



Governmental extractivism in Colombia: Legislation, securitization and the local settings of mining control



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A B S T R A C T

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This paper analyzes the previous decade of governmental extractivism in Colombia, designed and imposed through two main power mechanisms: legislation and securitization. In examining the government's disposition and the territorialized settings of mining control, I identify two official architectures of rights: one supporting the private accumulation of capital through the foreign exploitation of mining resources and the other aiming to concede ethnic rights. While the two architectures compete in the juridical arena, a violent dispute has developed in the overlap between the geographies of mining concessions and the geographies of ethnic communities within the territorial settings of mining control. Legal and illegal military securitization has emerged as a complementary mechanism for territorial control. By looking at the case of La Toma in the Alto Cauca region, I conclude that the country's previous two presidencies have actively promoted differentiated access to and control over land-based resources, excluding Afrodescendant communities from accessing the environmental goods in their territories while favouring private actors.

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Introduction

In 2010, the Colombian Constitutional Court acknowledged the legal presence of Afrodescendant communities in La Toma district, suspended all mining titles in the territory, and made it mandatory for any project affecting the traditions of the local community to proceed only with their free, prior, and informed consent. The decision was made public in April 2011, and became a source of pride and hope for local inhabitants who had struggled to preserve their territory and gain access to land-based resources, particularly gold and water. However, the same day that the news broke amid celebrations by the local community, an illegally armed group entered the territory, took over one of the artisanal gold mines traditionally worked by the community, kidnapped two people, and threatened to kill more than 10 local miners who were warned never to mine there again. This violent action was neither the first nor the last that local miners have had to face: a few months later, three backhoes (guarded by illegally armed people) arrived to extract gold from the Ovejas River in La Toma territory; in April 2009, nine miners were killed by paramilitaries in the same area.

While exogenous violence increased in La Toma territory after 2000, legal actions by the government have also come to affect local

communities' access to and control over gold resources. By 2009, more than 95% of La Toma District had been granted to external persons and companies in the shape of mining titles by INGEO-MINAS –the public institution that administers the country's mining and geological resources– (*Observatorio de Discriminación Racial, 2011*). As a consequence, the local community has faced various eviction attempts by the local government, which claimed to be protecting the rights of mining concession holders. Mining laws and programmes that grant private access to gold resources in La Toma are the result of a decade-long official extractivist rationale for governing land-based resources, aimed at “securing” the territories and underground minerals for private exploitation; due to the empirical context analyzed here, I define land-based resources as those on the ground such as soil, nutrients, and water, but also and mainly underground, such as gold and other minerals. Consequently, national foreign mining investment increased more than fourfold between 2002 and 2011 (*Ministerio de Minas y Energía, 2012*) and the social conflicts associated with mining have intensified and been geographically propagated (*CINEP/PPP, 2012*).

Extractivist policies implemented under the regimes of President Uribe-Vélez (2002–2010) and President Santos-Calderón (2010–) contradict the international regulations that were made constitutional after 1991, and aimed to protect ethnic rights. As a result, differences and tensions have emerged among government institutions in relation to favouring the rights of mining titleholders versus the rights of local communities. Despite the tension, private

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access to land-based resources has tended to prevail over ethnic communities' rights. Although no large-scale mining project is currently underway in La Toma, the mining titles, local violence, and constant eviction attempts have colonized people's imagination (Bebbington, 2012; Bebbington et al., 2008) with the idea of being dispossessed by "the multinationals".

This paper critically addresses (i) the government's rationale for extractivism; (ii) the tensions between two legal architectures, one supporting private mining and the other protecting ethnic rights; and (iii) the territorialized violent settings of mining control in La Toma. By exposing the tensions and limits of the constitutionalization of ethnic rights (Eslava, 2009), and the escalated legal and violent disputes over natural resources in La Toma, this paper concludes that bureaucratization and violence have come to "order" resource-rich territories and communities over the last decade in Colombia, illustrating the extractivist rationale that governs minerals and mining zones.

In order to study the history of the community's struggle to access and control land-based resources and gain recognition of their ethnic rights, I have adopted a participatory action research approach (Fals Borda, 1979; Hale, 2006). Two principles frame this approach. First, I conceive of knowledge not as a product but as a construction – a situated process (Katz, 2001) with a history of production (Harding, 2005: pp. 220–221). Second, in terms of challenging power relations, I consider that knowledge should be collectively built and "owned"; its creation should be based on the political history and practices of the community (Escobar, 2003), and it should aim to transform social injustices (Fals Borda, 1979). Accordingly, my approach has been to contribute to the local contestation of dispossession by critically analyzing the struggle over land and land-based resources, and by collectively building knowledge-power tools that could prove useful for the community and social organizations. My position is that of a politically active and engaged scholar with a clear trajectory in environmental and ethnic social movements, who has aimed at building critical knowledge as well as contributing to their struggle for territorial defence.

To develop this research, I have collated the study's objectives, products, and schedule with the local authority in La Toma (*Consejo Comunitario*¹) and the most representative Afrodescendant social organizations working in the territory (Palenke del Alto Cauca and Proceso de Comunidades Negras [PCN]). Between 2009 and 2013, I developed six complementary research techniques: (i) workshops to build memory lines of the history of local socio-environmental conflicts; (ii) social cartographies to create maps that show traditional livelihoods and the historical transformation of local landscapes and waterscapes; (iii) revision of archives preserved by local leaders to characterize their bureaucratic trajectories to access rights; (iv) revision of relevant legislation, plans, and programmes that frame the government's rationale and mechanisms for controlling land-based resources; (v) participatory documentary processes engaging local youth in order to tap their autonomous representations of territorial dispossession; and (vi) interviews with local leaders and public officers to acknowledge their positions related to the control of land and land-based resources.

Drawing on the case of La Toma, this paper explores extractivism as a development scheme in Colombia, designed and imposed through two main power mechanisms to officially govern mining resources: legislation and securitization. Development is understood here as one of the more significant forms of state formation in Colombia over the last six decades (Escobar, 2000); as demonstrated by Li (1999) in the case of Indonesia, development is a discourse in which the "national interest" and "progress of the nation" are the government's moral claims to legitimize its control over natural resources by means of protecting and allocating

commoditized resources. My argument is that such claims have a deep-rooted adverse impact on local societies that, under certain development projects deployed locally, end up being dispossessed from their livelihoods and marginalized from the national project of "wealth".

In order to understand the government's rationale in post-colonial societies, it is useful to empirically question the articulations, tensions, and disputes between political and civil societies (Ballvé, 2012) in situated state-building processes (Li, 2007b; Lund, 2006; Sikor & Lund, 2009). Thus, building on the Foucauldian concept of governmentality (Foucault, 1998; 2007), I examine how concrete power mechanisms have created differences among the population through discriminatory and hierarchized access to and control over land-based resources. Consequently, I use the framework of *colonial power* developed by Quijano (2000) and Mignolo (2003) to frame the classifications that create the experience of ethnic and racial² subordination in Colombia. These are derived from the unequal distribution of wealth and materialize in the distinctive division of labour and conflictive allocation of land and land-based resources. I conclude, therefore, that, in Colombia, control over land and land-based resources has been a successful strategy for private capital exploitation and accumulation (Harvey, 2007) by means of two complementary power mechanisms: legislation and military securitization. This analysis draws mainly, on the one hand, on a study of the government's official rationale given in the national public policies, programmes, and laws that have come to situate the disputed control of gold mining. On the other hand, I use the data built with the community through complementary participatory techniques to reflect on the territorialized features of such control.

I start by introducing the geographical and historical configuration of the struggles for land-based resources in La Toma to illustrate how legal regulation and military securitization have produced conflicting extractivist landscapes. Next, I bring out the different legal frameworks within the government that order land-based resources and territorial ethnic rights. The emerging juridical parallel can be understood in the tensions that arise between the norms that aim to protect communities' rights on the one hand, and the regulations that promote foreign mining investment on the other. In the fifth section, I discuss the government's rationale for embracing extractivism through legislation and military securitization over the last decade. In the sixth part, I present the case of La Toma and the territorialized settings of gold control. Finally, I conclude that, despite the heterogeneity within the government, extractivism for private and foreign accumulation has been juridically promoted and given military protection, generating legal parallels and causing conflicts over land-based resource access and control to escalate. While La Toma is a representative case of local disputes over resource control in Colombia, it also illustrates the mechanisms of the government's territorial control in a post-colonial context.

The geography and history of La Toma as a mining setting

La Toma District consists of 1300 households settled in an area of 7000 ha (Observatorio de Discriminación Racial, 2011: p. 35). The district is located in the region known as Alto Cauca, between the upper watershed of the Cauca and Ovejas rivers in the southwest mountain chain of the Colombian Andes (see Map 1). Its geostrategic location in relation to the Pacific Ocean, and rich agricultural land and subsoil have made La Toma a violently disputed territory among drug traffickers, foreign and domestic private actors, the government, and local inhabitants. Gold mines were established in this region in 1636 under a colonial regime and with a workforce of African slaves. Since the abolition of slavery in 1851, local

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