communities that opposed the right wing discourse of the government. I consider that black communities' territorial claims were pointed out as a form of resistance grounded on leftist discourses and with potential alliance with leftist groups.

Chapter 4. Untangling the State in the northern Cauca: Creating legitimate spaces.

“We are organized in Communitarian Councils. The Law 70 allowed us to organize in that way. The organization started as a result of mega projects without consent that started to be developed there and that were violent to the community’s rights such as the construction of La Salvajina and now the implementation of large-scale mining by transnationals” (Communitarian leader Francia Marquez in Sembrar, 2010).

4.1 Introduction

During the last 10 years, the state has reassured its central and direct role in economic growth. Santos’s economic agenda is based on the so-called ‘five engines’ for achieving its policy of ‘Democratic Prosperity’: housing, agriculture, mining, infrastructure and innovation. Increased foreign investment and the apparent escalation of economic growth (5.9% according to the World Bank, 2011) within the NDP, is also attached to the current government’s plan for judicial and fiscal reforms.

This chapter focuses on an analysis of the State’s roles and policies towards legitimation and accumulation purposes that have served for legitimizing the political authority of the state in NC Black communities’ territories. By analysing these two state’s building processes, this chapter examines and portrays how the ‘state can be strong in some ways and weak in others’ (Fox, 1993: 11). The following sections reflect on (1) accumulation policies and projects such as the Law 218 of 1995, the hydroelectric La Salvajina in Suarez and mining titling; and (2) peace-building policies like the LRL and the PNCT.

4.2. The Role of the Colombian State

As many other Latin American countries, economic land politics in Colombia is rooted in and a product of the feudal system of colonial times. Since colonial times, force and violence have been used for state building, based on land dispossession, labour and servile relations and the massive genocide of indigenous communities (Kay, 2007; Espinosa, 2007). Colonial and post-colonial practices have positioned dominant classes of capitalists (derived from land- lords who owned vast estates) in the powerful spheres of the state institutions.

Neil Harvey describes state-building “as an uneven and continuous process” whereby the state is not a completed static institution, but instead, is a non-static body (Harvey, 1998). By entering into the capitalist global economy in post-colonial times, Colombian state’s building process became attached to capitalist development and territory formation. Within this process, diverse dynamics of land control in order to create ‘territorial sovereignty’ led to the

state taking a lead role in modernizing the rural territory (Bebbington, 1989). Therefore, this situates the state as an active economic agent with the main purpose of capitalist development through accumulation and profit maximization, doing so by extractive social and political institutions.

During the last decades, the state's direct role in facilitating the survival of capitalism (Brenner and Elden 2009 in Rey, 2011) has been shaped by the imposition of neoliberal ideology. As David Harvey points out, neoliberal political economic practices propose that 'human wellbeing can be best advanced by the maximization of entrepreneurial freedoms within an institutional framework characterized by private property rights, individual liberty, free markets and free trade' (Harvey, 2006: 145). As it will be explained further, the case of the La Salvajina water dam in the province of Suarez shows the role the government plays in land control in order to create state sovereignty managed by market dynamics (Kay, 2009 in Thomson 2011).

By creating state sovereignty, the state has social and territorial control and legitimization of its normativity. The 'legitimacy process' (Stel, 2011), is described as the way the state operates its governance, through laws, land titles, social coercion and the use of force if it is necessary. Furthermore, 'performance legitimacy' deals with the expression of the legitimacy process, what the state delivers and what state institutions produce.

According to de Janvry, state actors gain political legitimacy at the time of responding to social claims in the best possible manner (de Janvry, 1981). The Colombian government did so with its constitutional reform of 1991 that enabled access to ethnic rights by black communities. On this sense, Colombian state has internalized social global discourses that have maintained its legitimacy. Also, after 1991, the multiculturalist discourse gave support to this apparent more democratic face by opening up spaces for political representation of indigenous and black communities. Lately, the global campaign and the paradigm of good governance have reinforced the state's protection of HR and creation of transitional justice programs (Duffield, 2001).

4.3. State Presence and Absences: 'Industrial Parks' and energy projects.

"I, as a victim, have called the lake La Salvajina as the rural land plague" (Elder Anatolio Lucumí in video Duarte, 2011).

The relative absence of the State is a *cliché* discourse used on both political and social discourses that blame the state for the conditions of insecurity, poverty, unemployment, marginalization, lack of health services, education, etc. It is also the referred explanation for the existence of violence in rural Colombia.

The absence of security in rural areas has explained the emergence of certain armed groups (Thomson, 2011; Pearce, 1999).⁹ On this regard, James

⁹ During the demobilisation trials (2005-2010), paramilitaries leaders stated that their organization as armed groups happened as a reaction to the absence of the state in their zones and the escalation of left-wing armed groups (Verdad Abierta, 2012 and Fieldwork Notes, 2010).

Robinson assures that the main problem of Colombia is the lack of control by the state, which has led to the phenomenon of paramilitary groups (Acemoglu and Robinson, 2012). Other aspects that support the relative absence of the state is the fact of not having had military regimes as in the cases of other Latin American countries (Brazil, 1964, Argentina, 1996 and Chile 1973) (de Janvry, 1981:191; Pearce, 1999). Its lack of military control in certain spaces has portrayed the state as inefficient for public security matters. In contrast to this, Jacobo Grajales (2011) develops his work around the idea that violence is not an extraneous factor of state formation, but another element of the construction of state sovereignty and territorial control (see also Ballvé, 2011). Therefore, the presence of violence could actually entail the presence of the state and not the other way around.

States engage or rely on other actors in order to complement its performance and boost its legitimacy (Stel, 2011). In NC, the apparent absence of the state has been replaced by the presence of private enterprises and armed groups that assure the securitization of these industries. Also, FARC sub divisions in the region have legitimized the need of having private security for enterprises. Therefore, based on this relative absence of the state, paramilitaries groups and private enterprise are in charge of creating 'safe spaces' for progress and counterinsurgency.

On the other hand, the presence of the State is legitimized by 'laws' and policies that bring 'development to underdeveloped areas', that is rural spaces. Within this panorama, state development agencies in coalition with private business initiatives have been in charge of processes of agrarian modernization of NC as a rural region with abundance of resources and hand labour. Appropriate examples of these actions are the following two projects: the energetic La Salvajina water dam in the 1980s and the 'Industrial Parks' in the 1990s.

4.3.1 La Salvajina Hydroelectric Dam

La Salvajina Hydroelectric dam was built in the area of Suarez, Morales and Buenos Aires provinces in 1985. It was constructed by the Cauca Valley Autonomous Regional Corporation (CVC)¹⁰ in order to protect the sugar cane plantations from the floods of the Cauca River (Semillas, 2008). Nowadays, it has an extension of 23 kilometres length, 400 m width and 150 m deep and produces around 270 MW of electric energy. The whole production of energy goes to the city of Cali in the neighbouring department.

The construction of this dam was opposed since the beginning. According to the PCN, in order to build the dam it was necessary to drown the surrounding plantations and more than 3000 families had to be displaced. However, the government and the CVC created Act. 86 that assured that the revenue from the dam would be allocated for development projects in the area. Part of this program of relocation?? Was that the CVC and the

¹⁰ The CVC was created in 1954 as a first attempt to decentralize development projects in the Cauca Valley region. Since its initial stages was supported by the World Bank and the major elites in the Cauca Valley (CVC Website, 2012). Nowadays, La Salvajina is runned by Union Fenosa-EPESA.

government promised to give 100 hectares to the displaced, and assured them of the legitimacy of the program.

What the development plan for La Salvajina aimed to accomplish has been unfruitful. According to the NGO Semillas, the CVC and local government only accomplished in giving 40% of the land that they had promised to give (2008). Moreover, there are no major development improvements for the people in the region, only 50 % of the houses have electric energy and no there are few or no water or health services (Fieldwork notes, 2012). This has resulted in an increased opposition to the project by the communities. As I will elaborate on, the military has been present since the beginning of construction up until today.

4.3.2 The Industrial Parks

During the 90's the so-called Industrial parks were created under the Paez Law, or Law 218 of 1995, that aimed to boost an industrialization process in NC after an earthquake in June 1994. With this law, the government encouraged new enterprises to the area through tax exemption or tax holidays, that were not related to exploration and exploitation of hydrocarbons (Colombian Congress, 1995). These new enterprises, including agricultural, cattle ranching, industrial projects, touristic projects and mining enterprises, in turn needed to show substantial increases of employment and revenue.

Today, the industrial zone gives tributary benefits to 130 transnational enterprises that came to the region under the implementation of the Paez Law (OTE, 2012). These enterprises within the 'Industrial Parks' promised a large sum of development assistance to the zone in hand with social responsibility programs. Although they created employment and industrial diversification, the benefits have not been distributed throughout the region. For the people of NC, a great number of the employment vacancies were given to people outside NC provinces, especially to people from neighbouring Cali (the closest urban centre) (Vanegas and Rojas, 2012) because of their lack of qualifications. Furthermore, the generation of employment was also marked by non-qualified activities of low income, mainly temporal contracts (around 49% of the jobs are temporal) with precarious social security and labour stability conditions (Vanegas and Rojas, 2012: 24 and Alonso, 2006). As it will be discussed, communities in NC haven't found the Industrial Parks beneficial for their development. On the contrary, there seems to be a rejection of the enterprises, also called 'fake enterprises' by some members of the community.

As a matter of a fact, this section analysed the implementation of two development projects in NC. The industrial parks as well as the hydroelectric La Salvajina seem to have worsened communities' livelihoods instead of enabling social and economic development to the surrounding communities.

4.4. Territorial Sovereignty and the 'Mining Boom': the privileging mining titles over ethnic territories

In recent years, discussion of territorial sovereignty and property rights have clashed during a so-called 'mining boom', where around 90 countries either adopted new mining codes or revised existing ones in an effort to

promote foreign direct investment in their minerals sectors (Bridge, 2007 in Holden, et al; 2011). As many other resource-rich countries in South America, Colombia adopted a mining code that unambiguously favours foreign corporations over traditional people's territories (Gordon and Webber, 2008: 69). In Colombian law assures that land has to be exploited efficiently otherwise it will be considered empty and can be taken by the state (Incoder, 2012).

The extractive economic agenda, "the National Plan for Mining Development 2019", encouraged the mass sell-off of land titles to mining enterprises nominating mining as one of the 5 engines of the national economy (PBI Colombia, 2011). In this regard, the mining code reinforced that the Colombian State is the proprietary of the sub soil and all the natural non-renewable resources (Colombian Political Constitution, 1991; Fierro, 2012). Currently, 40% of Colombia's land is licensed to or solicited for mining concessions and the mining sector represents 93% of the national export revenues (Proexport, 2012). The authorities have approved around 236 licences in Afro-Colombians territories (mostly in the pacific region) and there are around 1,868 pending applications (PBI Colombia, 2011) (See Annex III).

Thus, Black communities territories and mining enclaves are considered exploitable because there are no official ethnic titles yet. Communities in contrast, refer to their ancestral right to land in order to prove that they have been occupying, and exploiting, those spaces since colonial times (Fieldwork notes, 2012). To date, this 'ancestrality' argument has not helped to protection their territories.¹¹ But no matter to whom the land belongs, the discussion still remains on 'who actually benefits from things and through what processes they are able to do so' (Ribot and Pelusso, 2003:154; Pottier, 2002). Ultimately, in the case of Cauca, the discussion shifts to asking not who owns the land, but rather who can use the land?

In the case of NC, the government opened up the possibilities for mining exploitation by national and multinational corporations, with few or none actions of FPIC with NC ethnic communities. Multinationals, such as Anglo Gold Ashanti, Cosigo Resources and Union Fenosa came to the region looking for 'gold fever' (Ordúz, 2010; Fierro, 2012). One of the most relevant events in the history for territorial protection on Black communities in NC is the case of la Toma and the South African multinational Anglo Gold Ashanti that was aiming to exploit around 1.404 hectares in the province of Suarez (Orduz, 2010). These titles were given to the corporation without free prior informed consent (FPIC) of the community (Red Colombia, 2012). As I will elaborate on the next chapter, La Toma is the only case that has won the right over their land against the mining corporation based on the argument that there was a lack of FPIC.

The phenomenon of awarding mining titles in Black community territories is an example of accumulation by dispossession. This concept elaborated by David Harvey on Marx's definition of primitive accumulation occurs when capitalism opens up 'new fields for capital accumulation in domains hitherto regarded (as) off-limits to the calculus of profitability' (Harvey, 2006:153). It

¹¹ More international legal mechanisms for ethnic groups in relation to mining in Annex II

explains how mining operations, are taking over ancestral lands of black communities in the sense that ‘neoliberal policies enable mining corporations to locate and develop mineral resources in formerly inaccessible areas’ (Holden, et al; 2011: 141). Thus, we see a paradox in the awarding of ancestral titles (and formalizing the nation state territory), and at the same time, having in place laws that threaten those very same titles should the communities not develop their land (and now state land) “efficiently” according the neoliberal principals.

In this sense, the discussion of territorial sovereignty is reduced to the aspect of property rights and relies in two different angles: On one hand, property rights are trying to be pushed through that favour extractive institutions and are informed by state policies on accumulation. On the other hand, property rights have become the main claim for ethnic communities and victims of land dispossession (either within the frame of Colombian armed conflict or by ‘legal’ processes of dispossession). The creation of state sovereignty through territorial control in Colombia and Cauca clashes with indigenous and black community demands for autonomy and territorial sovereignty of their ancestral land. By claiming territorial sovereignty, ethnic communities demand the protection of their physical and cultural space.

In this case, autonomy and sovereignty call for the necessary conditions in order to preserve cultural identity and the material basis for social and economic reproduction (OTE, 2010). On the other hand, legitimate sovereignty of ethnic communities creates difference within the homogenization process; it clashes with the hegemonic system. As Fox (1993) points out, differentiation that follows dispossession is often reinforced by ethnic differentiation; ‘those peasants economically disadvantaged also frequently belong to indigenous/tribal communities, and are thus of a culturally/ethnically minority status’ (in Das, 2007: 358). Thus, it is not difficult to imagine that within capitalist development processes in Colombia, those who are minorities are also the product of ethnic inequality.

In pursuing legitimization, state actors react towards social pressures coming from different spaces of society, including ethnic minorities. Their reaction is ‘legitimized by the ideals of liberal democracy’ (de Janvry, 1981:188). In Colombia, these social pressures, such as claims for political representation and rights, were actually addressed in the constitutional reform of 1991. However, as de Janvry asserts, State actors also limit the scope of democracy in such a way that state reforms do not contest the existing structures. In Colombia, this can be seen through the guise of land titling for ethnic communities (under the Law 70) as a way of ensuring a formalization of the state’s territory and the nation.

This subsection has aimed to show the complexities of the territory disputes regarding ethnic rights and mining exploitation projects. The legitimization/de-legitimization process occurs within the clashing relation of state’s sovereignty and ethnic people’s sovereignty over the territory. This process is translated into the domain of property rights.

4.5 Progressive Laws versus Regressive Actions: LRL and ‘Peace Consolidation.’

This section discusses two policies that represent state’s peace building efforts: the Victim’s and Land Restitution Law (only focused on the LRL aspect) and the National Plan for Territorial Consolidation or ‘Consolidation zones,’ both in the context of NC. It is outstanding how these two policies aim for political and social stability within the frame of the Colombian Armed Conflict.

The LRL and PNCT are examples of the other side of the coin of the contradictory relation between accumulation and legitimacy. The sections above showed how the state makes the space for capital accumulation through which will maintain its political legitimacy. These policies emphasize on the state’s efforts to maintain or create the conditions for social peace and political stability aiming for legitimacy (Fox, 1993). However, as I will describe, these policies can also be ‘an art of [the] state to prepare and utilize its power and resources in line with the national interests’ (Yilmaz, 2010:199).

4.5.1 *The LRL*

The ‘Victims Bill’ was debated in the Colombian Congress since 2008 and finally endorsed in May 2011 with a final disposition on Land Restitution (Saffón, 2010). This Bill represents an apparent turning point in the sense that it aims to tackle the problem of massive displacement by returning 2 million hectares to victims of forced displacement.¹² Up until now, there have been 14.200 requests for registering land through the restitution registration program, approximately 1.085.782 hectares approximately (Inceder, 2012).

As mentioned before, approximately 3.5 million people have been displaced from their land by the actions of armed actors (left and right wing forces). Therefore, restitution of land can be interpreted as a measure for conflict resolution and reconciliation within a frame of transitional justice. This stage of conflict resolution measure has been the centre of other transitional justice frameworks in conflict resolution such as the case of South Africa (Walker, 2008).

In the Colombian case, the LRL covers the period since 1985, but only addresses land seizures and dispossession events from 1991 onwards¹³ generated by any of the armed actors. This normativity leaves out other processes of land dispossession grounded on land control without necessarily displacing people and dismisses other types of grabbing actors. Displacement has happened not only for military reasons but also as a tool to acquire land for mega-projects and other development programs (ABColumbia, 2011).

¹² In 2008, the House of Representatives approved the Victims’ Bill that seeks to grant a broad range of rights to the Colombian conflict victims and also established mechanisms for their protection (Saffon, 2010: 114). By 2010, president Santos endorsed a new bill with emphasis on land restitution. By 2011, a new version called Victims’ and LRL was endorsed (Ibid, 2010).

¹³ The Bill presupposes two elements: (i) victims in general and directly dispossessed land victims. Victims of land dispossession and/or land abandonment by violent means are entitled to Land Restitution only if it happened after the 1st of January of 1991. Victims of previous events (before 1st January 1985) are entitled to Victims Law and have the right to ask for reparation and no repetition assurance (Victim’s and Land Restitution Law, 2011).

In NC case, the LRL seems to be insufficient for dealing with cases of land dispossession of Black communities. The first reason of this statement relies on the actual absence of Black peoples land titles that could prove that dispossessed land were their property. However, the LRL does emphasize that for extreme cases, this prove is not necessary. But, as a member of the Land Restitution Office argued, the implementation of the LRL in the region would only be reached in the places that are 'easy' to untangle land restitution and where there are not development projects already running (Fieldwork notes, 2012). This means that even if displaced people manage to prove that they inhabited those territories, developmental interests would prevail.

Under the framework of the LRL, cases of dispossession that generated displacement such as the case of la Salvajina do not fit the normativity requirements. In this case, the community of La Toma are expecting reparations under the framework of the Victims' Law. The dates presented in the Law are insufficient, and do not cover, for example, this case in which the community was displaced. During the La Salvajina project military forces were involved in the dispossession of the territory in the sense that people could not oppose the project or forcibly moving. Although there was military presence during the construction of La Salvajina, the dispossession caused by this construction does not fit within the timeframe the Land Restitution program. Under the LRL dispossession is classified as being caused 'by' any of the armed actors (military, guerrilla and/or paramilitary).

Analysing the LRL as a mechanism of conflict resolution opens up the discussion regarding its nature as a pro-poor land policy or not. Even though the ideological roots of the Victims and LRL are grounded on a political discourse that aimed to tackle the structural issue of land in Colombian conflict; its character does not necessarily mean that there is going to be a change within the socio political relations that have affected the rural victims of displacement. According to Patricia Vasquez, researcher of the Internal Affairs office, the Bill has a liberal character and it functioned as a presidency campaign when the topic of the victims was strong (Department of Internal Affairs, fieldwork 2012). Therefore, although the majority of displaced victims belong to working 'poor' population (marginalised rural communities, indigenous and afro-descendants), the LRL does not seem to benefit them within the frame of a pro-poor land policy.

What determines the actual effects of a pro-poor land policy is the 'direction of flow of change' (Borras and Franco, 2010). Therefore, it is needed to question if the LRL would entail a change in the patterns of land-tenancy (that have been at the heart of the violent conflict). According to Borras and Franco (2010), a pro-poor land policy transfers wealth, political power and ensures that the policy benefits the landless people. To this extent, the LRL fails to address the aspect of 'transfer' and also denies historical perspectives on the of land dispossession.¹⁴ Moreover, it denies the historical responsibility of the state within ethnic communities land displacement, where the army is an essential armed actor.

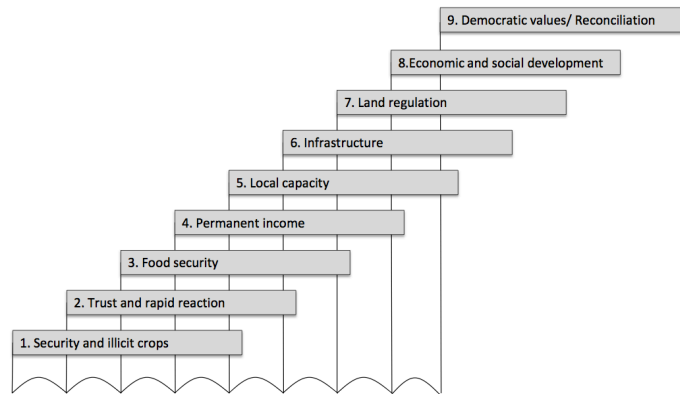
¹⁴ Which is what 'allows for a social justice framework to be fully developed' (Borras and Franco, 2010:12).

4.5.2 The PNCT in northern Cauca

The National Plan for Territorial Consolidation (PNCT), launched in 2007, includes policies that were made to enhance economic growth, but which actually contradict peace-building policies (Bremond, 2007). Through the PNCT, the state affirms its presence through militarization and entrepreneurial efforts. According to Arturo Escobar, ‘the government’s response [to violent conflict] has been to step up military repression and surveillance within a conception of “democratic security”’ (Escobar, 2008: 20).

The PNCT has been active in other conflictive regions of Colombia and proposes to combine military and civilian efforts to establish a functioning government in these areas (CCAI official website). These projects have been funded by the “Office of Transition Initiatives” (OTI) of the U.S. Agency for International Development (USAID). The consolidation policy aims to: 1. Guarantee citizens’ rights throughout the national territory. 2. Integrate peripheral regions into the country; and 3. Establish effective governance (Jaramillo, 2010).

Graphic 1. Sequence of Consolidation Mechanism.



Source: (Jaramillo, 2010)

The first stages of this program are to enhance security and the last one is to promote reconciliation, going through a diverse program of social and economic development. (See graphic 1). Through the implementation of enterprises and private sector, state policies seek to stabilize the region and combat violence. Following Duffield, the paradigm that affirms the Consolidation zones as the way of enhancing development through securitization is based on ideas of ‘Good Governance’. In hand with the Good Governance paradigm, is the theoretical discussion on liberal peace –an emphasis on neo liberal economics as the preferred policy choice for post conflict states (Salih, 2009). The problem here lies in assuming that free market and individual property rights are the formula for creating stability. Furthermore, Salih (2009) states that liberal peace and neo liberal policies ‘have exacerbated economic marginalization among the poor, increased poverty and fomented grievance and social injustice’ (2009:137).

The PNCT relies on the militarization in order to enhance legitimacy of the state. As such, military appropriates functions that normally are played by

governmental institutions, such as for the construction of roads, bridges and aqueducts, and the running of social programmes like health campaigns, this greatly blurs the line between civilian and military institutions (Sanchez-Gorzeli, 2012: 10). Moreover, the presence of the military is legitimized, through a 'new' relation between PNCT and the LRL. According to Jaramillo (main proponents of the PNCT), zone's consolidation needs to precede restitution. This program also aims to combat the situation of violent threats against people who are asking for Land Restitution. As Jaramillo points out: 'If land restitution is done in unconsolidated areas, there are security risks and resources are spread thinly' (Jaramillo, 2010).

In the case of the PNCT in NC, international law states that communities must give FPIC to the construction of military installations in their territories (Sanchez-Gorzeli). But, 'despite the correlation of consolidation zones and ethnic territories' black communities were not consulted in the reformulation of the consolidation programme (Sanchez-Gorzeli, 2012: 10) in regions such as the NC. Furthermore, communities have expressed concern over the negative effects of the consolidation project on ethnic territories. (Sanchez, Gorzeli, 2012).

The LRL and PNCT are examples of the legitimacy strategy of the state. This section, thus, attempted to explain how these efforts cannot be classified as ultimate goals for social and peace stability. As such, both policies remain short in the benefits for black communities. The LRL does not ensure 'social justice' and the PNCT runs with the risk of reproducing previous experiences of militarization where civilian population has become subordinate to military impacting social relations.

Chapter 5. ‘Enemies of Development’: Creating de-legitimised spaces.

“And it is there, where we claim to the national government (...) to please stop the hostages, because in this region we do not harm anyone, the only thing we ask for is the defence of the territory” (Communitarian leader Lisifrey Ararat in Sembrar, 2010).

5.1 Introduction

State and power structures delegitimize social and political claims as well as practices (counter hegemony) that oppose the hegemonic neoliberal type of development. As explained throughout previous chapters, NC has been the epicentre of several industrial and development policies that have generated a series of affecting outcomes for black communities. These have been described in order to create the frame in which this last chapter develops. The aim here is to discuss and describe the actual process of de-legitimation of black communities’ territorial claims. This last analysis supports the argument that neoliberal type of development delegitimizes alternatives to development through policies and discourses, reinforced by the ‘good will’ of modernization and progress. As a mirroring process, while the de-legitimation process occurs, the political legitimation of the State is strengthened.¹⁵

Throughout the chapter, I reflect on two different levels of de-legitimation. On one hand, the discursive de-legitimation actions of cataloguing artisanal mining as illegal and labelling community leaders as ‘enemies of development.’ On the other hand, the ideological de-legitimation through the invalidation of counter-hegemonic practices, that is the de-legitimation of alternatives to development and the pressure for ‘becoming’ legitimate, officially in the state nation system.

Section 5.2 takes these processes previously explained and describes more empirical data about the consequences of the de-legitimation issues. I refer to the current constraints that people in northern Cauca Communitarian Councils (CC) mentioned as their most immediate concerns: the presence of violent confrontations between the military and FARC in relation to the Salvajina Water Dam, and issues regarding labour exploitation and employment conditions within the ‘Industrial Parks.’ Lastly the aspect of training the communities in order to ‘feed’ the army labour of these enterprises is discussed.

Finally, section 5.3 discusses the pursuit for collective land titles. I explain the communities’ efforts to attain collective land titles as a way of mobilising and enforcing their territorial claims. Although I contest the fact that these claims are a representation of ‘struggles from below’ I do engage with an

¹⁵ Dubravka Zarkov used the term ‘mirroring process’ in a personal conversation, October, 2012.

analysis of the pursuit of these titles as a way of gaining ethnic recognition that could translate into the protection of their territories through tools such as the FPIC.

5.2 “Why are we now illegal?”

“Anyone that is against the system is a subversive”
(Sandoval, P. personal conversation 2012).

The de-legitimation of practices such as artisanal mining is embedded within the process of accumulation by dispossession. As noted by David Harvey, dispossession occurs also in the sense that there is a ‘suppression of alternative forms of production and consumption’ (2006: 153). In this sense, since the government increased its incentives for mining exploitation, a consequent process of de-legitimizing the artisanal ways of exploiting the subsoil occurred.

As mentioned in chapter 4, the case of La Toma is perhaps the one that has had more visibility in terms of exposing the massive and violent process of mining titles in ethnic land. Since 2002, the state has given mining licences to private enterprises under the understanding that those regions are not populated and that the few communities in the region that practise artisanal mining are not official exploiters of the national sub soil. This goes in hand with the new mining code that highlights that only mining authorities can give exploitation permits to whoever wants to extract the subsoil minerals (Mining Ministry, 2006).

In 2002, the governmental institute for mining, Ingeominas, conceded a number of 99 hectares to a private title. This was made without the previous consent of the communities that inhabited the area of La Toma leading to a series of social confrontations with the institutions. By April 2010, the Cauca governor had suspended all the exploitative activities made by people who did not have official licenses to do so. Subsequently, he issued an eviction order to more than 1.300 families that subsisted from artisanal mining in this zone (Fierro, 2012: 164).

The community eviction was paused because the general director of the CVC stated that indeed, in those regions there were organized Black communities and that by law they had the right for FPIC. Within a period of two months, the communitarian leaders of La Toma in collaboration with the NGO Sembrar were successful in taking the case to the International Court of Justice in 2010. Finally the Court sentence T-1045A of 2010 gave the land rights to the community and ordered Ingeominas to suspend all the mining licenses in the La Toma area until rigorous FPIC processes occurred.

The case of La Toma is a unique case because is the only one that has achieved this ‘successful’ outcome. The opposition of the communities to all the other mining projects and their insistence on practising artisanal mining activities has placed them in another situation. According to Lisifrey Ararat, communitarian leader of La Toma, labelling usurpers of the national subsoil resources as illegal has not ceased, more so it has been reinforced. To this, he questions:

“Why is artisanal mining considered illegal now when it was not before?” And he continues, “if these types of practices are illegal, then the independence and development of this country was reached by illegal mining exploitations” (Ararat, personal conversation 2012).

The ‘illegality’ label has produced secondary effects and reinforced stereotypes about black people in national imaginaries that could be reflected in state policies. Ararat (2012) states that this categorization has caused people in his community to become unemployed, and has negatively stigmatized them (Fieldwork notes). This process has also legitimized the entrance of big corporations that supposedly will ‘formalize’ mining activities. Therefore, in addition to the mass sell-off of mining titles, other types of corporations have tried to enter to the zone but from the communities’ side. In this sense, the argument that supports the need of formalizing and changing artisanal practices is that those practices are dangerous and environmentally damaging. In opposition, miners assure that their practices are safer than large-scale mining methods or open-pit gold mining. Moreover, they state that the machinery used by big corporations makes a big impact on the territories whereas their small-scale exploitation is only made for subsistence matters.

Here it is necessary to reflect on the fact that power structures delegitimize social leaders by labelling them as insurgents and embed or link their discourses of those of the guerrilla. As mentioned by Lisifrey Ararat: “For the government, indigenous, afros and peasants are denominated as FARC auxiliary” (Ararat, conference 2012). The La Toma case exemplifies one of the biggest challenges that the mining engine, reinforced by the current government, will face. This case is an example of violent threats and dispossession related to the mining- violence nexus. Since 2009, communitarian leaders of the Suarez municipality have been violently intimidated and received death threats because of their engagement with the defence of territorial rights against the mining corporations. According to Rico (2010), eight artisanal miners were killed in April 2010 and various members of the community received intimidating messages from the Aguilas Negras (criminal gang).

As I mentioned in chapter 3, the process in which this labelling occurs is framed within the hegemonic discourse of the Uribe government that depoliticized the discourse of guerrillas and left wing actors. From this standpoint, artisanal mining and territorial conformation of black communities is condemned or illegitimate. This illegitimate framing is due to the hegemonic Neoliberal discourse that tends to frame all economic activities in terms of their global average rate of profit and all social activities in terms of their contribution to capital accumulation (Jessop, 2012: 31).

The case of San Antonio (CC of Aires de San Antonio and San Jom) represent a different type of ‘unofficial’ labelling where communitarian councils are not officially registered and still require characterization, in order to be approved. Black communities of the northern Cauca are trying to categorize and officiate their existence in these territories by the institutionalization of CC, as a way of gaining power and representation. But as it can be seen in the official government registry, the government has officialised none of these CCs. This means then that they are considered as

non-existent 'organized' communities in the region. According to Eugenia Vazquez, a researcher in the department of the FPIC unit at the Internal Affairs Ministry, the communities can organize the CC, but if the government does not officiate them, then socio-political privileges of representation are not delivered.

Finally, this subsection aimed to analyse the forms in which discursive de-legitimation is made within the state's frame of 'legality' and 'official.' It exposed the case of labelling artisanal mining practices as illegal and a brief case of not officialising forms of black communities' organization.

5.3 De-legitimacy and its Consequences: violence and labour exploitation

The consequences of the de-legitimization of black communities' territorial claims have meant a militarization of the area and an increase in violence. This sub chapter discusses the role of de-legitimization and causes of violence, the cyclical relationship militarization has had on increasing violence, and a third type, of labour exploitation violence. This sub chapter will use the cases of La Salvajina and industrial parks as a basis for discussion and analysis.

The end of the 1990s saw an increase in the number of enterprises as well as a continuance of violence in the region. Concurrently, there was a revival of organizational dynamics of peasants and ethnic groups (Vanegas and Rojas, 2012) and at the same time very notorious HR violations occurred where these new dynamics of organization were rising, and then subsequently suppressed in violent ways by armed groups. This suppression of struggles that oppose accumulation by dispossession processes are very apparent. As argued by David Harvey (2006), 'struggles surrounding accumulation by dispossession are often violent and in developing countries where opposition to accumulation by dispossession can be strong, the state often resorts to active repressing even to the point of low level warfare' (2006 in Holden, *et al*; 2011: 157). The relationship between the presence of enterprises or corporations and violence in northern Cauca is a good example of what Gordon and Weber (2008) call the 'capitalist insurance policy.' For them, 'multinational corporations functioning in the extractive resources sectors in Colombia (have) commonly turn to paramilitaries for 'security reasons' (*ibid*, 2008: 79; Grajales, 2011).

5.3.1 The connections between violence, de-legitimization and militarization

In the case securitization of economic development projects such as La Salvajina, the private enterprises and current mining exploitative agencies have increased violence in black communities territories in two ways:

Firstly, this presences and militarization has increased violent confrontations between the FARC and army within civilian spaces, especially in communities surrounding the La Salvajina dam where a military base settled to defend the hydroelectric dam. People have been affected directly, by having bullets in their houses, wounding people, gunfire in their houses, and indirectly by having to stay at home, children are unable to go to school, people are

unable to harvest and to go to their mines. Moreover, daily life has been affected, such as by having to adjust their schedules to military permits, imposition of food control and creation of regular checkpoints.

Secondly, violence has been experienced through violent threats against communitarian leaders. When the communities started to organize themselves in CC and advanced their claims to legalize their territories as property of ethnic groups, there was an intensification of violent threats by paramilitary or criminal gangs.¹⁶ As Ararat said in one public conference: “The 22nd of October [2010] we were labelled as military objective by the New Generation of Aguilas Negras.” (Sembrar, 2010) Death threats from the criminal gang Aguilas Negras are the most common within the black communities of La Toma and Buenos Aires. These criminal gangs do not have interests in coca plantations, as it was in previous years, but in the territory where big economic development projects can be implemented, mainly mining exploitations. Coercive forces like the Aguilas Negras that try to control territory and silence communitarian efforts for land, ‘are key actors in the exclusion of subordinate populations from the enforcement of their rights’ (Grajales, 2011: 782).

Following similar paramilitary patterns in previous years, criminal gangs have followed a pro-progress discourse and defend the ‘development’ of the state. For example, one of the threat messages to a leader in La Toma was “Terrorists: you’re impeding economic progress and the government’s democratic security doctrine. Long live to a Colombia free of guerrilla union leaders” (Jo Janisch, 2010). The categorization of movements as illegitimate and opposed to development, and their relation to violent conflict have in turn legitimised militarization in these territories, and consequently intensified armed conflict in the area. As Holden states, by depicting people as insurgents ‘a militarisation of areas inhabited by them is made easier’ (2011: 157).

Regarding the militarization and the confrontations, the perception of violence in the communities is that war is a strategy for displacement. “They want people to leave this zone and leave the place clean” (Mina, E. in personal conversation, 2012). For some people within the community of La Toma, the reason for the confrontations in their territory is because both the guerrilla and army want their land for productive means, either of cocaine plantations or extractive activities. “You will see, they are going to make us leave, and then you can be sure there are going to be 20 multinationals over here” (Mina, 2012).

5.3.2 Manipulating opportunities: the influence of violence and enterprises in Cauca

There is another type of violence brought on by the presence of private enterprises in the region, the *manipulation for employment* (Fieldwork notes, 2012). The commercial logic of agrarian modernization in NC has led to social and demographic dynamics in labour control and job recruitment. According to

¹⁶ Paramilitary presence can be stated until the year 2006-2007. Afterwards, Criminal Gangs became present in the municipalities of Buenos Aires, Suarez and Santander de Quilichao (Fieldwork notes, 2012).

Axel Rojas, “before people were only struggling for their land and territory, now, after the Paez Law, and other industrial processes, people are struggling for getting a job” (Personal conversation, 2012).

The enterprises of the Industrial Parks generated employment that was marked by non-qualified activities of low income, mainly temporal contracts (around 49% of the jobs are temporal) with precarious social security and labour stability conditions (Vanegas and Rojas, 2012: 24; Alonso, 2006). As it has been analysed throughout the last chapters, the development model implanted in NC has affected the communities in different ways. Furthermore, in order get employed by the enterprises, communities have had to enrol into educative institutions that were implemented with the purpose of training people for the enterprises.

Because of the intricate presence of industrial enterprises and a prevalence of violence, certain dynamics determine the socio-economic processes that are considered legitimate. According to Rojas and Vanegas (2012), the institutions that provide ‘opportunities’ for the community are from the army and the enterprises. They recognize that the industrialization process of the region continues to favour these two institutions over other possibilities of employment and economic development.

The training can be analysed as a way of creating the ‘army labour’ for enterprises through educative institutions. People from the community of San Antonio exposed how job opportunities and education opportunities are directed towards ‘feeding’ private enterprises of NC. Here Thomson (2011) elaborates on the notion of the on-going dissolution of the peasantry creating a ‘reserve army labour’ unable to be employed in the urban centres and becoming a reserve army in the conflict’ (351). In the case of NC, the industrialization process has created a ‘reserve army labour’ for both Industrial Parks and the army.

One has to ask if there are also specific depictions of black communities that reinforce educative projects offered only for certain labours such as heavy work and industrial labours, instead of highly professional capacity training (Rojas, personal conversation 2012). According to Rojas, the capacitation and educative project is only focused on preparing technicians but never managers, supervisors and chief executives (personal conversation 2012). According to the communities in San Antonio, due to the lack of employment and their employability, enterprises can thus manipulate workers for extra-hours of work and limit their social security rights. People from the CC of San Antonio and San Jom are convinced that there is no other option than to take work in these sectors. This has thus reproduced unequal patterns of opportunities where ‘the poor located in the peripheries of society are systematically deprived of their means of making a living and forced to look for work from the rich and powerful’ (Holden, et al, 2011: 142).

The subsection above aimed to expose the link between the process of de-legitimization of black communities’ territorial claims and the presence of violence in their territories. It highlighted an intricate relation between development projects and armed actors such as in the case of La Salvajina, as well as a relation of the industrial parks and labour exploitation as another form of violence.

5.4 Land and Territory Struggles from Below: The pursuit of collective land titles

This section reflects on the pursuit of collective land titles as a manner of becoming legitimate and formalizing ethnic communities' territories as legitimate spaces. As it was mentioned before, different processes derived from Law 70 pointed to the need to officialise the territories of Black communities. Currently, territorial claims for sovereignty and autonomy have been 'reduced' to the achievement of collective legal land titles.

The pursuit for collective land titling can be analysed as a tool that will protect black communities' territories from threats, and at the same time, will give them recognition as ethnic communities with special rights. As pointed out by Grajales (2011), 'collective deeds have a particularly solid legal protection; they are unalienable and indefeasible' (2011: 786). By relying on the tools given by the juridical system, ethnic communities assure their legitimacy within the state. In black communities, the only way of defending land property was through officiating collective territories under the authority of the CC (Rojas, 2012). However, even if the CC are already formed, as in the case of Aires de San Jom in the province of Santander de Quilichao, that does not entail the collective right over the territory. Therefore, the communities have engaged in the work of "certifying experiences," which means proving the legitimacy of their organizations and their belonging to that territory since colonial times (although they refer to it as ancestral times).

It is thought by some theorists that although collective land rights may appear as a form compensatory justice within the democracy building agenda, 'they actually help advance the neoliberal model by rationalizing land tenure and by locking the community into the mind-set of national state and its ideas of progress and development.' (Hale 2005 in Rey, 2001: 23). Consequently, land titling as such is facilitating the 'imposition of state sovereignty over non-state spaces, allowing for expropriation of land for purposes of territorialisation, accumulation and taxation' (Vellema, et al; 2011: 301).

Therefore, acquiring collective rights will regularize property rights into the juridical system (Hale, 2011 in Rey, 2011). As it was mentioned in the previous chapter, the search for officialising ethnic property rights is a way of conducting politics within the institutional framework of the state. Yet, Black communities pursuit of land titling is also a way of getting the ethnic categorization in order to attain other protective measures such as the right to FPIC (under the domain of the ILO 169 signed on 2009). In any way the adequacy of the FPIC as an absolute protective measure is something to be contested. As it has been seen in different cases (such as the case of the Embera community),¹⁷ the FPIC was manipulated so that the interests of the multinationals and the state remain prevalent.

Nevertheless, I consider that although land titles are a tool given by the state, the collective dimension would recognize their communities as ethnic communities which could be interpreted as a counter-hegemony action. By claiming for the ethnic recognition, Black communities are challenging the

¹⁷ In the case of the Embera community FPIC tools were manipulated to leave their territory in order to develop the construction of the Hydroelectric Urrá (Rámirez, 2010).

hegemonic narratives of the powerful national and local elites. They are claiming for the recognition of the multicultural difference within the nation. However, as stated by Carroll, 'counter hegemony cannot simply remain on the terrain of hegemony, contesting its issues within its discursive frames (2006:20). For him, resistance discourses against neoliberalism need to go further than a discursive opposition.

Consequently, black communities political project does oppose to certain discursive aspects of the hegemonic neoliberal type of development discourse, but at the same time, one could argue that by claiming collective titles black Communities are 'reclaiming the commons,' that is, reclaiming their land and their modes of subsistence. This could entail an accomplishment of a counter hegemony position that goes beyond the discursive approach. Nevertheless, as argued once again by Carroll, resistance discourse cannot only be 'reclaiming the commons' (2006:20). According to him, 'the question is how to relate creatively to the immediate conjuncture while avoiding capture by the hegemonic discourses and practices' (*ibid*, 2006:21).

One could argue that, by contesting the development mega-projects and land dispossession policies, black communities are confronting the way in which neoliberal policies have been applied to their territories. Thus, the communities of La Toma and San Antonio, in hand with PCN members, are engaging in 'creating' alternative ways of production that do not fall under marketization and privatization. For example, they have created special farms for autonomous production and distributed revenues, both of which oppose the notions of private property within the community (Mina, E. 2012 personal conversation). Even though there exists a notorious 'refusal to be co-opted into the game,' one always needs to ask to what extent these alternatives can persist if bigger structures are not contested.

So far, the struggle for autonomy and sovereignty does not compare to what a title could possibly entail; as it was said in one of the meetings, "the title is not even our territory, it is just a paper title" (San Antonio, August 2012). According to Rojas (2012), this discussion is related to the 'over- normativity' of the recent political projects, which has led to a conflictive relation between 'cultural territories' and 'juridical territories' (2012:135). Hence, 'the multiculturalist project homologates the juridical struggles with the political projects' (*Ibid*: 135).

5.4.1 Collective land titling and the LRL

As stated in chapter 4, the LRL excludes land restitution for ethnic groups who experienced land seizure or displacement prior to 1991. This encompasses the communities that were displaced by the construction of the La Salvajina dam in Suarez where military presence was a main threat. However, the LRL could be a mechanism through which the communities can claim collective land titles as reparations in specific cases. Within the transitional justice framework, victims that prove they have been violently affected by armed actors (guerrilla, paramilitaries or military) since 1985 could attain reparations.

As stated by Acxan Duque, representative lawyer of AFRODES, there are ways in which communities can use the gaps within the laws that do not seem

to benefit them (Personal conversation, 2012). For example, even though the LRL seems to maintain the *status quo* of structures of power by only returning those territories where no major exploitative projects had been or are being made, collective titles could be negotiated as a way of juridical and administrative reparation. Furthermore these groups could use the apparent transitional discourse of “never again” to push forward their claims.

5.4.2 Concluding Thoughts

Finally, the discussion on land titling opens up the following questions that cannot be addressed in this paper because of space constraints and that would be pertinent to study:

(i) The actual efficacy of the land title as a protective measure against extractive development projects within the juridical frame that assures the state as proprietary of the sub-soil.

(ii) Problematizing the actual reach of the FPIC tool. Previous experiences have shown how FPIC can be a land grabbing mechanism if we take into account that laws are part of the juridical system that reinforces interests of power structures. As it is shown in Annex IV, previous informed consent processes of mining activities have not been transparent with northern Cauca communities.

(iii) Although land titling seems to be the main goal of the Black community’ political project, not all members within the communities share the same ideological project. As stated by some CC’s members, some people are hesitant in giving up their individual properties in order to attain the collective titling (fieldwork notes, 2012). Individual interests are not necessarily in line with the ‘ethnic’ project of black communities.

Chapter 6. Conclusions

The Colombian state development strategies in the context of northern Cauca have entailed both the de-legitimization of Black community territorial claims, as well as the existence and persistence of violence in their territories. This paper aimed to show the ways in which the de-legitimization has occurred. The analysis placed emphasis on a contested process of state legitimization as a mirroring procedure of the de-legitimization of counter-claims. Even though the process of state legitimization invalidates counter hegemonic claims, it does not necessarily mean that the state directly de-legitimizes Black communities.

For this analysis, the paper has navigated through two different levels of scrutiny: On one hand, the state's dual role of creating accumulation and legitimacy through economic development projects and peace-building efforts. And on the other hand, the ways in which this dual strategy brings negative effects to Black communities by de-legitimizing their counter-hegemonic discourses and practices as well as by fuelling violent conflict in their territories.

The government's dual strategy in northern Cauca was explained through a review of i) economic development projects such as La Salvajina hydroelectric dam, the Industrial Parks and the mass sell-off of mining titles; and ii) peace-building policies such as the LRL and the PNCT. Even though these two state strategies are contradictory in the sense that the former does not necessarily create peace, and the latter would entail structural changes that undermine accumulation, both strategies legitimize the hegemonic power of the state.

As it was described in the last two chapters, the three economic development projects in northern Cauca have had violent impacts on Black communities and their territories. At the same time, Black communities have enhanced their territorial claims against the processes of land dispossession and armed actors in their land. By claiming for autonomy and territorial sovereignty they have consequently made a counter hegemonic claim. Interestingly, state strategies for accumulation and legitimacy have resulted in an interlinking of de-legitimization and violence against Black communities and their claims in two different ways: i) a discursive de-legitimation that entailed the categorization of community practices as illegal and the labelling of community leaders as 'enemies of development'; ii) an ideological de-legitimation of alternatives to development as well as the pressure to 'become' legitimate in official terms of the state.

Regarding the peace-building policies, the analysis of the LRL and the PNCT showed how they do not benefit the creation of social stability in Black community territories. The LRL only benefits those who fit within the normative period of displacement (from 1991 to the present) and ignores older actions of land dispossession and 'legal' ways of land control (such as militarization). By ignoring this historical perspective, the LRL also fails to develop a 'social justice' framework (Borras and Franco, 2010). By stating that land restitution would only be made in specific cases within the armed conflict,

cases such as La Salvajina and the presence of mining corporations are not treated as falling within the normative frame of land dispossession, and therefore do not constitute a case for reparations. Likewise, the PNCT militarization strategy as a form of state political and territorial legitimacy threatens Black community claims for sovereignty and territories free of armed actors. As it has been experienced in other parts of the country, militarization has created violent environments for civilians.

Throughout the analysis, the paper reflected on the links between violence and development projects in the region, where the evidence of the violent manner in which development mega projects were being created was discussed. For example, La Salvajina dam project entailed the displacement of families; the enterprises within the Industrial Parks has entailed labour exploitation; and, the presence of mining corporations in the region has increased violence through paramilitary and criminal gangs presence and the inter-linkages between the two. All of these development projects (including the PNCT) have been securitized, either by the army or paramilitary groups generating an escalation of violence in the surrounding communities.

Black communities' claims against all these processes rely on the fact that they impede their territorial autonomy and their lives. These demands are perceived as an opposition to development because they claim for the protection of the accumulation and power sources: land and resources. Within the strategies for territorial protection, collective land titling is at least a potentially preventive mechanism against the dispossession of land and violent confrontations in their territories. As it was mentioned, black community territories have not been recognised as ethnic territories yet. Hence, acquiring the collective title would entail their recognition as ethnic communities with the right to FPIC (under the ILO convention 169). Even though this right is supposed to enhance their territorial autonomy in against state and private enterprise decisions over their territories, FPIC is not an absolute protective measure. As it has been experienced in previous cases, mechanisms of informed consent remained weak and inefficient.

Finally, this research paper aimed to highlight the tensions between economic development strategies, ethnic land rights and violence as aspects embedded in legitimizing institutions and social structures that favour the *status quo* of power and control. The implications for society are extremely important as there are no guarantees that the state will ever be hold itself accountable for its unconstitutional activity in the name of minority groups. Minority groups do not hold much political influence since they lack economic and political power. However, they do encompass social power through the creation of social capital, mobilization, and creating awareness. The abuse, exploitation, and unconstitutional activity carried out by the state's interventions in the name of 'development' has exceeded the livelihoods and well-being of the black communities.

It is extremely important that minority groups, civil society, NGOs, academics, activists, and others create an alliance and raise awareness about these issues to increase pressures on the state 'from below'. Only from these alliances will the struggle from below effectively pressure the state and make it

accountable for its actions or even take a step back and remain in respecting the sovereignty principle of non-intervention.

Additionally, solutions to violent conflict in Colombia must integrate 'processes with memory' that address the actual structural historically based causes of violence and not only the final expressions. Policies on peacebuilding without redistributive reform do not seem to go in hand with social justice goals. Therefore, the final aim cannot rely only on militarization strategies and private property rights as forms of stability and land distribution.

The question then is if the state can prioritize ethnic sovereignty over the 'need' for exploitation and accumulation? And if the domain of landownership rights is the only tool for land distribution and autonomy in Colombia? Thus, the implications go beyond just the state and black communities. They rely on a broader contestation of the system and the fact that political projects cannot rely only on juridical battles for titles and rights. Maintaining the struggles within this juridical domain does not contest structures of power. It is therefore necessary to create decentralized forms of territorial and social protection and enhancement.

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OTE: Etnoterritorios.org
 CCAI: ccai-colombia.org
 INCODER: Incoder.gov.co
 Arcoiris.com.co
 Lasillavacia.com
 Verdadabierta.com

Annex I. Colombian Violent Conflict

The beginning of the Violent Conflict in Colombia has been an issue of study for many years. However, it has been stated that the period called 'La Violencia' in the 1940's gave the grounding characteristics of the current armed conflict. As stated by Cristobal Kay (2001), Colombia witnessed a growth of peasant organizations and actions, particularly in the rich coffee-growing areas during the 1930s that 'demanded the abolition of feudal-like, oppressive, and exploitative labour-services that tenants had to pay to landlords.' (2001: 8). Some of these organizations were suppressed violently by state forces and powerful elites (such as the case of the 'Bananeras' Massacre in the Atlantic coast). In parallel, the two major political parties, Liberals and Conservatives held a power dispute that resulted in a bloody period.

At the same time, leftist guerrillas emerged in rural areas in opposition to processes led by the state that reinforced colonial patterns of unequal agrarian system. On this sense, 'the state took a more active role in protecting and promoting the interests of the traditional landowning elites' (Thomson, 2011:351). Among the leftist guerrillas, The FARC has always been one of the major actors in the conflict. Its origins date since the 60's. In the 70's FARC and the National Liberation Army ELN were guerrillas in minor rural areas of the country. By the 80's these groups enhanced their political discourses had a relevant expansion also sustained by financial activities such as illicit crops (Guaqueta 2006: 273).

Lately in the 80's and 90's other armed groups with different ideological positions raised. The M-19 had a big relevance until its demobilization in 1989. This is also the period when illegal paramilitary groups of right wing ideologies were created under the United Self-Defense Forces of Colombia name (AUC). These paramilitary groups, despite some geographic variations, 'brought together a consistent ensemble cast of characters: drugs traffickers, wealthy landowners, business owners, regional politicians, and members of the state security forces' (Ballvé, 2011: 610). These private militias were established with the purpose of fighting the guerrillas and protecting the properties of big landowning classes.

During the last decade, violent confrontations in the rural areas have been a constant in Colombians daily life. Murders, massacres, displacement, kidnapping are some of the violent coercions that both, leftist guerrillas and right wing paramilitaries have generated. Consecutive governments have tried to end the conflict with peace dialogues and militarized actions such as the case of Alvaro Uribe's politic of Democratic Security in 2002. Within this policy, the Justice and Peace Law of 2005 'achieved' to demobilize the AUC and to militarize some of the regions where guerrillas had their strongest bases. Yet new forms of paramilitaries evolved as Bacrim or new criminal gangs and there is an increase of violent confrontations between military and FARC in some other regions.

The evolution of the conflict in temporality has made that each government focus on the immediate problems that fuel violence, without

addressing proper structural changes. Last 10 years, since Uribe's administration violent conflict was reduced to address the problem of armed groups and its links with drug and illegal businesses. Either by demobilizing or by killing illegal armed group member, the focus remained on addressing the armed actors that are considered out of the monopoly of violence of the State and not the causes that maintain violence.

As noted on the current Peace Dialogues between the government and FARC (Oslo, October 2012) peace is understood by state actors as cease-fire and demobilisation of 'illegal' armed groups. For state policies, peace can only be reached if those who counter the state do it on the political sphere and respecting state's monopoly of violence. Understanding the nature of the state makes it difficult to imagine a future political sphere where current structures and economic development model are contested.

Annex II. International Mechanisms for the protection of ethnic groups in relation to mining activities

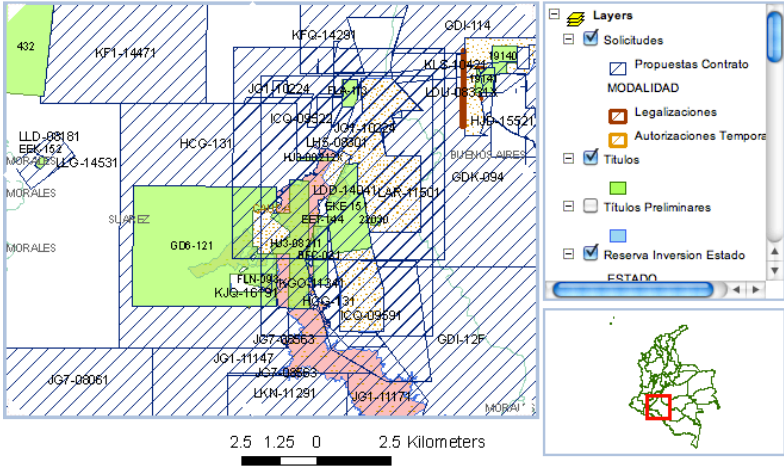
- International Pact of Civilian and Political Rights, Adopted in 1966, Approved in Colombia by Law 74 of 1968.
- International Pact for Economic, social and Cultural Rights, Adopted in 1966, Approved in Colombia by Law 74 of 1968.
- Convention 169 ILO, Adopted in 1987, Approved in Colombia by Law 21 of 1991.
- Biologic Diversity Convention, Adopted in 1992, approved in Colombia by Ley 165 of 1994
- International Convention on the elimination of all forms of racial discrimination.
- Convention for the Safeguarding of the Intangible Cultural (Unesco), Adopted in 2003, Approved in Colombia by Ley 1037 de 2006.
- United Nations Declaration on the Rights of Indigenous People, Adopted in 2007.

(Fierro et al. 2010 in Fierro, 2012).

About the ILO Convention 169

This convention guaranteed the participation of Indigenous people in running the affairs within their territories. It stipulated the preserve of the integrity and cultural heritage of Indigenous Peoples. The Convention rejects all actions that could violate the fundamental rights and freedoms of Indigenous peoples. Colombia ratified the ILO Convention 169 four months before adopting the new Constitution with law 21 of 1991. By 2009, Colombia signed the convention agreeing on that Black communities were also under the protection of the UNDRIP (Ng'weno, 2000).

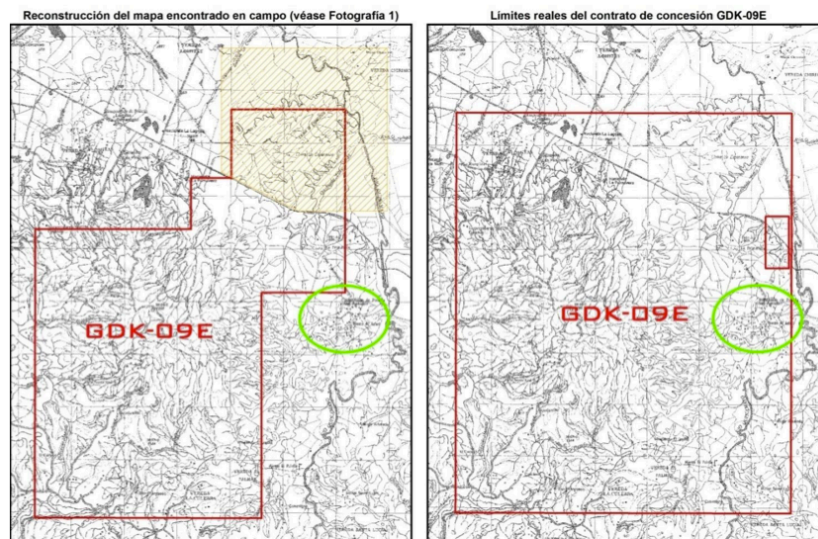
Annex III. Mining Titles in the northern Cauca



Source: (Colombian Mining Registration Office, 2012)

According to the map all the codes are mining titles over the provinces of Suarez and Buenos Aires. The spaces in green are the titles that have been already given to private entities; blue stripes are still unofficial titles.

Annex IV. Informed Consent in San Antonio



Mapa 1. Comparación de la información suministrada a la comunidad de San Antonio (consejo comunitario Aires de Garrapatero) del contrato de concesión GDK-09E, y la contenida en el CMC.

The Ethnic Territories Observatory has accompanied the communities of NC in their project of territories protection. In this research about informed consent and mining activities they show the inefficacy of the informed consent process when it is made in order to manipulate communities. The two maps above show the comparison between the information given to the community of San Antonio (Communitarian Council of Aires de Garrapatero) by the concession contract during the Informed Consent process (A) and the one actually presented in the CMC (Colombian Mining Registration) (B). This title (GDK-09E) has 4.953 hectares and it was given to Anglo Gold Ashanti in 2008 in order to exploit: copper, silver, gold and zinc. The green circle shows where the community is located. As it is noted, in the one that was presented to the community the limits of the titles did not incorporate their territories, but on the actual one, the limits do encompass the community (Vargas, 2012).

Annex V. Inter-ethnic conflict: Indigenous versus Black

After the increased struggle for ethnic claims, black communities and indigenous communities are also getting into conflictive relations because of land distribution. Differential treatment of indigenous communities, also supported by a much strong and politicized historical project has created clashes between black peoples and indigenous peoples.

After a strong indigenous movement (led by the CRIC, the ACIN and supported by international organizations) in the last years (2010-2012) it has been seen how state/indigenous peoples' interactions have given certain results for the indigenous land struggles. This is the case of the San Rafael hacienda, where some hectares were given by the INCODER to indigenous peoples after they pressure the government institutions to do so. What is important here is that this result entailed a negative consequence for Black communities living in those territories.

'A key thing to note is that the main difference between the legal recognition between Black and Indigenous territories is that for the Indigenous communities the law recognizes some degree of Indigenous territorial control and provides for limited autonomy or self-rule. For Black communities the law recognizes more of a corporate structure with limited self-rule potential.' (Ng'weno, 2000)

The processes of dispossession of each ethnic community are different because of their 'ethnic location' in the collective imaginary of struggles and resistance. The support of international mechanisms to Indigenous people has also reinforced the different achievements of both communities. Additionally, temporality makes indigenous struggles and recognition to be more legitimate than black ones. Indigenous people think to be more legitimate because their struggle comes from 'before' of that of the Black communities (Fieldwork notes, 2012). The struggles faced by the Black communities are not legitimized in the same way because the historical argument is what gives them more 'ancestral validity'. But, according to Black communities in personal interview, there are more legitimate within the construction of the nation, therefore they should be more validated. As it was said by a community member: *'Who has to go to the war? The black and the poor, not the indios.'* And, *Everything that 'indios' have achieved has been through invasion* (Fieldwork Notes, 2012).