

Better safe than sorry? Indigenous peoples, carbon cowboys and the governance of REDD in the Amazon

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Abstract

Indigenous peoples around the world and particularly in Latin America are struggling to strengthen their control over land and the territories they inhabit. The strengthening of rights has come as a result of multiple processes both at national and global levels, in which the role and responsibilities of states have been transformed. Transnational processes challenge the presumed association between nation-states, sovereignty and territoriality. One of these challenges comes from international initiatives such as REDD. Global REDD in its broadness and national REDD in its uncertain early phases, represent opportunities for private actors to negotiate with holders of land rights. In the Amazon, indigenous peoples' territories, given their wide extension and that they are mainly forested areas, become interesting for all sorts of REDD actors. However, despite legal and rhetoric recognition of indigenous land rights' effective recognition is still lacking. In this paper I will focus on one particular type of actor, so called "carbon cowboys" a term coined by journalists to signify actors who are willing to push the limits of established negotiation mechanisms to gain control over forest areas. I will focus on carbon cowboys' practices and the responses from indigenous peoples in Colombia to highlight a common claim across the region, namely better state presence and regulation. The response from indigenous peoples' organizations indicates that although territorial control is an important achievement, some form of state intervention is required to protect their rights in an uncertain REDD terrain.

Introduction

Media and activists have used the term “carbon cowboys” to call attention to seemingly unruly actors who seek to gain control over the forestlands and carbon of indigenous people around the world. In this paper I use the carbon cowboy controversy to discuss some tensions between indigenous peoples’ newly gained rights regarding land and the role of the state. Indigenous peoples around the world and particularly in Latin America are struggling to strengthen their control over land and the territories they inhabit. This struggle for rights has come as a result of multiple processes both at national and global levels, in which the role and responsibilities of states have been transformed. This happens within the context of a changing global development agenda, which is to a great extent influenced by ideas related to the role of privatization and commodification of nature and markets in governing the environment.

In the first section of the paper I discuss how REDD (Reducing emissions from Deforestation and forest Degradation) and carbon markets fit within the discourse of environmental governance influenced by ideas related to the transfer of responsibilities from the state to other actors, including international organizations, transnational networks and corporations, local governments, NGOs and others. I then discuss the processes that allowed indigenous people to fight for stronger recognition of their land rights. In doing so, I will highlight the role of several actors across diverse geographical scales and the political context that was conducive to such changes. I also highlight the geographical overlap of forestlands and indigenous territories. Against that backdrop in the third section I situate the position of indigenous peoples’ organizations in Latin America in relation to REDD, highlighting that there are divergent and at times conflicting positions in regards to REDD among indigenous peoples organizations. Some of them see REDD as an opportunity to strengthen their land and territorial rights and to receive direct funding from REDD, but are confronted with the dilemma of how to distinguish between legitimate and fraudulent actors. I then use the analogy of “frontiers” to highlight how, while indigenous territories and forest areas have gained international attention in regards to forestlands as means to address climate change; they are often ignored or abandoned by the state. That state absence might be one of the factors explaining why so-called carbon cowboys emerge in frontier areas. In the two subsequent sections I use an empirical

example from Colombia to discuss how carbon cowboys try to gain access to indigenous peoples lands –using dubious means; the demands from indigenous peoples organizations to the state; and the response from the government. In the last section of the paper I present a discussion and conclusion section in which I argue that REDD can be thought about as a scheme to improve forest governance in which various governance scales converge from the local to the global. This poses important dilemmas, as REDD proponents at these various scales, are a range of diverse actors with heterogeneous interests and resources. At the same time governments and state apparatuses do not share a single vision about forest areas, insofar as they are seen as relevant for climate mitigation and at the same time as places where different activities implemented to enhance economic development, like mining, infrastructure, dams etc connect with the drivers of deforestation.

Environmental governance, carbon cowboys and indigenous peoples

The concept of environmental governance is closely connected to neoliberal reforms and ideology (cf. Corbera and Schroeder 2011). Neo-liberal transformations have involved the transfer of some responsibilities from the state to other actors, upward to international organizations, transnational networks and companies; downward to local governments and other domestic administrative units and; outward to communities, NGOs and quasi-autonomous non-governmental organizations (Pierre and Peters 2000). Forests have increasingly become the focus of global interest as concerns about global warming and climate change rise in international policy debates. Forests are seen as storehouses of global value for their contribution to carbon sequestration and climate mitigation (Fairhead and Leach 2003; Peet et al. 2011).

Despite years of discussion it still remains unclear how REDD is going to be funded, if at all in the long run. It is assumed that REDD will probably be funded by carbon markets or by a global fund or most likely by a combination of both (Bumpus and Liverman 2011). However, even when the mechanism for funding is not clear, a myriad initiatives and projects have been launched in Latin America and other parts of the global South (Aguilar-Støen et al. 2015; Aguilar-Støen and Hirsch 2015; Corbera and Schroeder 2011). This has often resulted in a variety of uncoordinated, multi-level, multi-purpose and multi-actor projects and in the emergence of contested interests and claims with implications for

implementation trajectories, frequently running ahead of policy processes coordinated by the state (Aguilar-Støen 2015).

Carbon markets constitute a more business-friendly alternative than direct regulatory control of the drivers of greenhouse gas emissions. Carbon markets also represent new forms of environmental governance. Carbon markets were included in the Kyoto Protocol in 1997 after demands from particularly the USA. In 2000 Europe followed suit and eventually became the world's largest carbon market (the EU Emissions Trading Scheme-EU ETS) (Lohmann 2012). In 2014 the global value of carbon markets grew to €45 billion and it is expected to grow to record volume in 2017.¹ Carbon markets fall within the neoliberal trend of privatization and marketization of public goods, and of the state and its functions, as well as the expansion of the frontiers of commodification of nature. This trend results in upwards wealth redistribution but requires new international treaties, property right regimes and agreements between governments and private actors. Carbon markets also reflect the increasing dominance of finance in economics and politics and the accelerated business's assimilation of labour, land, raw materials and public and smaller private enterprises in new arenas (Lohmann 2012). Carbon markets depend on regulation but at the same time the state is dependent on the private sector for its understanding of how carbon trade works, and as a consequence traditional divisions between market and regulations disappear (Lohmann 2012).

Since 2007 carbon cowboys have received regular attention from the media along with other scandals related to carbon markets. Media present carbon cowboys as a sign that there is a need for tools that would allow identifying corruption in carbon markets. The way in which the media and some scholars (e.g de Jong et al. 2014) portray carbon cowboys, as only an issue of regulation, might contribute to prevent a more profound examination into the structure of carbon markets.

On the other hand indigenous organizations in the Amazon are framing the issue in slightly different ways from the media. In 2011² the regional organization "Coordinating Body of Indigenous Organizations in the Amazon Basin" (COICA) and Peruvian indigenous

¹ <http://www.commodities-now.com/reports/environmental-markets/18014-global-carbon-market-to-reach-record-volumes-by-2017.html>

² <http://www.redd-monitor.org/wp-content/uploads/2011/05/1371.pdf>

organizations signed the Iquitos declaration. It denounced the activities of one of the most famous carbon cowboys in the world, Australian David Nilsson. At the same time the declaration presented indigenous demands to the government and criticized the use of carbon markets as an ideological device to dis-embed climate change from its historical determinants. The Iquitos declaration stresses that by paying indigenous communities for conserving forests, carbon markets are initiatives to conceal the continuation of deforestation, pollution and depredation by countries in the global North. Furthermore, the declaration portrays carbon cowboys as part of what they call the “REDD bubble” in clear allusion to other financial bubbles. COICA’s declaration demands the intervention of the state, multilateral agencies and the UN to stop such bubble. Finally, the declaration advocates an indigenous REDD that is culturally adequate to indigenous peoples’ rights and objectives and in compliance with the convention 169 of the ILO and with the UN declaration on the rights of indigenous peoples. Furthermore, the declaration demands the completion of land titling of 20 million hectares of indigenous lands and legislation on free, prior and informed consent, including consultation about forest laws and environmental services, as a strategy to prevent land concentration and to defend indigenous autonomy. To try to comprehend and explain the complexity entangled in indigenous demands, I will in the next section discuss the processes that allowed indigenous people’s stronger control over their lands.

Indigenous people, land and territorial rights

The Columbus quincentenary in 1994 brought with it a change in the political activity by indigenous peoples throughout Latin America, grounded in their newly acquired national-level political influence and their leaders’ obstinacy to speak for themselves (Hale 1994). Several indigenous mobilizations achieved great success in the 1990s, for instance in Ecuador and Bolivia, which later resulted in their involvement in political parties that seized power (Van Cott 2005). The Zapatista uprising in 1994 in Chiapas, an indigenous and *campesino* movement, managed to achieve measures of relative regional autonomy (Stahler-Sholk 2007). Constitutional reforms recognized multicultural and multiethnic nations in Nicaragua, Guatemala, Colombia, Brazil, Mexico, Paraguay, Ecuador, Argentina, Peru, Venezuela and Bolivia. These changes occurred in countries where the boundaries between the state and society were changing due to neoliberal reforms in an increasingly

plural and transnationalised international context (Sieder 2002). Transnational organizing and coalition building opened up new opportunities for indigenous people to influence legislative agendas. Several Latin American countries signed international human rights treaties, the ILO Convention 169 on Indigenous and Tribal Peoples being particularly influential. Indigenous peoples' claims of collective grievances and rights challenged liberal democracies' focus on citizens' individual rights (Yashar 2005).

The 1990s also witnessed radical reforms in Latin America to solve a long economic crisis. International financial institutions, like the International Monetary Fund and the World Bank exerted pressure on countries in Latin America to adopt neoliberal reforms to promote economic liberalization, privatization and decentralization. It was also expected that such reforms would involve increased participation from civil society in the provision of social services. Diversity and pluralism were considered necessary ingredients to promote participation. With this goal in mind development and human rights NGOs became increasingly engaged in indigenous questions. International NGOs and various bodies from the United Nations exerted some pressure to recognize rights to difference, which allowed indigenous organizations to frame their claims in ways that would echo neoliberal discourses on community solidarity and social capital (Sieder 2002). The adoption of multicultural reforms by Latin American states can be understood as within a dynamic that involves international and transnational, as well as national and local scales and actors. Recognizing indigenous peoples' rights appealed to ruling elites as a way for the state to signalize attention to citizen's claims in a context in which the state was less able to meet their material demands (Van Cott 2000). The negative effects of neoliberal policies on indigenous livelihoods probably provided the impetus for increased indigenous mobilization and in some cases those mobilizations were successful enough to force states to negotiate (Yashar 1999). All the above is not to say that racism and ethnic discrimination have ended in Latin America. Indigenous peoples continue to be targets of violence and political repression and many of the older exclusionary structures remain intact. But there were some important changes in indigenous politics that set the stage to understand indigenous involvement in or rejection of REDD.

Indigenous politics and their search for recognition of indigenous identities and the legitimacy of their claims pursue a strategy of cultural and historical revival as a means to

achieve some autonomy and self-determination, to convince legislators and funding agencies of the validity of other claims such as those related to land tenure and control over natural resources. This happens, however, in a context in which a range of other actors like mining companies, ranchers, guerillas, the military, paramilitaries, oil companies, loggers, drug traffickers and others, claim, inhabit or want to control the very lands occupied by indigenous peoples. I will come back to this issue later. First I will briefly present the background for the recognition of land rights by some indigenous peoples.

Neoliberal ideology identifies the lack of clear property rights as a barrier for economic development. On the other hand theoretical frames like that advanced by Ostrom and collaborators (Ostrom 1990; Ostrom et al. 1994) challenged ideas related to the relation between collective property rights and environmental degradation (Hardin 1968) opening up space for the legitimacy of collective claims to the land. The ILO 169 convention affirmed indigenous land rights and introduced the term 'territory' to refer to indigenous land holdings. The UN Declaration on the Rights of Indigenous Peoples does not address the issue of property rights but asserts the right of indigenous people to not be removed from their lands and territories. The declaration on the rights of indigenous peoples of the Inter-American Commission on Human rights, while recognizing indigenous territorial rights ensures that indigenous territories will not challenge the sovereignty of the states. At the same time, the idea of "community conservation" by way of which local communities would become responsible for protecting natural resources in the territories these communities occupy, resonated with neoliberal ideas of privatization of nature conservation (Vogel 1992) and arguably provided further arguments to support indigenous collective land rights by the conservation sector.

The number of NGOs supporting ethnic and Afro rights in Latin America grew substantially starting in the 1980s and into the 2000s (Bebbington 1996; Offen 2003) and countries in Latin America embarked in a series of legal reforms to guarantee indigenous land tenure, seventeen such reforms have taken place since 1987 in Latin America (Offen 2003). Such reforms can be interpreted as the combination of bottom up and top down initiatives and pressures.

There exist, however, few examples of state's effective recognition/implementation of territorial rights to indigenous people. Perhaps the most salient is the Nicaraguan case.

In 1987 the government approved an autonomy law granting certain political, cultural and natural resource rights to Nicaragua's indigenous and afro-Nicaraguan populations (Hale 1996). In 1995 an indigenous community, Awas Tingni, brought a landmark legal case before the Inter-American Court of Human Rights protesting a logging concession granted by the Nicaraguan government to a logging company on what the indigenous considered their customary land. In 2001 the IACHR ruled that the community had in effect land rights on the basis of historical occupation and that the Nicaraguan state had violated the rights of the indigenous by imposing a logging concession without prior consultation with them and for the lack of a legal framework to protect indigenous land rights (Alvarado 2007). The government agreed to legalize the traditional lands of Awas Tingni and in 2003 a demarcation law was passed by Congress. However the community has not as yet, seen their legal rights realized. The situation in other countries involves the constitutional recognition of indigenous and Afro communities' rights, and land titling efforts with varying degrees of advancement. To a great degree support to collective land titling has concentrated in forest rich areas that overlap with indigenous/Afro lands (Offen 2003). Not surprisingly with the global launch of REDD, indigenous peoples and their lands entered the stage as obvious actors and places.

Latin American indigenous peoples and REDD

Initially, indigenous peoples' organizations were skeptical to REDD and rejected carbon markets arguing that they do not offer real solutions to climate change (see the Anchorage declaration adopted by the participants at the indigenous peoples' global summit on climate change in 2009³). Indigenous organizations criticized carbon markets and carbon sequestration projects for their oversimplified portrayal of ecosystems and forests and for ignoring the socio-economic, political and institutional implications of carbon sequestration for indigenous peoples (Schroeder 2010). During the 12th session of the UN Permanent Forum on Indigenous peoples in 2013, indigenous people's organizations presented two opposing views on REDD, later communicated at the COP19 in Warsaw. Some organizations oppose REDD because they consider that it weakens existing national legal frameworks to protect indigenous peoples' rights particularly in regard to territorial

³ http://www.unutki.org/downloads/File/Events/2009-04_Climate_Change_Summit/Anchorage_Declaration.pdf

and collective land rights, consultation and autonomy, and their opposition to carbon markets seen as the commodification and fragmentation of nature. Opponents argue that REDD might entail threats to human rights, food security (e.g. by higher food prices, exclusions from areas or change in local livelihoods), rural poverty alleviation and biodiversity conservation. Other indigenous organizations consider REDD an opportunity to strengthen the land rights of indigenous peoples to control their territories with the help of direct funding.

Different indigenous organizations have since taken diverging and at times conflicting paths. Some indigenous peoples' organizations in Latin America and particularly in the Amazon basin countries engage in networks supporting REDD or in alternative networks that are skeptical to REDD and carbon markets. Historical experiences in relation to collaboration with NGOs, with governments or with REDD-like projects explain to some degree the divergent choice of position along with the organization's own visions and priorities.

Regional COICA and its associated national organizations⁴ are proposing a model of indigenous peoples' REDD. According to COICA, REDD should be defined based on the priorities of indigenous peoples to guarantee the territorial land rights of indigenous peoples, through holistic management plans that secure the livelihoods and rights of indigenous peoples and the titling and consolidation of indigenous territories. COICA's vision emphasizes addressing the drivers of deforestation such as oil exploitation, mining, dams, large infrastructure and agribusiness, which are also seen as serious threats to indigenous peoples' rights and livelihoods. COICA's indigenous REDD plans also stress the multiple functions of ecosystems in addition to carbon sequestration and the implementation of pilot REDD projects led by communities and indigenous organizations. There have been internal disagreements within COICA about carbon markets, some member organizations are skeptical while others are open for carbon markets under regulation and transparency insofar as indigenous rights are respected. At the same time COICA has expressed that they view carbon markets as threats and that signing contracts

⁴ COICA (Coordinadora de las Organizaciones Indígenas de la Cuenca Amazonica) is an umbrella organization composed of organizations of indigenous peoples from Peru (AIDESEF), Guyana (APA), Bolivia (CIDOB), Brazil (COIAB), Ecuador (CONFENIAE), ORPIA (Venezuela), French Guyana (FDAG), Suriname (OIS) and Colombia (OPIAC).

concerning carbon credits is risky, and advocates for an international carbon fund (Vasquez 2014; COICA 2012). COICA collaborates with private actors (such as the Ford Foundation), a variety of NGOs and the World Bank, who support REDD market schemes.

The experience of some indigenous peoples organizations with so-called “carbon cowboys”, particularly in Brazil, Peru, Bolivia and Colombia have made them extra aware of some of the risks REDD projects might entail. In the next section I turn to examine the issue of carbon cowboys.

REDD and Carbon cowboys

Journalists popularized the term “carbon cowboys”. In an article published in the Financial Times, Harvey (2007) quoted a hedge fund manager who had referred to “carbon cowboys” to allude to certain companies acting as intermediaries in carbon credits deals. On December 2009, Al Jazeera broadcasted a program presenting a “carbon cowboy” who allegedly had signed fraudulent carbon deals with indigenous peoples. While it is difficult to define what exactly is a carbon cowboy, and uncertain how useful is the term, the metaphor seems to invoke references to a -still unregulated- frontier. In this section I will argue that how REDD in itself is organized might contribute to the emergence of so-called carbon cowboys.

Through history, forest areas have been discursively presented as “empty spaces” by imperial powers during colonial times and by governments and elites in postcolonial Latin America, to advance various economic projects and more often than not to discursively justify local land dispossession, usually of indigenous populations, justified as necessary to the development of state building projects (Aguilar-Støen 2016). Forest areas have also been throughout history thought of as areas requiring order and government (cf. Scott 1998). Forest areas in Latin America have usually been in effect frontiers with little state presence but with contested and usually conflicting meanings and values to a range of actors including among others corporations, illegal actors, guerrillas, the government and indigenous peoples (cf. Fairhead and Leach 2003). Actors develop modes of interaction among them in these frontiers; some cooperate to advance their agendas and survive and perhaps even thrive in frontier territories, and others use coercive and violent means in the absence of the state and its institutions. There are many differing dynamics of interaction that involve both cooperation and coercion. Interactions between drug traffickers and

guerillas for instance, often involve interactions with other actors in the frontiers shaping a territorialisation of sovereignty around valuable resources that evades that of the nation-state (Le Billon 2001).

The emergence of carbon markets opened up forests and frontier areas to a new range of actors. New actors entering frontier areas are confronted with various dilemmas. These range from the lack of a legitimate and identifiable interlocutor to the lack of clear rules of operation. Frontier areas are characterized by grey zones in which “the rules of the game” might be other than those imagined in ministries, governmental offices, UN agencies, financial institutions etc.

Let me use an empirical example to illustrate. One of my interviewees in Colombia, who I had been told could be described as a carbon cowboy, spoke candidly about his goal of earning money while conserving the forest and supporting the economic development of indigenous peoples in the Amazon. Confronted with lack of clarity as to how the government was going to implement REDD, his company went ahead, setting their own principles and definitions. To him and his company REDD was clearly a business opportunity and he did not hide his interest in such an opportunity.

“We have always expressed openly that what we want to do is business. We are not an NGO, we are not a charity, we told the communities that [since they were the owners of the land] they own the carbon and they and [company’s name] were going to do business so that they [community] could have their income... we have told communities that we will share the profit from selling carbon 50-50 we are a better option than mining and oil that distribute profits in a less fair manner”

REDD is presented very open in terms of its implementation, with countries supposedly able to choose the model they prefer. This appeals to those who are in charge of directing REDD’s implementation. Let me use another empirical example to illustrate my point. During an interview with a bureaucrat from the Ministry of Environment in Colombia, he argued that from the government’s perspective, private investments with little state regulation in remote forest areas are more economically efficient since they lower the government’s intervention costs and could also offer better locally adapted development options. This bureaucrat told me *“The market in a way takes care of redistributing the resources at local levels. It is a lot simpler... it lowers our costs... so, if the state does not receive*

the [REDD] money, it [the state] does not need to invest in those regions; in a way they take care of themselves". The position is also presented in several government documents (e.g. the National Strategic Plan for Green Markets from 2002 produced by the Ministry of Environment and the National Development Plan 2005-2010). This view on the role of private actors in REDD and in development is consistent with the view of big international NGOs operating in Colombia and with the view of national NGOs wishing to increase the use of private funds in forest conservation and development projects.

Researchers who are trying to support governments, funding agencies and other actors to implement REDD seem to embrace the idea that decentralization and broad participation is the best choice for the governance of REDD. For example, Biermann et al (2009:4) argues that environmental governance refers to the 'forms of steering that are less hierarchical than traditional governmental policy-making...rather de-centralized, open to self-organization, and inclusive of non-state actors that range from industry and non-governmental organizations to scientists, indigenous communities, city governments and international organizations'.

However, as I shall show, as indigenous organizations gained more information about REDD and became more aware about the implications of signing contracts with private actors, they asked for more involvement from the central government.

Fabricating legitimacy in the frontiers

Colombian NGOs and indigenous peoples organizations denounced in 2008 the activities of an alleged 'carbon cowboy' which I had the chance to interview. I also interviewed some of those who denounced the dubious activities in which this company and other companies were involved. An important claim from NGOs and indigenous peoples was that they have not been adequately included in REDD discussions in Colombia and that lack of information functioned as a barrier to participation in REDD discussions (for a detailed analysis of the process see: Aguilar-Støen 2015). In addition, denouncers claimed that the companies had made indigenous leaders sign contracts under highly unfair conditions: contracts were written in English, and signed while indigenous leaders were drunk. To solve what they saw as a highly unfair situation, they also demanded the active

involvement of the government in providing information and in leading the process of REDD implementation.

The representative of one of the companies on the other hand, explained in great detail what the main obstacles to do carbon business were –according to his views-. Salient among his complains was the lack of regulations and the lack of guidelines to perform “Free, Prior and Informed Consultation”. This term is different from “Free, Prior and Informed Consent” which is the term used in international law and jurisprudence related to indigenous people’s rights to give or withhold consent to proposed projects that may affect their lands and territories. I will discuss this term in more detail below. First I will use an example to illustrate how the company tried to implement “Free, Prior and Informed Consultation”. The company developed its own manual with guidelines on how to conduct consultations with indigenous peoples. Consultations were going to be carried out by a group of free-lancers hired by the company. These free-lancers were people who live close to the areas of interest to the company (for instance teachers or agricultural extension technicians). Free-lancers would receive a payment for each contract signed; they in turn had to sign a contract to act as free-lancers. The owner of the company showed me the manual in which besides the logo of the company stood the logo of the Ministry of Environment of Colombia, the logo of UNESCO and the logo of two Colombian universities. It was clearly a fabrication. Not one of my interviewees at the Ministry had ever seen the manual or been in contact with the company and UNESCO denied in an interview with Colombian media to have any links with the company. However, the logos in the manual made that it appeared as serious and legitimate.

The Inter-American Court of Human Rights holds that consent is required in the cases of development, investment, exploration or extraction plans, in large scale development or investment projects that have a significant impact on the right of use and enjoyment of ancestral territories or plans that may have a profound impact on indigenous property rights and in cases involving relocation of indigenous people.

The obligation for governments and companies to engage impacted communities is recognized in international law, particularly in relation to the principle of ‘Free, Prior and Informed Consent’ FPIC, which is outlined in the United Nations Declaration on the Rights of Indigenous Peoples and in the International Labour Organization Convention 169. This

right is part of the struggles of indigenous peoples for the acknowledgment of their “right to have rights” discussed above, that led to the drafting and endorsement of several conventions and agreements conceptualized as necessary to guarantee indigenous peoples’ access to human rights. However, the process does not stop there as countries have to pass legislation on FPIC and in some cases, even when the legislation is in place governments need to draft guidelines and put the principle into practice. Colombia has regulations in regard to prior consultation (Decree 1320-1998) although it does not encompass the right to FPIC. The details of the different legal battles that have taken place in Colombia are too intricate to be described here, but I would like to mention that different interests and priorities from the side of the government have affected the development of FPIC regulations and in a more general manner the conditions for REDD plans. In Colombia for instance, appeals lead by the government, resulted in that the Constitutional Court (CC) concluded that laws that were approved before 2008 cannot be challenged based on lack of consultation with indigenous people and afro-Colombians. These groups have in the past succeed to challenge laws based on lack of consultation with them, the most relevant for the theme discussed here is the Forestry Law which was ruled illegal by the CC because of lack of consultation. Many forested areas that are indigenous territories are also rich in minerals. Mining concessions might collide with REDD and conservation initiatives, because the CC ruling means that, contrary to the situation regarding the Forestry Law, indigenous peoples and afro-Colombians cannot challenge the mining code based on lack of consultation, since the mining code was approved before 2008. The Colombian Government identifies, in the application for REDD preparation funds sent to the World Bank, seven main drivers of deforestation, among them agriculture expansion in the frontier, infrastructure and energy and mining (Colombia 2011). At the same time, the government’s National Development Plan (Plan Nacional de Desarrollo 2010-2014) defines mining, oil, agriculture and infrastructure among the “five locomotives of development⁵”. This clearly creates a conflict on the one hand between the development and conservation agendas of the government and on the other hand between the rights of indigenous and afro-Colombians and the priorities of the state.

⁵ <https://colaboracion.dnp.gov.co/CDT/PND/Bases%20PND%202010-2014%20Versión%205%2014-04-2011%20completo.pdf>

The response from the government to the demands of indigenous organizations regarding its role in regard to REDD and Carbon Cowboys was twofold. I turn to discuss that in the next section.

Responses and accommodation from the government

To address the denunciations made by indigenous organizations and NGOs of seemingly illegal activities by private carbon companies, the government of Colombia issued a communique. Instead of referring to carbon cowboys or carbon markets in the communique, the government alerted against fraud in the sale of oxygen. The advice by the government was that indigenous organizations and others should be aware that the supposed fraudulent company was not using the correct terminology (sale of oxygen instead of sale of carbon) and that those who worked legally with REDD and carbon markets, would use the correct technical terminology. By doing so the government avoided addressing the demands of the indigenous organizations in regard to more involvement of the government, better participation from all affected parties, FPIC and land titling.

This can be better understood within the context of what was going on in REDD preparations in Colombia at the time. The REDD process in Colombia is led by the big international NGOs working in the country. The World Wide Fund for Nature (WWF), Conservation International (CI), The Nature Conservancy (TNC), in collaboration with USAID and one local NGO/consulting firm (Corporación Ecovera), created the Colombia REDD-round table (*Mesa REDD-Colombia*) in 2008. Other private organisations (the Fund for Environmental Action and Children (FAAN), the Natural Patrimony Fund, and the Nature Foundation), as well as the Ministry of Environment and the Institute for Environmental and Meteorological Studies (Instituto de Hidrología Meteorología y Estudios Ambientales- IDEAM), joined the Colombia REDD round table a year after its creation. The REDD-round table in Colombia leads REDD discussions in the country, in addition one of the NGOs (Fondo para la Acción Ambiental y la Niñez-FAAN) manages the grant from FCPF for the development of the readiness strategy. The voluntary carbon market is a prominent subject among members of the Colombia REDD-round table, in part because of their engagements with actors interested, connected, or involved with the carbon business. These actors include the local public environmental authorities (CARs), national and international business partners (mining and energy-producing companies, plantation companies, forest

companies, and carbon-marketing companies), international research organisations, development cooperation agencies, and indigenous and Afro-Colombian leaders. These engagements would eventually allow the channelling of funds from a range of private businesses directly into carbon-market projects. At the international level, NGOs, corporations and research institutions are involved in creating standards to certify carbon offsets that can be traded in the voluntary carbon market or eventually in a future REDD carbon market. I understand such standards as “norms”. With norms I mean procedures designed to govern the conduct of those involved in REDD projects (Foucault 2002 uses the term “techniques”). Eventually these norms are supposed to help in distinguishing legitimate from illegitimate actors. To illustrate I will use an example.

The Rainforest Standard™ (RFS) was launched during the UN Conference on Sustainable Development Rio+20 in Rio de Janeiro in June 2012. RFS was developed by Columbia University in New York in collaboration with environmental funds from Bolivia, Peru, Brazil, and Ecuador, and the National Environmental Fund (FAAN) in Colombia. According to its developers, this standard integrates carbon-accounting, socio-cultural/socio-economic impacts (including on indigenous peoples), and biodiversity outcomes into one single REDD standard. Projects certified with RFS can be registered in the Climate Community and Biodiversity Alliance (CCBA) and in the Verified Carbon Standards (VCS). The CCBA is a partnership among research institutions (CATIE, CIFOR, and ICRAF), corporations (The Blue Moon Fund, The Kraft Fund, BP, Hyundai, Intel, SC Johnson, Sustainable Forestry Management, and Weyerhaeuser), and NGOs (CARE, CI, TNC, Rainforest Alliance, and WCS). The VCS was established in 2005 by the Climate Group, the International Trading Association, and the World Business Council for Sustainable Development. The VCS is one of the world’s most widely used carbon-accounting standards. Projects across the world have issued more than 100 million carbon credits using VCS standards. The VCS headquarters are in Washington, D.C., with offices in China and South America. The REDD round table suggested that only projects certified by the RFS could register as REDD pilot/carbon-market projects in Colombia and that the RFS register could help to counteract the initiatives of carbon cowboys. Certification would provide the means (i.e. become the norm) to distinguish between legal and illegal actors. This initiative was subsequently incorporated into the Readiness Preparation Proposal (R-PP) of Colombia.

The alliances built between NGOs, the private sector and international research institutions contribute to the creation of norms accepted as valid to govern the conduct of those involved in REDD pilot projects. These norms are shaping the direction of REDD in Colombia even before the government has managed to put in place a plan of action

Discussion and conclusion

A very simplistic view would be to argue that REDD is fostering processes in which elites and capitalists, in this case big international NGOs, international research institutions, carbon verification companies, and carbon corporations are doing business as usual, using REDD and the government to extract resources from poor indigenous communities and in the same effort making unruly actors (e.g. carbon cowboys) illegal. This is an account which I would like to challenge – or at least nuance.

James Scott shows how states seek to impose simplified and officially legible landscapes on pacified civil societies, describing for example scientific forestry, and how that had devastating environmental and social consequences (Scott 1998). Scott also argues that state apparatuses constantly struggle to impose simplification to be able to count and measure in order to extract value from forests. Scott suggests that states construct simplified models of the world that they would like to control and improve, but more often than not, such improvement schemes fail because they prevent people to apply their quotidian knowledge that is crucial to their own wellbeing. REDD can be thought about as a scheme to improve the human condition at the global, national and local levels. Its proponents are different actors at various scales, from the World Bank and the UN-REDD, to governments in industrialised and developing countries, different agencies within the state apparatus, NGOs, research institutions, to some indigenous organizations, financiers, and others. These actors operate simultaneously across spatial scales.

Li (2005) argues that the state shares the function of working toward improvements of the human condition together with a range of actors, including in this case, NGOs, donor agencies, consultants, etc. As the examples I have used above suggest probably in most cases the state apparatus does not necessarily coordinate REDD [improvement schemes]. Furthermore, there does not appear to be a coherent state vision as demonstrated by the fact that the Colombian government identified the drivers of deforestation as the same ones that it identifies as the “locomotives of development”. This situation seems to be similar in

other countries of the Amazon basin and in many others in Latin America and might reflect ongoing negotiations and conflicts among actors pursuing different agendas that are entangled in various ways with demands from different segments of society. Those include different ministries within the government, private actors, NGOs with different positions in relation to REDD, indigenous peoples organizations, donors and others.

The standard proposed by participants in the REDD round table, which in part aimed at controlling the behaviour of unruly actors (i.e. Carbon Cowboys), invites to reflect about the porosity of the boundaries between the state and non-state. Sharma and Gupta (2006) argue that this boundary is the effect of power. Carbon accounting, certification and verification require complex knowledge which becomes a critical resource to govern REDD. Controlling such knowledge gives considerable power to define norms to be used to produce certain social order (Foucault 1980; Jasanoff 1990; Latour 1987). Those able to control knowledge production and dissemination arguably stand in a better position to define what norms will be used to impose social order in peaceful and orderly ways. Although important exceptions exist (e.g. Brazil, Costa Rica and Mexico) most Latin American governments depend on other actors to access knowledge about carbon market related issues. Certification (by for example VCS and CCB) are necessary to access carbon markets. Governments are also dependent on mechanisms to access certification and on actors that can carry on the process of certification. This goes to illustrate how some functions that previously could be thought about as the responsibilities of the state have moved upwards to transnational networks.

Neoliberal ideas related to transferring the function of states downwards to lower administrative units have resulted in Colombia having the most decentralized public administrations in Latin America, including forest and other natural resources (Alvarez 2003; Alesina et al. 2005). Decentralization policies have been implemented in various modalities across the sub-continent. Decentralization has also been expressed as the recognition of territorial rights to indigenous peoples, albeit this recognition has been partial and incomplete as I discussed above. The power to decide on natural resource use for economic development remains, however, with the central government. This causes tensions between on the one hand, local and indigenous populations who had been granted some degree of land rights and who might oppose to the building of infrastructure (e.g.

TIPNIS conflict in Bolivia and numerous mining conflicts across Latin America) or resist or otherwise seek to change projects like REDD and different levels of the government.

The divestment of state functions could be interpreted as a retreat of the state or as its reduction. However, in many cases that does not translate into less regulation or weaker states, although it might entail the proliferation of sites for regulation by entities (NGOs, consultancy firms, researchers) that are not part of the formal state apparatus (Sharma and Gupta 2009) but that come into contact with different geographical places with various agendas and agencies. Local empowerment and participation including by indigenous peoples and private actors, are thought as imperative for the redistribution of power. Another role of the state that REDD might affect is its redistributive role. The quote I presented above from the civil servant from the Ministry of Environment is illustrative. However, that redistribution of wealth has hardly happened in any country in Latin America to any substantial degree and thus, it remains more of a promise lurking in various initiatives, among others those undertaken by so-called carbon cowboys.

In the case of REDD some indigenous peoples organizations have shown pragmatism, seeing REDD as a means to support the achievement of their more fundamental goals of land titling and autonomy. At the same time they express support to carbon markets as long as they are regulated by the state. Indigenous people's organizations engage with actors at various scales and form alliances across national borders and at the same time direct their demands to both national governments and international organs like the UN and the World Bank. Indigenous engagement with REDD has not involved contentious politics in any degree similar to what has been the case for mining and other conflicts related to the extractive industry and involving too the advancement of capital into indigenous lands. However, in both cases different actions and initiatives of indigenous peoples' organizations signalise a demand for better state presence and greater and more meaningful participation in decision-making.

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