La Tierra es Clave

The role of land and territory in the indigenous rights movement of Cauca, Colombia

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Abstract

This thesis looks at the current struggle of the indigenous movement of the department of Cauca, Colombia, and how they work to reclaim land they regard as forming part of their ancestral territories. It focuses on the indigenous organisations of CRIC (Consejo Regional Indígena del Cauca – the Regional Indigenous Council of the Cauca) and ACIN (La Asociación de Cabildos Indígenas del Norte del Cauca – The Association of Indigenous Cabildos in Northern Cauca), and explores how their struggle for indigenous rights interacts with the Colombian government’s development scheme which emphasises securitisation policies and the extraction of natural resources. This struggle for rights takes place in a context where the indigenous communities have and continue to be targeted by paramilitary, public and insurgent forces engaged in the Colombian conflict.

This thesis is based on interviews and participant observations of the indigenous movement in the Cauca, and asks “How does the amplification of indigenous resguardos by the indigenous movement in the Cauca interact with Colombia’s extractive development regime?” and “What are the mechanisms available to the indigenous movement of the Cauca to obtain and claim their rights vis-à-vis the state?”. It finds that although Colombia has a relatively strong legal framework for indigenous rights, economic development and securitisation is given precedence in the cases I explore. It also finds that in this context, the strategy employed by the indigenous movement can be divided into three mechanisms or tactics; la vía política (the political way), la vía jurídica (the juridical way) and vías de hecho (contentious politics).
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## Abbreviations and Acronyms

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<tr>
<th>Abbreviation or Acronym</th>
<th>Original language</th>
<th>English</th>
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<tr>
<td>ACIN</td>
<td>Asociación de Cabildos Indígenas Norte del Cauca</td>
<td>Association of Indigenous Councils of Northern Cauca</td>
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<tr>
<td>CEC</td>
<td>Campesinos Embejucados del Cauca</td>
<td>The Furious Peasants of Cauca</td>
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<td>CIDH</td>
<td>La Corte Interamericana de Derechos Humanos</td>
<td>The Inter-American Court of Human Rights</td>
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<td>CIMA</td>
<td>Comité de Integración del Macizo Colombiano</td>
<td>Committee for the Integration of the Colombian Massif</td>
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<tr>
<td>CRIC</td>
<td>Consejo Regional Indígena del Cauca</td>
<td>Regional Indigenous Council of the Cauca</td>
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<tr>
<td>ELN</td>
<td>Ejército de Liberación Nacional</td>
<td>The National Liberation Army</td>
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<td>FARC/FARC-EP</td>
<td>Fuerzas Armadas Revolucionarias de Colombia - Ejército del Pueblo</td>
<td>The Revolutionary Armed Forces of Colombia – People’s Army</td>
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<tr>
<td>PCN</td>
<td>Proceso de Comunidades Negras</td>
<td>Process of Black Communities (Afro-Colombian Organisation)</td>
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<td>UN</td>
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1 Introduction

The indigenous populations of Latin America are both historically and currently among the most marginalised groups in society. This can be said to be particularly true for the indigenous peoples of Colombia. At the time of the Spanish invasion of what is now Colombia, the country’s indigenous population numbered approximately 10 million people. In 2005, they numbered approximately 800 000 (Hristov 2005, 93).

Since 1948, Colombia has been ravaged by bloody civil wars and armed struggles. Since 1964, the civil war has largely been dominated by an armed struggle between the National Army of Colombia and right-wing paramilitary groups, who often have been found to collaborate, and various guerrilla groups. The most prominent of these are Fuerzas Armadas Revolucionarias de Colombia – Ejército Popular, or FARC-EP (FARC-EP - The Revolutionary Armed Forces of Colombia – People’s Army), and the Ejército de Liberación Nacional, or ELN (National Liberation Army) (Leech 2011, vii-xii).

A major challenge for Latin America’s indigenous populations is that their traditional territories have often included some of the most economically valuable natural resources, such as timber, hydrocarbons and minerals, as well as fertile lands, with the result that their territories have been compromised by other groups seeking to exploit these resources. This continues to be the case the Cauca Department in the Southwestern part of Colombia. The region has one of the largest concentrations of indigenous peoples in the country, including several different ethnic groups. It has also been contested territory between the FARC, paramilitary groups and the Colombian government. As a result, the indigenous groups have had to organise, and the Cauca region has been called the birthplace of the Colombian indigenous movement (Hristov 2005, 88-95, Troyan 2008, 1).

When I set out on this academic project, the ongoing peace negotiations between the FARC-EP and the Colombian government made the topic of indigenous land rights in the Cauca highly relevant, as the indigenous communities are major stakeholders to both the peace process and agreement. The indigenous organisations also complained that they weren’t sufficiently included in the peace process, and stated that they were not prepared to accept ‘any kind of peace’. The accords were scheduled to be concluded...
in March 2016, but from the onset it was likely that it might take longer (Jaramillo 2015, 122-132).

While this thesis doesn’t address the peace process specifically, it is nevertheless written in the temporal context of both its negotiation and implementation. The Colombian Peace Process aimed to end a half-century long struggle, and has led to the disarmament of most members of the FARC guerrilla, president Santos winning the Nobel Peace Prize in 2016, and has been met by great initial optimism by both the Colombian and international community. However, as of 2019 the current prospects for a lasting peace in Colombia seem uncertain. The current president Duque, who was opposed to the agreement, has cut funding for its effective implementation, and pushes for harsher punishment of the former insurgents than was initially agreed as part of the reconciliation process. Additionally, “[…] paramilitary gangs have reportedly killed at least 500 activists and community leaders since the peace agreement was reached. More than 21 000 people have been displaced by their homes since 2016 by the renewed fighting” (New York Times 2019).

This thesis aims to shed light on the struggle undertaken by the indigenous movement in the Cauca, which exists in a context of a high level of violence perpetrated by the armed actors as well public forces. Central to the indigenous movement is a struggle for the constitution, formalisation and expansion of resguardos. A resguardo is “[…] a collective property title of the land in a legal form that protects both the territory as well as the indigenous cultural and political autonomy” (Hammen 2003, 7). However, many resguardos can no longer sustain the indigenous communities residing there and as such the communities see the need to expand to areas they believe they have ancestral claims to. In the cases I look into, these more fertile lands belong to big landowners and are given legal and military protection by the Colombian state which prioritises extractivist policies as part of its development scheme, whilst simultaneously aspiring to protect and acknowledge indigenous peoples’ rights. In this apparent contradiction, considerable tensions between government, stakeholders in extractive industries and the indigenous movement arise (Vélez-Torres 2014, 68-75).

This thesis also seeks to explore how the indigenous movement manoeuvres in this landscape to bring their struggle forward and claim their rights. In order to do this, the indigenous movement of the department of Cauca have had to organise and employ
different tactics in a context in which members of civil society who have expressed criticism towards extractive projects and their ensuing securitisation have been subjected to threats and persecution as authorities have linked their opposition to left-wing and insurgent parties (Vélez-Torres 2014, 74-75).

1.1 Research Questions

Against this backdrop I suggest the following as the research questions guiding my thesis project:

*How does the amplification of indigenous resguardos by the indigenous movement in the Cauca interact with Colombia’s extractivist development regime?*

*What are the mechanisms available to the indigenous movement of the Cauca to obtain and claim their rights vis-à-vis the state?*

1.2 Structure of the Thesis

This thesis is structured in six parts. I have already in this introductory chapter introduced the context and presented my research questions. In the second chapter, I provide a historical context for indigenous land issues in Colombia, and focus on the introduction of the institution of indigenous resguardos. In the literature review in the third chapter I explore relevant academic work and concepts that inform the rest of the thesis such as indigenous rights, resistance and territory. In the fourth chapter, I present the methodology and reflections regarding my fieldwork in southern Colombia, as well as the writing of the thesis. My data analysis is presented in the fifth chapter, and divided into two. In chapter 5.1 I explore my first research question, and focus on the indigenous resguardos and how the need for their amplification is met by the Colombian government. In chapter 5.2 I explore my second research question, and in particular the strategy and approach by the indigenous movement in obtaining and claiming their rights. Finally, the conclusions are presented in chapter six.
2 Historical Background

2.1 Land and History

In order to properly understand the organisation and struggle of the indigenous of the Cauca region today, it is important to first get a good comprehension of the historic events related to land that led to the current situation. In this chapter, I will briefly provide a historical overview of indigenous land issues in Colombia, in particular the introduction of the resguardos, or indigenous reserves, which as we will see is central to the formation and consolidation of the current organised indigenous struggle. The events chosen here are based on the aspects my informants emphasised in the interviews I conducted, and aim to avoid a one-sided, Eurocentric narrative in order to reveal the agency and continuous resistance of the indigenous communities in southern Colombia.

2.1.1 Indigenous Resistance

At the time of the Spanish invasion of the territory, the country’s indigenous population numbered approximately 10 million people. In 2005, they numbered about 800 000 (Hristov 2005, 93). Although the Spanish were initially intent on establishing trade-relations with the various indigenous groups, this soon changed. The conquistadors took advantage of existing feuds and warring between the various indigenous groups, and made allies of certain groups in their quest to create an empire and discover precious metals (Sandt 2007, 36).

As the Spanish made their way further inland, they faced increasingly stiff resistance from the indigenous peoples living there. In the Cauca, the Nasa people proved particularly challenging to subdue. The Nasa were originally organised into various regional chiefdoms or cacicazgos. Within each chiefdom there lived several ethnic groups, and the territory was “[...] only vaguely defined according to territorial limits” (Rappaport 1985, 29). It wasn’t until well into the second half of the sixteenth century that the Nasa resistance was quelled by the Spanish, after defending their autonomy, destroying several Spanish towns and forcing the Spanish to retreat on several occasions. The final major battle between Nasa and Spanish forces happened in 1623, when the Nasa were defeated in Itaibe (Sandt 2007, 36-37).
2.1.2 The Colonial Period

As the process of conquest and colonisation sped up, the initial plan of establishing trade with the indigenous groups was increasingly abandoned, partly because it became clear to the Spanish that the precious metals they sought weren’t readily available, but had to be extracted. The extraction of these metals, as well as other consumer and trade goods, required labour, and the solution became establishing and institutionalising a system of slavery called the *encomienda* system. Although not formally slaves, as the indigenous peoples of the newly conquered territories were legally subjects of the Spanish Crown, the *encomienda* system was built on a harsh patron-client relationship in which a European *encomendero* was given administrative responsibility over a geographical unit and the indigenous people residing there. The land formally belonged to the indigenous, but they had to pay for the *encomendero’s* protection in form of their labour. The *encomendero* was also in charge of Christianising the communities he was in charge of (Bull 2010, 29).

After holding off the Spanish for nearly a century, the Nasa were eventually defeated in the late 17th – early 18th centuries, and put under the colonial *encomienda* regime (Rappaport 1994, 84, 1985, 30). This also marked the beginning of a transformation in the political organisation of the Nasa people, as the *encomienda* system “[…] weakened indigenous political autonomy by forcing communities into tributary relationships with the Spaniards, and strengthened cacical authority by transforming these [indigenous] leaders into intermediaries in the tribute chain” (Rappaport 1985, 30). As with the rest of the Spanish America, the *encomenderos* generally focused more on the exploitation of labour than protection of their assigned indigenous populations. This exploitation led the Spanish colonist priest Bartólome de las Casas, appalled by the treatment of the indigenous population in to appeal to the Spanish Crown. In 1542, new laws were passed, prohibiting the Europeans to demand labour and taxes from indigenous individuals, but still allowing them to demand it from villages and communities. This new system was called *repartimiento*, and eventually replaced the old *encomienda* system, though the two system often coexisted for a time (Bull 2010, 34-35).

Contrary to other European colonial powers at the time, the Spanish were generally keen on maintaining their indigenous populations to have cheap access to labour. Still, for the first couple of hundred years of conquest and colonisation, their numbers
dwindled dramatically. This can be attributed to not only the brutality of the conquest and subsequent enslavement, but also due to the introduction of diseases like smallpox to which the indigenous populations had no resistance. Another major reason is the colonialization process itself, where European settlers seized the best grazing- and farmland, forcing the indigenous to settle with less fertile and often mountainous areas. This led to high food insecurity and scarcity, and frequent famines for many communities (Bull 2010, 35).

2.1.3 Introducing the Resguardo

Seeing the indigenous population as a major source of income and labour-power, the Spanish Crown acted in response to their rapid decrease, and established resguardos. A resguardo was a formal title to land, which recognised community property rights and some indigenous social organisation. Originally, the resguardos were, like indigenous reserves in other parts of the Americas, a way for the colonial authorities to confine and concentrate the indigenous populations into certain areas. In addition, they would ensure the steady flow of tribute from the communities. Although the “Indian tribute” was originally banned towards the end of Spanish rule, it was reinstated in Colombia after independence (Grote 1999, 504, Hristov 2005, 93-94, Rappaport 1985, 29-30).

Each resguardo was between 200 and 20 000 hectares in size, was to be governed as communal land by an indigenous council elected by the community known as a cabildo, and could not be bought or sold (Hristov 2005, 93-94, Rappaport 1985, 30). In Colombia, and particularly in the Cauca region, the “[...] creation of the corporate community subordinated indigenous populations to the colonial economy and power structure [...]” but “[...] also offered them a certain margin for the self-regulation of their internal affairs” (Sandt 2007, 21).

“Unlike the traditional resguardo of the Bogotá area, which served as a vehicle for the penetration and exploitation of indigenous communities, Páez [Nasa] resguardos were founded to defend traditional lands, to incorporate vaster territories within their spheres of influence, and to consolidate their political authority, which had formerly been of a more transient nature. Moreover, once power was firmly in their hands, Páez caciques were able to extract tribute from their subjects, a practice in which the Páez rulers never indulged in pre-
Colombian times. The *resguardo* became a new focal point for indigenous action, providing strong leadership for he now-weakened communities” (Rappaport 1985, 30).

### 2.1.4 Republic of Colombia

As the new country of Gran Colombia, modern-day Colombia, gained independence from Spain, the *resguardos* came under increased pressure from the new authorities, as they possessed territories containing commercially valuable exploitable resources. Although the effects of this were less severe in the Cauca than other regions, where the elites in Popayán depended on indigenous support for their parties, *resguardos* were nevertheless divided into smaller territories and their governing institutions altered (Rappaport 1985, 30). With the reduction of size and autonomy of the *resguardos*, the communities became more isolated, although indigenous leaders continued to exert some influence at the local level, including in communities who had lost their communal lands entirely. “This situation of various scattered indigenous communities remained unaltered until the beginning of the land reforms and the rise of the new indigenous movements in the 1960s and 1970s” (Sandt 2007, 22).

Independence brought with it a series of new laws and amendments regulating indigenous rights. In 1821 a policy process started with the goal of promoting the replacement of communal *resguardo* land with private property. To further facilitate this, chiefdoms officially abolished, and hereditary indigenous leaders no longer acknowledged. In their stead, *cabildos*, elected indigenous councils, were established to “[…] serve as intermediaries between the separate indigenous communities and government authorities” (Sandt 2007, 43-44). As mentioned above, the implementation of these laws was less severe in southern Colombia, as the Nasa tenaciously resisted the division of their lands, and eventually got the backing of the Popayán elites, as they relied on both their cheap labour and political support (ibid). Because of this reliance, legislators in Popayán continuously blocked anti-indigenous laws passed by the central authorities in Bogotá by passing Caucan legislation to protect the *resguardos*. “[…] a good example being Law 90 of 1859, which has been described as “possibly the most sincere and flexible protectionist law of the country’s history” (Roldan 1975 in Sandt 2007:44).
2.1.5 Law 89 of 1890

After the civil war of 1885, the victorious Conservatives together with the moderate wing of the Liberals started drafting the new constitution of 1886. This period, known as the Regeneration, ushered in a major and deep reaching shift in the relationship between the State and the indigenous peoples of Colombia, most visibly expressed in Law 89 of 1890. The law, which strongly built upon Law 90 of 1859, was to become a centrepiece of indigenous legislation in Colombia for more than a century, or in the words of Troyan: “Any discussion of land in Cauca rests on a basic knowledge of Law 89 of 1890[...]” (Troyan 2015, 14, Sandt 2007, 48). Amongst other aspects, the law specifies “[...] the manner in which the savages in the process of being reduced to civilized life should be governed” (Castillo-Cárdenas 1987, 161 note 25 in Sandt 2007:48).

Law 89 of 1890 is pointed out by some as the law which has had the greatest influence on the relationship between the state and indigenous people of Colombia until the constitutional reform of 1991 (Padilla 1996, 82). The law was paternalistic and racist in nature, and regarded indigenous people living on the resguardos as savages and uncivilised people. It also carried the notion that rural indigenous people living on the resguardos would eventually become civilised citizens, and no longer need the protection their resguardos provided (Troyan 2015, 14). Despite this foundation, the new legislation carried both positive and negative effects.

On the one side, it established that the resguardo land was inalienable and could not be sold, as it regarded the indigenous people living on the land as legal minors in matters of land transactions. Thus, one would have to obtain permission from both the central municipality where the resguardo was situated and the local cabildo to settle land matters. The law was fundamentally protectionist, and served to recognise the existing institutional functions of the resguardos juridically (Troyan 2015, 14-16). Importantly, it vested the annually elected cabildo with certain jurisdictional and civic functions, “[...] such as the punishment of small crimes (referred to as crimes against the moral order), the conduct of a yearly population count, and registering the resguardo land title with a public notary” (Sandt 2007, 49). Its most important role was “[...] the adjudication to resguardo members of usufruct rights to land, as well as the supervision of all matters relating to land tenure, including the mediation of land disputes” (Sandt
2007, 49). Seeing as the law also regarded the indigenous as legal minors, these functions were “[…] placed under the tutelage of the state as represented by the (non-Indian) authorities of the municipality in which the resguardo was located” (Sandt 2007, 49). The cabildos also had to be approved by the mayor of the municipality where the resguardo was situated for the election to be considered valid (Troyan 2015, 14).

Thus, Law 89 of 1890 was the first to formally recognise indigenous customs and legal systems, and safeguarded indigenous rights to land in the form of the resguardo (Sandt 2007, 50). This created an important precedent that is still used by the indigenous movement today. On the other side, the law also placed the responsibility of educating and “civilising” the indigenous in the hands of the Catholic Church and religious missions. The Church was charged with vast areas to govern, and given legal, political and judicial power, which lead to a series of conflicts with some cabildos in the Cauca (Troyan 2015, 14-15).
3 Literature review

In this chapter, I provide an overview of relevant literature and conceptual definitions relevant to this thesis. I start by briefly exploring the history of indigenous mobilisation in Colombia, before providing an overview of some of the most important legal rights framework connected to indigenous peoples in Latin America and Colombia, focusing on the Colombian Constitution of 1991; the International Labour Organisation’s (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, more commonly known as ILO 169; as well as the United Nations Declaration on the Rights of Indigenous (UNDRIP). I then provide an overview of the context in which these rights were and are championed. I then visit the concepts of identity, ethnicity and class, before moving on to the concept of resistance, where I provide the three different conceptualisations of resistance as counter-hegemony, as counter-movements and as infrapolitics of everyday subalterns. I then look at violence in Colombia, before exploring territory, a central term to this thesis. Finally, I look at the apparent contradiction in how the Colombian state attempts to pursue an extractivist development agenda whilst also providing ethnic rights.

3.1 Indigenous Mobilisation in Colombia

Much of academic research into indigenous peoples’ lives and rights in Colombia has been centred around the department of Cauca and the surrounding regions and territories, as those are the regions with the largest population of indigenous peoples in the country. Furthermore, much of the research centres on the CRIC (Consejo Regional Indigena del Cauca – the Regional Indigenous Council of the Cauca), as this was one of the first modern indigenous organisations in Latin America (Rappaport 2007, 108-109).

Writing from a social anthropological perspective, Joanne Rappaport explores where CRIC belongs within the civil society in Colombia, and how its alignments with both the rest of civil society as well as governmental institutions has changed throughout time. She argues that not only has CRIC and the indigenous movement redefined what it means to be indigenous, they have also played a crucial role in redefining what it means to be Colombian. The most prominent example of this, she argues, is when the Colombian nation was defined through the constitution as being pluri-ethnic and
multicultural, rather than homogenous, which had up until then thought to be unachievable (Rappaport 2007, 108).

When the CRIC was established in 1971, the indigenous people of the Cauca faced severe challenges. Not only had the resguardos been taken over by major landowners, many of those working the land had been reduced to sharecroppers, and cabildos had become subjects to local Conservative and Liberal party elites. “Dispossessed of their lands, their political autonomy and their cultural memory, indigenous people were among the poorest of Cauca’s citizens” (Rappaport 2007, 109).

Upon its foundation, CRIC aimed to rectify this through unifying the cabildos and reviving the demand of the revolutionary indigenous movement of Manuel Quintín Llame from the early 20th century. Based on these demands, they formed their seven (now ten) point programme:

“[…] (1) the repossession of resguardo lands; (2) the expansion of the resguardos; (3) the strengthening of cabildos; (4) an end to sharecropping; (5) the promotion of the knowledge of indigenous legislation and the demand that it be applied; (6) the defense of the history language and costums of native communities; and (7) the training and employment of indigenous teachers” (CRIC 2002 in Rappaport 2007,109).

As we will see in the following section, this plataforma de lucha (platform of struggle) has been modified somewhat over the years, to meet new challenges and opportunities arising.

With their political platform established, the CRIC embarked on a mission to seek out legal documents on resguardo titles in local archives, established education programmes to promote indigenous cultures and skillsets, and initiated a collaboration with official institutions to collect data for an indigenous census to gain more information about their constituency. By gathering this data, CRIC and its affiliated indigenous communities were able to document old land grants and resguardos stretching back to the colonial era. Within two years of the organisation’s founding, indigenous communities started repossessing and occupying usurped land. “By the mid-
1970s, land occupations had extended to 12 municipalities, and numerous *cabildos* had been revived as the rank and file of the organisation” (Rappaport 2007, 109-110).

Together with other social programmes and cooperation with the state, this document and data collection served to lend an increasing legitimacy to CRIC, which in turn opened doors for the organisation to partake in policy-making on the regional and national levels. This culminated with the invitation of CRIC to participate in the Constituent Assembly and the drafting of the constitution of 1991, as well as the election of its members to national, regional and local offices (Rappaport 2007, 9-10).

“Over the three decades of its existence, CRIC’s militants ensured that the bulk of the indigenous lands usurped in the past centuries were reinstated as *resguardos*, leaving them the space to participate in other political and social activities” (Rappaport 2007, 110). At the same time, however, with the establishment of major sugar fields, cattle ranching, as well as “[...] the transferral of large properties into the hands of drug cartel members, territory has once again become a pressing issue for the indigenous movement, spurring new land occupations since the turn of the millennium” (ibid).

### 3.2 The Indigenous Movement of the Cauca

This thesis looks at the indigenous movement of the department of Cauca, particularly CRIC, but also its regional subsidiary of ACIN (*La Asociación de Cabildos Indígenas del Norte del Cauca* – The Association of Indigenous Cabildos in Northern Cauca), and often refers to terms of “indigenous movement” and CRIC and ACIN interchangeably. As such, it is useful to provide a quick overview of the way the movement is organised.

Cauca is known for being the birthplace of the modern indigenous organised struggle in Colombia. This coincides with the fact that it is the region with the largest population of indigenous population in the country. In 2011, the projected indigenous population of the region was 233 135, making up 21.55 percent of the regional population (DANE 2019, 29, 32). Cauca is home to eight recognised indigenous peoples, namely the Nasa (formerly known as Paéz), Totoró, Guambiano, Yanacona, Kokonuco, Eperara Siapidara, Inga and Pubenense. Out of the eight, the Nasa is the largest ethnic group, numbering about 120 000 and making up about 80 percent of CRIC’s membership (CRIC 2019e, Rudqvist and Anrup 2013, 529).
The **Cabildo**

At the local level, the indigenous communities of the Cauca are organised in *cabildos*, or indigenous councils, of which there are 115 in the region. Communities organised in *cabildos* thus outnumber the amount of *resguardos* in the region (of which there are 84), reflecting the fact that there are several displaced communities and communities who haven’t yet achieved formal rights to the territories they inhabit (CRIC 2019e).

> “The *cabildo* is the highest authority of the community, [and] is governed by a governor that is elected annually, and is advised by the *cabildantes* [councilwomen and men]. Together with the *cabildo* is the captain – whose charge is honorific and hereditary – and some elders and former governors who enjoy the respect and authority in the community” (Cajas Sarria 2011, 80).

The *cabildos* are vital institutions to the social, political and cultural structure of the indigenous communities (Rudqvist and Anrup 2013, 530).

**CRIC - El Consejo Regional Indigena del Cauca**

The Indigenous Regional Council of the Cauca, henceforth CRIC, is recognised as being among the most influential indigenous organisations of Latin America. According to Hristov, it is “regarded as Colombia’s most politically advanced organisation to defend the collective and territorial rights of indigenous peoples […]” (2005,96). Since its formation, the CRIC has held issues related to land ownership and rights as a central element of its struggle. The organisation upholds that land is the “[…] basis for their way of cultural and social institutions, way of life, identity, and therefore the object of struggle. It is, however, regarded as a public good, and as such to be shared by all rather than appropriated by a few” (Hristov 2005, 97).

CRIC represents more than 90 percent of the region’s indigenous communities, and represents 115 *cabildos* and 11 regional *cabildo* associations, such as ACIN which is described below. It is recognised by the Colombian state as a traditional authority on a regional level, akin to how the *cabildos* represent the various communities. It is led by a council elected by a regional assembly every two years, where each of the nine councillors represents a regional zone. This *consejeria* is in charge of the implementation of the organisation’s many programmes within areas such as health,
education, territory, the environment, as well as tasked with negotiating agreements with the government particularly in human rights and territorial issues (CRIC 2019c, a, b, Rudqvist and Anrup 2013, 258-560).

As we have seen, central to CRIC’s work is the *plataforma de lucha* (platform of struggle), which is their political programme. The programme is a reflection of the most pressing issues that the movement faces, and has remained largely unchanged since the foundation of the organisation.

1. “Recuperate the land of the *resguardos* and realise the defence of the ancestral territory and the spaces of life in the indigenous communities.

2. Expand the *resguardos*.

3. Strengthen the indigenous *cabildos*.

4. No paying of rent [sharecropping].

5. Make known the laws about indigenous [rights] and demand their just application.

6. Defend the indigenous history, the language[s] and customs.

7. Train indigenous professors.

8. Strengthen the economic and communitarian companies.

9. Recuperate, defend and protect the spaces of life in harmony and equilibrium with Mother Earth.

10. Defence of the family” (CRIC 2019d, my translation).

As we can see, the emphasis on *resguardos* and territorial rights is prevalent from the first point, as well as many of the following parts of the programme.

**ACIN - La Asociación de Cabildos Indígenas del Norte del Cauca**

The Association of Indigenous *Cabildos* of Northern Cauca, known as ACIN, was formed in 1994 and is headquartered in the town of Santander de Quilichao. It is made
up of 19 cabildos belonging to the Nasa people, of which 16 are constituted as indigenous resguardos, and three have yet to be constituted (ACIN 2019). As we will see in my data analysis, northern Cauca is notable for high levels of conflict with regards to the indigenous movement and communities’ attempt to reclaim land they see as theirs from vast haciendas in the fertile lowlands.

3.3 Indigenous Rights in Latin America

Prior to the Second War, there were two academic perspectives with regards to the study of indigenous people in Latin America, which both overlapped. The first was one dominated by policymakers and intellectuals, which focused on the indigenous ‘issue’ on a national scale, where the indigenous people were seen as a ‘problem’ that needed to be integrated into the modernising societies. The second had more of a ‘scientific’ scope, although policy was not irrelevant. Its focus was on long ethnographic studies, with the purpose of understanding internal mechanisms of social integration in non-Western societies. It was also to some degree used to understand non-integration in some Latin American countries (Wade 2010, 41). This dichotomy of the traditional and the modern set out by both fields plays well into what would become the dominant development theory in the 1950s, where development was seen as a linear path from traditional non-industrialised societies towards Western societies of mass-consumption (Smukkestad 2009, 42-47).

In the past 30 years, the indigenous population of Colombia has earned several important legal rights, through both national and international legislation and agreements. In the following section, I will emphasise the most relevant ones, namely the Colombian Constitution of 1991, as well as the adoption of the ILO 169 and UNDRIP.

The Colombian Constitution of 1991

The new constitution of 1991 was radically different from the constitutions of the past. No longer was Colombia defined as a country with one single language, Spanish; one single religion, Catholicism; and one single culture, Colombian. The new constitution recognises the cultural and linguistic diversity of the country on a legal level, and indigenous languages are declared official in the territories where they are used, which
entitles their users to bilingual education. Furthermore, it defined ETIs (*Entidades Territoriales Indígenas*, Indigenous Territorial Entities), as territories with political and administrative autonomy. This means that indigenous authorities are entitled to administrate budgets for education, health, justice systems and other public services in their territories, and that these rights are enshrined in the constitution. Additionally, the constitution assigned two permanent seats in the senate to the indigenous population (Padilla 1996, 80-81). Indeed, with regards to ethnic minorities the constitution of 1991 has been called by some “[...] among the most progressive in Latin America and in the world” (Hammen 2003, 21).

However, Colombian anthropologist Guillermo Padilla has dubbed the Constitution of 1991 and the reforms it brought with it a Trojan horse, arguing that the state has used the constitution to impose its own agenda on the indigenous. Although the participatory nature of the process leading up the constitution is regarded as a historic victory for the indigenous, and indeed, other social movements, it brought with it certain effects that can be considered adverse. One of these effects was that indigenous culture, ethnicity, economy and social aspects were exposed to the scrutinising view of the state, and for the first time the question about what constitutes culture was put up to public debate (Padilla 1996, 83-85).

Padilla argues that when recognising the ethnic and cultural diversity of Colombia, the state also started examining and interpreting their cultural and legal practices through the lens of its own values. When doing so, the cultures in question were subjected to other ethical hierarchies than their own, such as the Western value systems of “modern rationality”, including democracy and human rights, and in this examination many “traditional peoples” come up short. Padilla mentions examples such as arranged marriage among the people of Sierra Nevada, or dieting and insomnia used as punishment among the Iku and Kogi peoples. While I will not go further into this debate, nor the dichotomic use of ‘modern’ and ‘traditional’, it is important to note that the individualisation of the human rights and law-based doctrine isn’t always compatible with more community-oriented ethnic groups (Padilla 1996, 84-85).

The second, and more relevant, “Trojan Horse”-aspect with the new constitution, is that by allowing the indigenous to decide and run social services in their own territories, they were also forced to change the way they were organised internally. The
administration of these programmes and budgets brought with it new challenges and demanded skillsets that traditional and spiritual authorities didn’t necessarily have. Thus there has been a change of leadership towards younger leaders with higher western education but less ties to their traditional cultural identity, as they could more aptly manoeuvre in the new framework (Padilla 1996, 87-88).

Rappaport also describes a radical change in the leadership of CRIC in the post-constitution period, both at the regional and local cabildo levels. Prior to the constitution, the leaders of CRIC had many years of political experience in the movement and used a specifically indigenous discourse. The new generation of leaders were literate and fluent in Spanish, hadn’t necessarily experienced sharecropping, and grew up in resguardos that were already reclaimed. Women started entering the organisation’s leadership, and the organisation stopped advocating the occupation of land, rather focusing on mass mobilisations, marches and blocking the Pan American Highway (Rappaport 2007, 112-114).

“These new authorities, it was felt, would be better able to interact with the state on its own terms and to protect the interests of the local community in the areas of justice, health care, education, and the disbursement of public funds than were their more rustic – and combative – forbears” (Rappaport 2007, 113).

Seen together, “the post-constitution era thus marked a shift in which the indigenous organisation assumed state-like functions” (Rappaport 2007, 113), which some like Padilla interpret as a process of co-optation by the State, but has also been seen as “[…] a necessary strategy in a neo-liberal environment and as a direct outgrowth of its participation in the writing of the constitution” (ibid).

The Constitution of 1991 is a hallmark of a long struggle to formalise indigenous rights in Colombia. Especially in the recognition and legalisation of indigenous territories, but also in areas such as cultural and linguistic diversity, the Constitution of 1991 is an important achievement for ethnic minorities in the country. However, it also opened up indigenous culture, ethnicity, economy and other social aspects to the scrutinising gaze of the state, which subjects them to other ethical hierarchies with Western values at the top. This has also contributed to a change in the internal organisation of the indigenous
movement which saw new leaders and authorities rise who were seen as better able to interact with the state.

**ILO 169**

There are several treaties, conventions, declarations and other agreements of varying legality that have been pushed forward through international organisations, such as the UN Declaration of the Rights of Indigenous Peoples, which was supported by Colombia in 2009. Together with this declaration, the ILO 169 is the most comprehensive international framework on indigenous people’s rights to date (IWGIA 2018, 128).

The International Labour Organisation’s (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, more commonly known as ILO 169, was adopted by the ILO in 1989 and entered into force in 1991. It came about partly as a result of the organisation observing that indigenous peoples were often denied their basic human rights and respect for their own institutions, belief-systems and cultures, but also as a result of social movements mobilising across the region. It is the most comprehensive international instrument on indigenous peoples’ rights, and becomes legally binding when it is ratified by governments. By ratifying, the State “[…] commits itself to improve the laws and take appropriate actions in accordance with the provisions and principles the new instrument contains” (ILO 1999).

The ILO 169 maps out important rights for indigenous peoples, such as participation at all levels of decision-making in elective and administrative bodies, the right to decide their own development priorities and to exercise control over their own economic, social and cultural development, to retain their customs and institutions (when they are not directly incompatible with national legislation) and to acquire education adapted to their own values and knowledge systems. Importantly, the convention highlights the essential importance of land and its natural resources as the “[…] principal source of livelihood, social and cultural cohesion and spiritual welfare of indigenous and tribal peoples” (ILO 1999). It provides that the state should safeguard indigenous people from being removed from their land, and also tasks the state with recognising and guaranteeing indigenous peoples’ rights to their land and their natural resources (ibid).
UNDRIP

Unlike the ILO 169, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is not legally binding, but rather has a “[…] binding effect for the promotion, respect and fulfilment of the rights of indigenous people worldwide” (UN 2019). While the UNDRIP doesn’t create new rights, it serves to underscore and highlight how to interpret human rights in other international human rights instruments and how they apply to indigenous peoples. The Declaration took more than two decades to move forward through the UN system, and was adopted by the Human Rights Council and General Assembly in 2007. It “[…] addresses both individual and collective rights, cultural rights and identity, rights to education, health, employment, language and others” (UN 2019).

A Struggle for Rights in a Neoliberal Context

In addition to the organisations themselves, exogenous forces outside the organisation played a crucial role in struggling to strengthen their rights through multiple processes at both the national and global levels. Indigenous and campesino movements across the region had mobilised from the 1970s onwards, resisting dispossession, commodification of nature and privatisation. Aguilar-Støen argues that while “transnational organising and coalition building opened up new opportunities for indigenous people to influence legislative agendas” (Aguilar-Støen 2017, 95) such as the ILO 169, this happened within a context in the 1990s where Latin American countries were under pressure from international financial institutions such as the Bretton Woods institutions like the World Bank and IMF (International Monetary Fund) to solve longstanding economic crises in the region. Reforms were enacted promoting liberalisation, privatisation and decentralisation, and civil society was expected to contribute in the provision of social services through their participation as “diversity and pluralism were considered necessary ingredients to promote participation” (Aguilar-Støen 2017, 95).

According to Aguilar-Støen, “[…] recognising indigenous peoples’ rights claims appealed to the ruling elites as a way for the state to signalise attention to citizen’s claims in a context in which the state was less able to meet their material demands” (Aguilar-Støen 2017, 95). At the same time, the two international conventions described here make no mention of private property, but rather of “territory”, and as such do not
challenge the states’ sovereignty, albeit the ILO 169 “[…] asserts the right of indigenous people not to be removed from their lands and territories” (ibid, 96).

3.4 Ethnicity, Identity and Class

There is no real agreement on what really constitutes ‘ethnicity’. While some use it to avoid the more loaded word ‘race’, arguing that it refers to ‘cultural’ rather than phenotypical differences, it is still very much a social construction that says something about identifications and categorisations of difference and sameness. In this regard, it is hard to say how useful ‘ethnic identity’ really is as a categorisation, as it “[…] includes all those forms of cultural categorisation where there is no other primary discourse of differentiation, such as wealth, sex, age, phenotype, etc.” (Wade 2010, 16).

In addition, ethnic identity might differ depending on the context and who people are interacting with. While a Norwegian and a Swede might differentiate themselves from each other by ethnic and national identity, they might still identify as the same (e.g. Scandinavians) vis-à-vis a German or as Europeans vis-à-vis Americans. As we will see, this also applies to the indigenous people of Colombia, who identify as their specific ethnic group vis-à-vis other indigenous people, but as indigenous vis-à-vis other Colombians (Wade 2010, 16-17).

Still, the term ethnicity is important as it tends to use a “language of place”, both with regards to current places and “places of origin”, and is often defined by the persons themselves rather than the analyst. “[…] ethnicity and ethnic categorisations are part of a particular history. To see ethnicity as a language of cultural geography is not a final, objective definition, but reflects the importance of changing cultural geographies for people in the modern world” (Wade 2010, 17).

Ethnic citizenship

Troyan argues that what has made the indigenous movement in Colombia able to mobilise and achieve such economic and political victories as they have, is the elaboration of an ethnic citizenship. She argues that this term better describes the relational exchange between the nation-state and the indigenous movement than ethnic identity, as it emphasises “[…] the political nature of the claims made on the basis of
ethnicity” (Troyan 2008, 167). The indigenous grassroots organisations have actively constructed this citizenship discourse that focuses on nonviolence and avoids partisan politics, in an effort to democratise the Colombian society outside of party politics. This, she argues, has in turn been promoted by the Colombian state in an effort to “[…] move away from a class discourse with the objective of diminishing the power of class-based movements” in the context of the Cold War (Troyan 2008, 168, 170, 187).

This state policy of repressing class-wide solidarity and encouraging an indigenous ethnic identity was actively enforced by the Colombian army, and has in turn forced CRIC to present itself as purely an ethnic movement. This is in spite of it originally representing not only people that identified themselves as indigenous, but also peasants and Afro-Colombians (Troyan 2008, 186). However, by presenting itself in such a manner the movement has been able to “[…] avoid the subversive label and to achieve the recovery of land in a nonthreatening way for the Colombian state” (ibid, 187).

Although it is debated whether or not ethnicity and ethnic identity are useful terms as categorisations in general, they have proven to be useful terminologies for the non-partisan mobilisation of indigenous organisations. By mobilising around a common cultural and ethnic identity, CRIC is to a certain degree allowed to present itself as a non-class based actor in civil society vis-à-vis the Colombian state apparatus, in an attempt to avoid subversion.

### 3.5 Resistance

CRIC defines its path as one of mobilisation, struggle and resistance, both historically and presently. It is important to note that any conceptualisation of resistance is framed by the historical context of the one formulating it. In the following part, I will highlight three different conceptualisations of resistance.

With regards to indigenous movements, indigenous resistance has historically often been seen as “[…] a supposedly traditional, conservative resistance to modernisation and national incorporation” (Wade 2010, 68). However, when met with the analysis of colonialism in the 1970s, it changed to be seen in positive terms as “[…] the resistance of an oppressed minority against political and cultural domination” (ibid). This is
important, as the new tools for analysis it has brought has changed the view of indigenous people as passive victims towards active historical agents (Wade 2010, 70).

When talking about resistance and indigenous movements, one can argue that resistance takes place on both the local, regional, national and global levels, and these influence each other. In the case of the Colombian indigenous movement, important rights have been won by the ratification of the ILO 169 and its adoption into law. At the same time, resistance takes place locally and regionally through various actors and organisations, as well as nationally vis-à-vis the state.

**Resistance as Counter-hegemony**

Gramsci introduced the term hegemony during his imprisonment in fascist Italy to describe “[…] a dynamic lived process in which social identities, relations, organisations, and structures based on asymmetrical distributions of power and influence are constituted by the dominant classes” (Mittelman and Chin 2005, 18). He sees hegemony as “[…] as much economic as it is “ethico-political” in shaping relations of dominations and subordination” (ibid). Resistance, then, is the process of opposing this hegemony, or what he coined as counter-hegemony. This, in turn, can take the form of either “wars of movement” – frontal assaults on the state such as strikes or armed interventions – or “wars of position”, which translates roughly to nonviolent resistance that interferes with state functions. Gramsci also notes that conformity and resistance can often coexist in a subaltern group, which can be reflected in contradictory behaviour in such groups that advocate for their own agenda and world view whilst “[…] still adopting conceptions borrowed from the dominant classes” (ibid, 19).

**Resistance as Countermovements**

Another perspective on resistance is Karl Polanyi’s notion of the double movement, where resistance materialises as a counter movement against global market liberalism. He argues that “[…] the creation of a market economy requires the extension of market principles into all areas of social life, to the point that the ‘fictious commodities’ of land, labour and capital are bought and sold” (Amoore 2005, 14). The notion is modelled by the rise of the labour movement. This view facilitates an approach to see current social movements as a form of resistance, as it is “a form of collective action (a)
based on solidarity, (b) carrying on a conflict, (c), breaking the limits of the system in which action occurs” (Melucci 1985, 795 in Mittleman and Chin, 2005, 21).

Furthermore, rather than open confrontation, resistance is executed through ways that people carry out their everyday lives, or through submerged networks. An example of this may be ethical consumer choices, which have real political and economic consequences (Mittelman and Chin 2005, 20-21).

**Resistance as Infrapolitics of Everyday Subalterns**

A third take on resistance is James Scott’s concept of resistance as “infrapolitics”, or everyday resistance. Just like infrared light is invisible to the naked eye, infrapolitics encompasses seemingly unnoticeable acts and expressions of politics that aren’t perceived as such. These might include working slowly, feigned ignorance and other acts of undetectable resistance (Scott 1990, 183). It’s identified through a juxtaposition between hidden and public transcripts, where public transcripts are “[…] verbal and nonverbal acts carried out by the dominant party […]” (Mittelman and Chin 2005, 22), and hidden “[…] what subordinate parties say and do beyond the realm of the public transcript or the observation of the dominant” (ibid). This implies that according to Scott’s definition, everything can be defined as resistance, be they declared or undeclared acts. While Scott's theoretical framework is criticised for having a unidimensional view on resistance, and overemphasising class as the most important modality of identity, it is a useful tool when analysing both current and historical struggles undertaken by indigenous and other social movements (ibid, 22-23).

### 3.6 Violence

While indigenous populations and organisations face similar challenges in many Latin American countries, the level of physical violence against rural communities sets the Colombian case apart. This violence is conducted not only by the infamous guerrilla groups like FARC-EP and ELN, but the national armed forces, assisted by right-wing paramilitary groups “[…] has a well-deserved reputation for being among the worst human rights violators in the hemisphere” (Hristov 2005, 88). According to Hristov, the specific targeting of rural communities “[…] is linked in turn to the current attempt by a Colombian government sympathetic to corporate interests to restructure agriculture
along neo-liberal lines [...]” (ibid), which further serves to reinforce the difference in development between different communities and urban and rural populations.

The level of violence has and continues to lead to massive displacement, and has resulted in an estimated 6 509 000 internally displaced persons (IDPs) as of the end of 2017. Although an historic peace agreement was signed between the FARC-EP and the Colombian Government, forced displacements continue as various armed groups vie for control, power and resources (IDMC 2017). Cauca together with the neighbouring province Valle del Cauca are often listed as the worst affected regions with regards to murders of indigenous and afro-Colombian leaders (Sánchez-Garzoli 2018).

In 2017, the National Indigenous Organisation of Colombia (ONIC) documented the murders of 45 indigenous persons, threats against 112 indigenous persons, “[…] 827 indigenous persons taken prisoner, 3800 indigenous persons displaced, and 10 forced recruitments of indigenous persons” (IWGIA 2018, 133).

According to Hristov, the increased repression and militarization over the years is a by-product of the consolidation of neo-liberalism in Colombia. Writing during the 2002-2010 presidency of Álvaro Uribe, she characterises the Colombian state as a ‘democratatorship’, “[…] referring to the presence of dictatorial features hidden under the veneer of democratic formalities […]” (Hristov 2005, 90). For the civil society, this takes shape as an “[…] unofficial criminalisation of grassroots oppositional organisations and activists, […] the object being to portray human rights campaigners as subversives, criminals or terrorists” (ibid, 91). This is further described in chapter 3.8.

Hristov argues that the primary responsibility for the human rights violations against civilians in Colombia lies with the right-wing paramilitaries and the national armed forces, and less so with guerrilla groups. The paramilitary groups were initially formed by rich landowners as a measure to protect their lands and resources from the insurgent guerrilla groups, but have continued to join forces under the umbrella group of AUC (Autodefensas Unidas de Colombia – Self-Defence Forces of Colombia). The guerrilla groups are by no means innocent, but with their strong political demands focusing on land redistribution, welfare programmes and institutional reform, groups like the FARC have traditionally received a lot of support from peasant and rural communities.

Nevertheless, they have been involved in murdering and kidnapping those who refuse
them. Meanwhile, the AUC continues to be “[…] supported financially and politically by sectors of the cattle raising, landowning and business elite” (Hristov 2005, 91). Rural peasants and indigenous persons and organisations continue to be targeted by these vigilante forces, under the guise of beings suspected guerrilla sympathisers (ibid).

The indigenous communities have for the past decades striven to remain neutral in the conflict and reject the presence of the various armed actors in their territories, but nonetheless they continue to suffer incursions by different groups as they are either suspected to sympathise with a party, or because many of the economically most valuable natural resources are found in their territories. The ban on violence and armed actors is enforced by the guardia indígena, the indigenous guard, who only carry ceremonial canes to represent indigenous authority (Hristov 2009, 92-93, Troyan 2008, 170).

3.7 Territory

Territory, a central term to this thesis, is often taken as a rather self-explanatory, plain and unproblematic terminology, especially in the Anglophone world. However, Elden argues that although it is assumed to be self-evident in meaning, the lack of theoretical reflection on the term leads to a neglect of its many different historical, political, economic and geographical meanings (Elden 2010, 799-800).

Elden argues that territory “[…] needs to be understood through representation, appropriation and control, broadly understood as the workings of power” (2010,804). Furthermore, he suggests that the concept needs to be conceptually distinguished from the related terms of land and terrain, with which it is often used interchangeably. Each of these terminologies conceals power relations;

- “Land is a relation of property, a finite resource that is distributed, allocated and owned, a political-economic question. Land is a resource over which there is competition

- Terrain is a relation of power, with a heritage in geology and the military, the control of which allows the establishment and maintenance of order. As a ‘field’, a site of work or battle, it is a political-strategic question
- **Territory** is something that is both of these, and more than these. Territory must be approached in itself rather than through territoriality, and in relation to land and terrain” (Elden 2010, 804).

The relationship between land, property and resources reveals power relations in the form of a political-economic relation that is also essential in the analysis of territory. As a finite resource, the possession of land is not only one of the most central determinants of power, its control is also a key indicator in power struggles. Thus, the distribution and redistribution of land is of imperative economic and political concern (ibid, 806).

Moreover, ‘territory’ in European tradition is criticised for building on state-centric and Eurocentric epistemologies with deep colonial roots. Elden explains this as a historical process, where the modern notion of territory is “[…] ‘a bounded space under the control of a group of people, usually a state’ […]” came about as a result of “[…] ‘political technologies’ for “measuring land and controlling terrain” (Elden 2013, 322-323 in , Halvorsen 2018, 1). Central to the Western understanding of territory are the tools, technology and techniques linked to mapping and cartography, which serve to map out the terrain, establish the property to the land and demarcate and produce the boundaries for the territory with very accurate measurements (Elden 2010, 809).

**Territory in a Latin American Context**

Halvorsen, building on Elden’s exploration of the term in the Anglophone world, explores the terminology through Latin American scholarship and grassroots’ experiences, and develops a definition of territory as “the appropriation of space in pursuit of political projects” (Halvorsen 2018, 5). This more open definition allows for several political strategies and projects to overlap and exist at the same time, both as “[…] state-centres strategies to exercise control and domination and bottom-up attempts to appropriate space in less hierarchal forms of political organisation” (ibid).

With the arrival of the Europeans, indigenous peoples in Latin America experienced the forceful demarcation, division and occupation of their territories, where they were made to assimilate within the new boundaries of the ‘modern’ colonial state. This has been continuously challenged and resisted with alternative claims to space by the various indigenous groups, and since the 1970s the “[…] concept of territorio has been widely and explicitly re-invented by social movements across the region” (Halvorsen 2018, 7).
It should be mentioned that the Spanish *territorio* has a broader meaning than the English *territory*, and might sometimes refer to *place* (Halvorsen 2018, 6).

Across the region, territory has become a central axis of mobilisation and discourse, not only for indigenous groups but also for afro-descendants, peasants, landless workers and slum dwellers. Examples include the Zapatista movement in Mexico, the MST (Landless Workers’ Movement) in Brazil as well as several indigenous marches and protests in Ecuador and Bolivia that led to constitutional reforms and plurinational states (Halvorsen 2018, 7-12).

Most contemporary indigenous struggles for territory in Latin America do not normally unfold as military or armed struggles for control over terrain, but rather as “[…] bottom-up struggles seeking autonomy to self-govern based on less hierarchical power-relations […]” (Halvorsen 2018, 8). While territorial autonomy is based on longstanding historic claims to the land, this itself leads to a dilemma where the various movements seek “[…] territorial autonomy […] constructed alongside and with(in) the state’s sovereign claims over space, via legal recognition of indigenous and afro-descendant rights to self-determination, particularly via land titling and constitutional reforms” (ibid). On the one hand, the struggle for territorial autonomy is a struggle for resistance against the Western idea of territory. However, this resistance is based directly on Western and colonial conceptualisations of territory, as it relies heavily on legal and constitutional rights, cartographic technologies and “[…] territorial practices [that have] led to an entanglement with modern/colonial ideas of territory, despite drawing on alternative knowledges (e.g. collective governance and communal land rights) (ibid).

### 3.8 Ethnic Rights and Colombia’s Extractive Development Scheme

As has already been elaborated in the literature review, the new Colombian Constitution of 1991 was seen as a great step forward and a victory for historically marginalised ethnic groups. In line with the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent countries, it constitutionally granted and recognised collective property rights to indigenous peoples organised in *cabildos* and afrodescendant communities when organised in *consejos comunitarios* (communal councils). The
country was declared as a multi-ethnic nation where indigenous, afrodescendants and Rom peoples were constitutionally recognised as ethnic groups (Vélez-Torres 2014, 71). However, Velez-Torres argues that “[…] despite their intention to protect the rights of historically marginalised communities, private actors’ interest in commoditized land-based resources did not decline after the Constitution came into effect” (Vélez-Torres 2014, 71), and that the outspoken intentions of the newly defined pluri-national state of Colombia crashes with “[…] a decade-long official extractivist rationale for governing land-based resources, aimed at “securing” the territories and underground minerals for private exploitation” (ibid, 70). This also goes for other land-based resources, defined as “[…] those on the ground such as soil, nutrient and water, but also [sic] mainly underground, such as gold and other minerals” (ibid, 70).

The contradiction of aiming to protect and acknowledge ethnic minorities’ rights, whilst at the same time seeking extractivist policies in the national project of “wealth” causes considerable tensions between government institutions, minority groups and stakeholders in the extractive industries (Vélez-Torres 2014, 68-70). Furthermore, private and foreign “multinationals” conducting the resource extraction are promoted juridically and given legal and military protection, “[…] generating legal parallels and causing conflicts over land-based resource access and control to escalate” (ibid, 69).

From the 2000s, during the presidency and government of Álvaro Uribe-Velez (2002 - 2010), the Colombian state withdrew from mining production and initiated a policy of seeking foreign and private investment. The state’s role in this policy was not to partake in the industry itself or create favourable market conditions, but only to encourage investment. In order to do this, emphasis was put on privatisation of land and resources, and in particular the security aspect of the investments, as the high level of violence “[…] “required” more than a legal framework to attract investment” (Vélez-Torres 2014, 73). Securitisation through militarisation as well as “wealth” were defined as the national project, and its accomplishment was seen as a responsibility of all Colombians and their civil society, and not only the military forces. In the words of the Ministry of Defence; “Security cannot be achieved only through the efforts of the security forces. This will be a state-wide effort and an effort of all Colombians” (Ministerio de Defensa Nacional 2003, 7 in , Vélez-Torres 2014, 73).
The link between national security and democracy to economic prosperity through resource extraction soon established that those who opposed this economic model were also enemies of democracy, and sometimes branded “terrorists”. Every citizen was expected to participate in the economic development of the country, and once coupled with national security, those who didn’t were branded terrorists;

“As economic development was made dependant on security, and security depended on society’s cooperation, to oppose government-led economic development could be seen as opposition not only to the economic regime or development scheme, but also opposition to national security” (Vélez-Torres 2014, 74)

The following presidency of Juan Manuel Santos-Calderón (2010 – 2018) largely continued and consolidated this national security policy. Members of ethnic community and civil society who opposed or expressed criticism towards these extractive projects in their areas and the ensuing securitisation were subjected to threats, persecution and outright assassinations as authorities linked their opposition to left-wing political and insurgent parties. Paramilitary groups in Colombia have acted both at the behest of powerful political figures, elites, business owners and drug lords, as well as on their own accord when committing atrocities. Several of these incidents1 have been proven to be perpetrated by paramilitary groups such as the AUC (Autodefensas Unidas de Colombia – the United Self-Defence Forces of Colombia), with the Military Forces and/or National Police either simply standing by and not reacting or actively participating. That being said, paramilitary groups in Colombia have also acted alone or at the behest of powerful political figures, elites and business owners, as well as by their own accord (Vélez-Torres 2014, 74-75).

The consecutive Colombian governments since the early 2000s have been seeking to pursue an extractivist neoliberal economic model, while at the same time constitutionally protecting ethnic rights. As a result, two simultaneous juridical architectures have emerged. Whilst one does indeed aim to protect ethnic rights, the

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1 See for instance (Evans 2012) on the Mapiripán massacre in 1997 against civilians in Mapiríán, (Brody 2010) on the El Salado massacre in 2010 against a farming community and (Fichtl 2003) on the Betoyes massacre in 2003 against the Guahibo indigenous community.
second is a juridical territorialisation which aims to support “[…] the private accumulation of capital through the foreign exploitation of mining resources […]” and other land-based resources. This territorialised governmentality grants “[…] differentiated access to and control over land-based resources, excluding Afrodescendant communities while favouring private foreign actors” (Vélez-Torres 2014, 76). As we will see, indigenous groups are also facing similar challenges where the security of the private property of big landowners is favoured over established ethnic rights.
4 Methodology

In this chapter I will explain the methodology I’ve employed in the process leading up to, as well as in the writing of the thesis. I start by looking at the basis of a qualitative approach, before moving on to how I’ve collected my data. This thesis is largely based on the fieldwork I conducted in Cauca, Colombia for three months in 2016, where I conducted interviews and participant observations. I explain the background and rationale for undertaking these interviews and observations, and reflect upon the limitations connected with them, as well as with my role as a researcher. Finally, I deliberate upon central ethical considerations to the process leading up to this thesis.

With an academic background from development studies, I have a thorough interdisciplinary training, and no single discipline to lean on. This is also well reflected in my choice of methodology and my thesis overall.

4.1 Qualitative Approach

The goal of this thesis is to provide an in-depth understanding of questions related to the Caucan indigenous movement’s approach to land rights vis-à-vis an extractive Colombian development scheme, as well as how they go about achieving and claiming these rights. In other words, to research the reality as lived by the members of the indigenous movement in Colombia. For this, a qualitative approach is ideal.

“There is no burden of proof. There is only the world to experience and understand. Shed the burden of proof to lighten the load for the journey of experience” (Harcolm’s Evaluation Laws in Patton 1990, 7).

4.1.1 Reliability

Central to any academic research is the reliability of the process of gathering information. Questions and reflections surrounding aspects such as how the data is collected, which and how the data is used as well as how the data is processed are important to obtain this reliability (Johannessen, Tufte, and Christoffersen 2010, 40).
Naturally, the goal of absolute objective reliability is unobtainable in qualitative research as it is based on studies where people, the informant and the researcher, have a relationship in which the researcher cannot necessarily take on a role as a neutral collector of information. Instead, the researcher has to argue and reflect on the context in which the gathering of information took place, as well as the relationship with the informants and how that might influence the information received (Thagaard 1998, 179).

Consistency is not relevant to qualitative research, as the researcher cannot act in the exact same way several times to get the same results. By attempting to, much relevant information would be lost as qualitative research values adaptation to each situation in order to get as much relevant information as possible. As such, the reliability of a qualitative research project is rather tied to the contextual aspects of the research process such as reflections done by the researcher on how the relationship with the informant might influence the research (Thagaard 1998, 179-180).

4.2 Data Collection

4.2.1 Fieldwork

My research is largely based on the fieldwork that I undertook from October until December in Colombia in 2016. I spent most of my time in the regional capital of Cauca, Popayán, as this is the base of CRIC. I also travelled several times to the smaller town of Santander de Quilichao in northern Cauca where the main office of ACIN is located.

Before travelling to Colombia, I established contact with SAIH’s (The Norwegian Students’ and Academics Assistance Fund) programme advisor on Colombia, Live Bjørge, as I knew SAIH had an ongoing partnership with both CRIC and ACIN. She put me in touch with CRIC by writing an e-mail on my behalf, explaining who I was and kindly asking for a meeting once I landed in Popayán. After some weeks I got a reply from Franco², a high-ranking profile in CRIC, agreeing to meet with me upon my

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² All my informants have been anonymised. See section 4.3.2 on Ethical Considerations for more information.
arrival. Before my departure, I also interviewed Richard Skretteberg, a senior advisor in the Norwegian Refugee Council. He put me in contact with MAPP/OEA (*Misión de Apoyo al Proceso de Paz en Colombia* – Mission for the Support of the Peace Process in Colombia), of which I interviewed two representatives as my first interview.

Franco’s contact network proved invaluable, as he after our interview put me in contact with several people and invited me to join a *Caravana por la Paz* (Caravan for Peace) to the small town of Lerma in southern Cauca, which had been particularly affected by the drug-trafficking and war, and reportedly lost more than 25% of its population of less than 400 in the five year period between 1983-1988 to the violence and assassinations by the various armed actors. In May 2013 it was declared a “Territory of Peace and Coexistence” (Comisión Europea 2015, 21, 29). I went there on October 13th with CIMA – the Commission for the Integration of the Colombian Massif, who together with various indigenous, Afro-Colombian, campesino, women’s rights and human rights organisations had organised the caravan - and travelled by chiva-busses on mountainous roads from the various afflicted communities in Cauca and Valle del Cauca, making several stops and rallies on the way. The Caravan was an effort to demand the inclusion and participation of the civil society sectors in the peace process, as well as to support the ongoing peace talks with ELN in Quito. Both during the travel and in Lerma I had several informal conversations with many grassroots members of Cauca’s civil society who had experienced conflict, and who served to give me a good contextual understanding of the situation.

Towards the end of October and the beginning of November, three representatives of SAIH including programme advisor Live Bjørge came to Cauca in order to meet with their partner organisations of CRIC, ACIN as well as the indigenous university UAIIN (*Universidad Autónoma Indígena Intercultural* – The Autonomous, Indigenous and Intercultural University). I was invited to partake in these meetings in Santander de Quilichao and Popayán, during which I got valuable information through meetings and informal conversations, as well as made valuable contacts for future interviews.

Some of the people I had interviewed in Santander de Quilichao, after having come in contact with them through SAIH’s meetings, invited me to the *II Asamblea Nacional de Autoridades Indígenas el Pueblo Nasa* (The Second National Assembly of Indigenous Authorities of the Nasa People). Due to illness I was only able to participate one out of
four days. The Assembly took place in the resguardo of López Adentro, where hundreds of Nasa community members from all over the country met to discuss common challenges and issues, as well as partake in cultural events. While it was made clear that I as a foreigner wouldn’t be welcome to listen in to certain community conversations that happened in designated safe spaces, I met up with Sofía from ACIN who I had interviewed the previous week and who showed me around and put me in contact with several people.

While in López Adentro, we received word that three people had been apprehended with firearms and muddy women’s clothing in their vehicle, dressed as police officers while asking around for indigenous people no one had heard of. The men were assumed to be paramilitaries. Therefore we travelled to the neighbouring area of the La Emperatriz hacienda, and observed an indigenous trial. This trial is described in depth in chapter 5.1.5.

After having been invited by Sofía, I also partook in a march in the city of Cali on the 25th of November 2016. The march was a broad civil society alliance consisting of indigenous, afro-descendant, peasant, labour, student, women and other rights-based organisations demanding that the dialogue between the government and the ELN guerrilla be made public and inclusive. According to CRIC almost 6000 people participated in the march from the University of Valle to the provincial government building of the Valle del Cauca (CRIC 2016a).

Towards the end of my fieldwork, the groundwork I had done in establishing a contact network paid off, and I got several interviews with community and movement leaders towards the end of November and beginning of December. However, I decided to end my fieldwork in the middle of December, as many informed me that this period marks the beginning of the Christmas holidays in Colombia, when most people travel back to their territories. I also decided to end my field work as I had already gathered considerable amounts of data and needed to continue the master’s process by processing and transcribing the interviews, as well as progress with the thesis.

According to Brinkmann, although it is common to think that the more interviews you conduct, that the more valid and reliable your analysis will be, this is rarely the case. Instead, one should focus at getting as many interviews as necessary to do your analysis
(Brinkmann 2013, 58). As such, my emphasis was largely on getting access to relevant informants. As I was nearing the end of my fieldwork, I was content with the number of interviews I had gotten. However, I took the opportunity when it arose to conduct an interview with a leader of the indigenous movement visiting Oslo in August 2018.

4.2.2 Snowball Sampling and Access

When starting a qualitative fieldwork, a common way of approaching it is through snowball sampling. This consists of establishing contact with a few key people, who can assist the researcher in gaining further access to informants. Those informants might then propose who should contact next. This can be an efficient method to get the fieldwork started. However, it also poses a challenge, as you might get a lot of contacts within the same circle of people, and few from outside that circle. This can be amended by contacting people from different networks, and then continuing to use the snowball sampling method within those networks (Thagaard 1998, 54-55).

I reflected on this during my fieldwork in Colombia and attempted to amend it by not only spending time in Popayán interviewing representatives the CRIC, but also travelling to Santander de Quilichao to focus on the organised indigenous movement in northern Cauca, namely ACIN. While this proved challenging at first, the more people I got in touch with, the easier it became.

In some situations, and especially in communities that have had different experiences with researchers in the past, one might encounter scepticism towards being researched. As such, the researcher might have to spend time to gain the trust of the potential informants (Thagaard 1998, 55). I partly encountered this problem, as members of both CRIC and ACIN told me that scientists had come and left, without the indigenous movement gaining much from neither their research nor their stay. In this, Live Bjørg proved invaluable, as she vouched for me to the representatives of CRIC and to Franco. Additionally, the indigenous movement is under considerable pressure, and community and movement leaders suffer from threats, disappearances and assassinations, as we will see in chapter 5. Live told me after having contacted CRIC that they asked her if I was de confianza – to be trusted – which she assured them I was. Once I had interviewed Franco, he gave me access to more informants. Once I had established contact and trust with them, they suggested and helped me contact further informants.
During my snowball sampling, several individuals served as gatekeepers for my further research. A gatekeeper is “[...] a metaphor for people who control information, and can give formal or informal access to the setting, meaning those environments, situations and participants that the researcher can collect information in or from through observation and interviews” (Johannessen, Tufte, and Christoffersen 2010, 123). My initial gatekeepers were Live Bjørge, who helped me gain access to CRIC, as well as Franco who was the first person I interviewed in the organisation. By identifying the gatekeepers and seeking contact with these first it is easier to get access to the field one wants to study, especially in formal organisations such as CRIC and ACIN. Also, informal leaders such as senior employees might ease or complicate the process. In the case of ACIN, I attempted to contact several people before getting in touch with Sofía, who served as my gatekeeper in that organisation (ibid, 123-125).

4.2.3 Interviews

Initially, I wished to study the participation of the indigenous movement in the Colombian peace process that was being negotiated at the time. I landed in Bogotá shortly after the referendum that rejected the peace process, and the topic was very present in most conversations I had with Colombians. However, I eventually decided to remove the questions directly related to the peace process as they were beyond the scope of the thesis project, but my research and in particular my fieldwork was done in the context of the then-ongoing peace process.

In total, I conducted nine individual interviews, and in two of these interviews two people participated. Additionally, I conducted two group interviews with 8-10 people, one in the offices of ACIN, and the other one in the indigenous university of UAIIN. Both group interviews were with mixed genders, but out of the individual interviews only two were with women. All but two of my individual interviews were with people who identified as indigenous. Most of these identified with the Nasa people.

Before each interview, I would spend some time having an informal conversation with the informant, both in order to build trust as well as explain my research. This also allowed me to identify what parts of my research the informant was particularly interested in. Spending time on building trust between the informant and the researcher before an interview is important as a good interview requires a good relation between
the two. The goal is to “[…] capture reality as it is experienced by those who are studied” (Thagaard 1998, 99, my translation), and the quality of the material is dependent on the quality of the relationship between researcher and informant. If the relationship is poor, this will be reflected in the researcher obtaining less information (Thagaard 1998, 99).

I would present myself as a master’s student, present my research question and explain what the interview material would be used for, before asking if I could record the interview. I also told them I would anonymise them for ethical reasons, which all but one of my informants saw as unnecessary, and they presented themselves with full names and titles. After the informants agreed to the recording, I would repeat the question in order to have it on tape. I recorded seven of my interviews, opting for taking notes in the rest.

**Semi-structured interviews**

One usually differs between structured, semi-structured and unstructured interviews. However, Brinkmann argues that there is neither such thing as a completely structured, nor a completely unstructured interview in qualitative research, and that they rather exist on a continuum. The interviewer will always have some idea of what the conversation should be about, and in human interactions people interpret questions in ways that might go beyond the intended meaning of it. Still, the distinction between various interview structures is useful (Brinkmann 2013, 18-19).

I conducted semi-structured interviews with all my informants. I had a developed a rather elaborate interview guide, with questions divided into various topics that I thought relevant for my thesis. These were topics such as identity, land rights, participation and organisation. Before each interview, I adapted the questions somewhat to the person I would meet.

“Semi-structured interviews also give the interviewer a greater chance of becoming visible as a knowledge-producing participant in the process itself, rather than hiding behind a preset interview guide” (Brinkmann 2013, 21). The nature of conducting semi-structured interviews also allowed me to follow up if the interviewee ventured into
thematic areas I hadn’t foreseen as relevant, or to delve deeper into topics that they both prioritised and saw as important, or that they had a lot of knowledge or opinions on.

4.2.4 Participant observation

Relying solely on observation for one’s research can require a lot of time and resources, but is a good method for the scientist to get direct access to the research topic. In some instances it may even be impossible to generate knowledge without observation, as knowledge can’t always be put into words, and what we say may differ from what we actually do. By placing themselves in the natural setting where the topic of research occurs, the scientist can use themselves as a filter and do their reflections during the entire research process (Johannessen, Tufte, and Christoffersen 2010, 119).

In my research, I used observation as a supplement to my other research methods, as it brings out information that is harder to get to through other methods. As such, it can be used as a “[…] supplementary method to get answers to research questions or to look at them through a different lens” (Johannessen, Tufte, and Christoffersen 2010, 119). For instance, when I participated in the march in Cali as mentioned earlier in this chapter, I instantly noted the massive turnout of heavily armed police and other bystanders. When I asked some of these why the turnout was so big, I was told “because the guerrilla is coming down from their mountains”, referring to the rural indigenous communities participating in the march. Experiencing this for myself accentuated the tension and level of prejudice experienced by the communities that I had already been told much about in my interviews.

Another observation that stuck with me was when three armed assumedly paramilitaries were apprehended at the Nasa Assembly in La Emperatriz neighbouring the resguardo of López Adentro. These experiences not only supplemented the data I had gotten through interviews, but augmented the reality of the conflict as lived by my informants.

4.3 Role as a researcher

How the interviewer is perceived by the interviewee is an important issue in qualitative research situations. Elements such as gender, age, ethnic background, clothing etc.
might contribute to creating distance or proximity between the person(s) being interviewed and the researcher (Johannessen, Tufte, and Christoffersen 2010, 143).

I have lived on and off in various Spanish-speaking Latin American countries for close to two and a half years. As such, I have a fairly good comprehension of Spanish, and I am familiar with many of the cultural norms and customs in the countries I have spent time in as well as the ones that prevail in the region. I also had an existing understanding of pan-indigenous terminologies, indigenous movements and the challenges they face in Bolivia, having conducted a previous fieldwork there. However, this experience is all rather country- and context-specific. While I had been involved in political campaigns in Norway on topics related to the indigenous movement of Colombia before, and met with representatives from CRIC in Norway, I had never been to Colombia prior to my fieldwork.

As a white, Norwegian male, based on my appearances alone there were slim chances of me blending in with the general public in Popayán, or with the indigenous movement. Representatives of the movement also described that they have had experiences in the past with students coming to do research who had a top-down attitude towards “studying the indians”, which they very much wished to avoid. During my time with them, I took care to dress respectfully as most of my interviews were with indigenous authorities, and to address them in a respectful manner. I also put emphasis on the conversations both prior to and after the interviews, in order to exchange some experiences and to avoid being perceived as someone who would simply come to get what I was interested in and then leave abruptly.

4.3.1 Limitations

As I have mentioned previously in this chapter, there are certain limitations that bear to be identified in this thesis. One is related to language and cultural understanding, which I will get back to. Another I have already mentioned is the time-aspect and number of interviews. Three months isn’t enough to be fully immersed in the context lived by the indigenous movement in the Cauca, but on the other hand one might always stay longer in order to get better data, and one has to set the limit at one point or another.
Another possible limitation to this thesis is the overarching focus on the indigenous movement, as opposed to other actors. Before travelling to Colombia, I had an idea of conducting interviews with decision-makers, politicians and possibly landowners that would be relevant to my thesis project. However, as my understanding of the context deepened, I decided to focus on the indigenous movement. This is also a result of the availability of informants, as well as how it might be perceived by my indigenous informants if I also interviewed “the other side”, so to speak. As such, the scope of this thesis is to analyse the reality as experienced by the indigenous movement and communities in the Cauca, as portrayed by my informants.

A third limitation, and one that I increasingly reflected over during my fieldwork, is related to the issue of elite interviews. Elite interviews form the basis of many research projects, “[m]ost commonly, elites in a particular institution are chosen at random and subjected to the same interview protocol composed of structured or semistructured questions” (Berry 2002, 679). Most of my indigenous interviewees either held or had held high positions in the movement and their communities, and might therefore be classified as elites in their contexts. As such, they were very comfortable and active respondents when responding to my questions, and when answering they would talk for long periods of time. In the beginning, I would typically start with my first question, and I might get an answer that lasted for close to half an hour. As most of my interviews lasted between one and two hours, this left less room for my other questions.

According to Berry, there are several skills the researcher can employ in order to improve the validity and reliability of elite interviews. These include being properly prepared for each interview, working thoroughly with a short but fruitful questions, and working on “bridges” to get the interviewee back to the subject area you are looking at if they venture into an unsatisfactory answer (Berry 2002, 679-682). The more interviews I conducted, the more I employed these tactics. I also tried to aim for more of a flexible conversation rather than a rigid interview, as that gave me more opportunities of controlling the conversation.

A fourth limitation relates to cultural misunderstandings and differences. I quickly learned that organising my interviews through Whatsapp was the most efficient way. However, several of the interviews that I had scheduled with my informants got cancelled or continuously postponed, even if my understanding was that they had a set
date, time and place. This might be attributed to different cultural understandings of time and punctuality. This could be exceptionally frustrating at times, as I had some meetings postponed up to five times, even if they’d been confirmed the day before. While I’ve spent enough time in Latin America to be familiar and comfortable with the infamous *tiempo latino*, it still led to some confusion. For instance, when I accompanied the different civil society sectors to the village of Lerma, I was told be precise and meet up at 7:00 AM, which I did. However, I was amongst the first people to arrive, and the buses didn’t depart until noon.

A fifth limitation is the aspect of gender. Out of my nine one-on-one/two interviews, only one was with a woman. I was very aware of this from the outset of my fieldwork, and actively asked my interviewees if there were female informants that I should talk to, explaining that I tried to get a representation from more than one gender. Several of the interviews I had scheduled that got cancelled were with women, such as Aida Quilque, former *consejera mayor* (elder councillor) and leader of the *minga* of 2008 (as explored in chapter 5.2.6) (Amnesty International Belgique Francophone 2009). The lack of female representation in my data material might influence this thesis, as they might have put emphasis on different aspects that relate to their experiences in the indigenous movement.

**Language**

All my interviews were conducted in Spanish and transcribed directly in Spanish. As this thesis is in English, the translation has sometimes posed a challenge.

As a Norwegian, neither English nor Spanish are my mother tongues, and some information might therefore get lost in translation. Furthermore, the basis of my Spanish is from Ecuador, and I wasn’t familiar with the regional variations in Colombia. In the interview situation, this means that there might have been references to things I didn’t catch up on, and follow-up questions I didn’t ask. Furthermore, while all of my interviewees spoke excellent Spanish, for several of them it was their second language. Several of my interviewees frequently used Nasa Yu’we words and explained them to me later. Oftentimes, these have no adequate translation to neither Spanish nor English. Also, as several of our conversations were rather culture-specific, some meaning might
have been lost in both their internal translation from Nasa Yu’we to Spanish, in my understanding of it, and in my translation from Spanish to English.

As I’ve already touched upon, I have a good comprehension of Spanish, but have never been to Colombia before. I also had limited experience with the context of the indigenous movement in Colombia. This led to some initial misunderstandings, both in daily life and interview situations. A rather comical one is that I was surprised at how people would call me and refer to their friends as marica, which to me translates as a slur for gay people. I soon found out that in Colombia, it’s the colloquial term for friend, similar to the English “dude”.

An example for an interview situation is the first time my informants brought up the issue of saneamiento territorial. As my knowledge of Colombian legal terms was rather limited, I was unsure whether or not they were talking about the sanitation of the territories, as it seemed a bit outside the scope of my questions. When they then brought in saneamiento vis-à-vis campesinos and other ethnic groups that lived on the territory, I struggled to make sense of it. However, it soon became clear that saneamiento refers to a sort of legal formalisation of the territory where the grants and papers to the land are legally “cleaned”.

I have chosen to use several Spanish and Nasa Yu’we words, where I’ve found English translation lacking, and written them in italics. For example, resguardo is used instead of the English reserve, as the Colombian resguardo carries certain culturally and historically specific connotations that differ from the indigenous reserves of North America. Cabildo, meaning an indigenous council, is another word I’ve chosen to use in its original Spanish, as it refers to a specific institution.

Nasa Yu’we, meaning “the language of the people”, is the language of the Nasa (Páez) people, and a major indigenous language in the Cauca region. As such, it has influenced the local Spanish. One Nasa Yuwe word, which also exists in Quechua and Kichwa, is the word minga. Minga can be translated to communal work or communal action but it entails much more, as I will explore in chapter 5.2.5.
**Indios e Indígenas**

In Spanish, as in English, there are several words that are used to refer to the descendants of people who inhabited the Americas before the arrivals and subsequent invasions and colonializations of the various European colonial empires. The two most prevalent of these are *indio* (Indian) and *indigena* (indigenous).

Historically, *indio* derives from the misconception that Columbus had found the sea route to India, and subsequently named its inhabitants Indians. The Spanish continued with this categorisation, as they “[…] attempted to maintain categorical distinctions for whites and between indigenous and the rest” (Wade 2010, 27). In this categorisation of people, *Indio* was in many ways a fiscal category, “[…] since the typical indigenous person was one who lived in an indigenous community and paid tribute, in labour and in goods. […] In short, *Indio* was an institutionalised identity” (Wade 2010, 28), and ranked at the very bottom of the scale, although they were sometimes seen as superior to blacks.

Several of my informants used the terms *indio* and *indigena* somewhat interchangeably when talking about themselves and their communities. However, *indio* was also often used jokingly. As one of my informants put it, “*indio sin tierra no es indio*” – an Indian without land isn’t an Indian. It was also used when they talked about old racist policies, such as another informant said “*el indio no tiene alma*” – Indians have no souls. Oftentimes, *indio* carried no specific meaning and was used interchangeably with *indigena*.

When writing this thesis, I will stick to the more neutral term indigenous throughout the text. When my informants use the term *indio*, I translate it accordingly to Indian.

### 4.3.2 Ethical Considerations

The process leading up to this thesis, as well as the thesis itself, touches on several ethical issues.

For one, as I’ve touched upon before, I’ve decided to anonymise all of my Colombian informants although only one requested it, and they instead presented themselves with full names, titles and positions. I’ve also chosen to withhold the titles, positions and
other information that could serve to identify them, even if this information might lend strength to their interviews and statements. All of the indigenous people I interviewed held or had held leadership positions either at community cabildo, movement or regional levels. However, as I hope will become clear from my thesis, several of them also live under precarious conditions and deal with threats, disappearances and assassinations on a regular basis, both towards them and their communities. Some of my informants shared exceptional stories with me, where they talked about lost family members, encounters with paramilitary forces and having to move and change identities because of this. In order to anonymise my informants in a simple manner, whilst retaining a personal touch to their testimonies and quotes, I’ve used a name generator to give them new, unrelated names\(^3\) that aren’t completely culturally removed.

Other ethical dilemmas are tied to the relation between me as a researcher and the informants. One of these is connected to how the researcher forms a bond with the informant that is seemingly friendly and confidential, but which is severed once the researcher ends the research project and goes home (Thagaard 1998, 101-103). While I didn’t form close relationships with my informants, some of them have kept irregular contact with me through text messages where they have updated me on ongoing processes in Colombia that we had previously discussed.

An ethical issue spent considerable time reflecting on both before and while I was conducting my fieldwork, is the way I established contact with CRIC. As I’ve discussed earlier, I initially got in touch with CRIC through Live Bjørge, programme advisor in SAIH (the Norwegian Students’ and Academics’ International Assistance Fund). SAIH works with development cooperation, and has CRIC, ACIN and the indigenous university of UAIIN as partner organisations. As such, they are both financially and to some degree politically supported by SAIH.

I have been engaged in SAIH throughout my academic career and worked full-time as vice-president of the organisation for 1 ½ years in 2015 and 2016. After this, I formed part of the national board until 2017, including when I conducted my fieldwork. When I was first introduced to CRIC, including during when I joined meetings with CRIC,

\(^3\) I used a Hispanic name generator to generate 10 random names, which I then appointed to my informants in random order. The name generator can be found here: https://www.fantasynamegenerators.com/hispanic_names.php
ACIN and UAIIN held with SAIHs representatives travelling to Colombia in November 2016, I was introduced as a former vice-president and current board-member. While I took care to introduce myself as master student from Oslo in the other interviews, this will to some degree have affected my relationship with some of the informants. For one, it probably served as a door opener in the beginning, as my first informant knew I had been engaged in and had knowledge from the Caucan indigenous movement from before. This might have helped establish trust and confidence between us. However, it might also have affected the relationship between me and some of the people working in CRIC, ACIN and UAIIN, as they knew the organisation I was affiliated with in Norway was a financial donor to the organisations.
5 Analysis and Discussion

My two research questions in this thesis are both connected to the issue of indigenous land and territorial rights. By connecting these issues, I aim to gain insight into both the meaning of land to the indigenous movement, and how they go about claiming their rights to land, both vis-à-vis a national state with a different understanding of land with an emphasis on development and securitisation. In doing this, I seek to address the following two research questions:

*How does the amplification of indigenous resguardos by the indigenous movement in the Cauca interact with Colombia’s extractivist development regime?*

*What are the mechanisms available to the indigenous movement of the Cauca to obtain and claim their rights vis-à-vis the state?*

In this chapter, the first section aims to first identify the meaning of land through the concept of *resguardo* to the indigenous movement, a concept that is key to the indigenous movement’s struggle in Colombia. It then visits how this struggle for land is in conflict with the national development scheme, and the results of Colombia’s two paradigms of development and protection of ethnic rights.

The second section addresses the different mechanisms the indigenous movement employs to both obtain formalised rights, as well as the mechanisms they employ when the implementation of those rights is lagging or being neglected politically. As we will see, these include political, juridical as well as extra-legal and contentious mechanisms of claiming and obtaining rights.
5.1 What is Indigenous Land?

“La tierra es clave, porque el indio sin tierra no es indio!” – The land is key, because an indian without land is no indian!

*Simón*

As explored in the part on territory in the literature review, territory has come to be the focal point of mobilisation in many indigenous and peasant movements across the Latin American region (Halvorsen 2018, 7-12). This is also true for the indigenous movement in southern Colombia, and is reflected explicitly in the first point in CRIC’s 10-point political programme as described in chapter 3:

“1. Recover the land of the *resguardos* and carry out the defence of the ancestral territory and the living spaces of the indigenous communities” (CRIC 2019d, my translation).

Furthermore, reference to land and territory is reflected in several more points, such as (2) expand the *resguardos*, (4) an end to sharecropping and (9) recover, defend and protect the spaces of life in harmony and equilibrium with Mother Earth (CRIC 2019d, my translation). By extension many of the other points are also connected to the question of land.

Latin America is well known for holding the dubious record as the region with the most uneven and unequal distribution of land. According to Oxfam, “[…] more than half of productive land is held by the top one percent of the largest farms. In other words, one percent of farms occupy more than the remaining 99 percent” (Guereña 2016, 23). Colombia is the most severe case, where “[…] farms of more than 500 hectares – which only account for 0.4 percent of all farms – occupy 67.6 percent of productive land” (ibid).

In the case of southern Colombia, indigenous land is deeply connected to the topic of *resguardos*, or indigenous reserves. Originally a colonial measure to both confine and preserve the indigenous peoples by the Spanish Crown, the *resguardos* now make up territories that the indigenous movement seeks to reclaim, amplify and preserve.
The research question of this chapter asks the following:

_How does the amplification of indigenous resguardos by the indigenous movement in the Cauca interact with Colombia’s extractivist development regime?_

I look into this by first looking at the _resguardo_ institution itself, focusing on _resguardos_ in the Cauca and exploring how it originally started as a colonial measure to both control and protect the indigenous communities as to keep a steady workforce, to then become a legal system to allow land tenure for the indigenous, before becoming adopted by the indigenous movement as a focal point of mobilisation. I look at how the indigenous apparently control large areas of land, but that they are often non-productive, overlap with protected areas or suffer from overpopulation. As such, there is a need to amplify and expand the _resguardos_. The indigenous movement does this through among others a process called liberation of mother earth, where they occupy productive land they mean ancestrally belonged to them, but this enhances the conflict with large land owners. I then examine the cultural significance of land in the context and argue that control over land is not only of economic and political concern, but also represent controlling the spaces of the innovation, production and _re-production_ of the communities’ history, culture, worldview and political organisation.

Subsequently, I introduce the case of northern Cauca, notable for its high level of conflict surrounding indigenous land and liberation processes. Through the cases of the El Nilo Massacre and the contention surrounding the rights to the land on the La Emperatriz hacienda, I accentuate some of the most dramatic engagements between the indigenous movement, private landowners and the government when it comes to the struggle for land. I then explore how the Colombian government’s extractivist development scheme of “development through securitisation” contrasts with its outspoken intent to protect and promote ethnic rights, as well as how this economic development scheme is shown as a cultural clash in the understanding of land, before concluding.
Figure 1 Indigenous populations in resguardos in Colombia as of 2011

Source: https://desarrolloinclusivo.com/2012/07/22/indigenas/
5.1.1 The Resguardo

As we have seen, the resguardo was originally an institution created by the Spanish colonial power in Colombia, acting in response to the rapid decline of the indigenous population in the area after their conquest. The indigenous populations were dwindling rapidly as a result of lack of resources, food scarcity, and newly introduced diseases as well as the population’s forceful removal from their territories. As the indigenous also made up an important source of income and labour, the Spanish Crown sought to preserve them (Grote 1999, 504, Hristov 2005, 93-94, Rappaport 1985, 29-30).

However, independence from Spain saw many resguardos divided, partitioned and disappeared as the newly independent elites usurped the land into the hacienda system. By the end of the 19th century, the resguardos had all but disappeared in many parts of the country (Hammen 2003, 14).

In more recent times, the resguardos have been transformed from essentially being an institution and a legal mechanism to allow land tenure for indigenous people, into the collective politically administered territories we see today. Much of this happened with the “reawakening of the indigenous movement” in the 1970s and 1980s, when “[…] more than 300 indigenous territories were legally recognised covering more than 27 million hectares” (Hammen 2003, 15). Indeed, today indigenous resguardos cover almost a staggering one third of the national territory (IWGIA 2019). Although this is impressive, it is also somewhat misleading, as one can see in figure 1 that large portions of the largest resguardos encompass the vast but otherwise sparsely populated Amazonia region in the Southwest. The resguardos are also concentrated around Colombia’s Pacific coast, as well as several in the three Andean mountain ranges.

Resguardos in the Cauca Region

The Cauca Region in the south of the country stands out as the region with the highest percentage of indigenous population. According to CRIC, they constitute about 20% of the population in the region and occupy roughly 18% of the area. As shown in the map depicting indigenous territories in the Cauca region in figure 2, most of the 84 resguardos that currently exist in the region are located in the north-western part of the department (CRIC 2019e).
As several of my informants explained to me, to politicians, policymakers and the general Colombian public, it would appear that the indigenous groups in Cauca have vast areas that they should be content with. However, much of the existing resguardos overlap with Zonas de Reserva – natural reserves – such as areas encompassing the páramo, an alpine ecosystem unique to northern South America, as well as lagoons that form river sources.

“These are areas which should be protected and conserved, but sometimes when they quantify all this land they [the decision makers] are counting it as if it was exploitable land, but for us this land can’t be exploited, and the productive land is very little” (Alfredo 29.11.2016, 6).
In some cases, the creation of protected natural areas that are superimposed on indigenous territories have led to a displacement of the population residing there (FAO 2008, 22). According to Alfredo, in the procedures leading up to the Constitution of 1991 there was a process where the indigenous movements of the Cauca sat down with government officials and the now defunct INCODER (*Instituto Colombiano de Desarollo Rural* – the Colombian Institute of Rural Development), “[…] and they concluded saying that during that time the indigenous living in the Cauca needed 270 000 hectares of land, and they showed them with maps and everything” (Alfredo 29.11.2016, p. 5-6). They also brought forward the problem with their territories overlapping with natural reserves, and signed a document where the government committed to giving them more land (ibid).

Following Alfredo, the problem with *resguardos* overlapping with natural reserves is twofold. One is that the reserves they are overlapping with are often created because they encompass unique and vulnerable biotopes that are also of particular cultural meaning to the community living there. The second issue is that these areas are often mountainous and ill-suited for agricultural production. Indeed, as we have seen, some of the areas the indigenous communities currently occupy were created by the Spanish and colonial regimes partly in order to separate and conserve them after having been forcefully removed from the more productive areas. As such, the indigenous movement and communities are both petitioning and demanding that the state recognise the expansion of these *resguardos*.

**Expansion of Resguardos**

In addition to the *resguardos* being situated in regions overlapping natural reserves and with little arable land, many of my informants brought up the issue that several of these areas suffer from overpopulation. Because of this, expanding the *resguardos* is the second point in CRIC’s political programme.

Not all *resguardos* stem from the Colonial era, there are also “republican *resguardos*” (from the early republican era), as well as *resguardos* that have been established by presidential decree after pressure from indigenous groups and movements, such as
Decree 2001 of 1988 (Rueda-Saiz 2017). However, Alfredo says that there is an issue where many of these presidentially decreed *resguardos* are allocated plots of land, but the public deeds to the land are kept internally and not given to the community in question (Alfredo 29.11.2016, p.2)

The wish to expand the *resguardos* means that the indigenous movement often faces criticisms and allegations of being greedy, as they are sometimes perceived as already having too lot of land. When I asked Joaquín about what he would say in the face of this criticism that the indigenous peoples always want to expand their territories in Colombia, he answered the following:

“[…] Before the Spanish invasion, not only in Colombia, because, well… Colombia was the name they put on the territory after the conquest. Right? But before that there were indigenous communities, tribes, governed by *caciques* (chiefs) appointed by the tribes. The indigenous communities already had their own politics, their own organisational structure that with the invasion, well… With the invasion these collective territories were disappearing, and in these collective territories other structures were built. After the independence they built Colombia, then they created departments, intendancies, police stations, municipalities on top of these ancestral territories of the indigenous people, not only in Colombia, but in all of Latin America. Nevertheless, this is somehow part of the history of the indigenous people from the colonial period. In order for them not to run of out indigenous labour they created the *resguardos*. The *resguardos* weren’t to preserve the communities; it was to maintain the labour force and to make sure that this labour force didn’t end” (Joaquín 29.11.2016).

Joaquín’s answer reveals two interesting aspects of the indigenous struggle for land. First, it reveals that what is at the very core of the indigenous land struggle, namely the *resguardos* themselves are essentially a Spanish colonial invention that have been reappropriated by the indigenous movement and adapted from its original purpose of keeping the indigenous population separate from other Colombians and maintaining a steady labour supply, to becoming a synonym with indigenous communal land. In modern times, these colonial and republican titles to land constitute unique opportunities for the indigenous communities in the country, as the land grants given to the indigenous by the Spanish Crown and the Colombian Republic are clearly and well
documented and mapped. This greatly strengthens the case of indigenous groups trying to reclaim land they believe belongs to them.

Secondly, it reveals an innate quality to the indigenous land struggle, namely that in its widest and most radical sense, all land in the Americas can be argued to be originally indigenous land. Indeed, Colombia and other Latin American nations, with their departments and political systems and structures, are built upon land that was already occupied. Joaquín’s accounts also reveal that history didn’t start with Europeans coming to Colombia, but that there were political systems already in place, and that the indigenous movement is advocating being able to continue and develop these systems on their own terms.

5.1.2 Liberation of Mother Earth

When asked about how they worked to expand or establish new resguardos, the indigenous people I interviewed consistently used the words liberación – liberation – and recuperación – recovery/retrieval of the Uma Kiwe or Madre Tierra – Mother Earth. Mother Earth is a deity that is central to many indigenous communities across the region, which embodies both the land and life itself, and which will be discussed more in the following section on cultural and cosmological importance of land (Humphreys 2017, 460). The use of the words liberation and recuperation allude to the fact that the indigenous communities engaging in the processes of occupying land believe that they either have rights to the land through colonial or republican titles to resguardos, or that the land in question forms part of their ancestral territories and were originally inhabited by their ancestors.

The main issue is that the most productive parts of the territories being occupied are now owned as large landholdings by often absentee landowners. In the case of the Cauca region it is in most cases cattle farmers or monocultures such as sugar cane farms, and several of these large landholdings are owned by some of the wealthiest men in Colombia. Oftentimes they are also idle areas;

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4 During my interviews, several of my informants made reference to the owner of the Colombian soda Postobón, which is owned by one of Colombia’s wealthiest men Carlos Ardila Lüle. He also owns Colombia’s biggest sugar producing company INCAUCA, which both produces and refines sugar for consumption as well as agrofuels. See https://www.incauca.com/es/nosotros/quienes-somos/
“From the creation of the CRIC, we’ve had a point about recuperating the lands. We have to recuperate them, meaning that they have to be reclaimed [the property titles], that we have to demand from the State that they return these lands because they are lands that pertain ancestrally to the communities settled in this territory, and therefore the government has to somehow recognise this, but we haven’t recognised this through the political way. […] What we have been demanding from the government is that they it has to give us back this land, that the State has to buy this land belonging to the great landowners somehow and give them back to the indigenous communities” (Joaquín 29.11.2016, p13).

Joaquín explained to me that the communities together with the organised indigenous movement would usually attempt to settle the question about a territory politically first, before starting the ‘liberation’-process. As we will see in chapter 5.2, this is in line with a strategy that is often employed by the indigenous movement, where they first attempt to resolve the issue through legally established political or judicial channels, before resorting to extra-legal means such as occupation, marches and protests if the two first processes fail to yield any concrete results.

The liberación de la madre tierra itself is usually done as a minga, a communal work, where entire communities go to the designated area and sow crops like maize as a way of claiming the land. This has the double meaning of both visibly claiming the land, as well as using it for something that benefits the communities. As one community member told me; little by little, they slash and burn the sugar canes, and little by little they claim more land by sowing maize and eventually harvesting it. They also make use of abandoned structures or build new ones to serve as schools, dwellings or other services to benefit the communities.
5.1.3 The Cultural Significance of Land

“El contacto con la tierra nos llama” – The contact with the earth calls to us

Alfredo

Land and territory have several important connotations for the indigenous groups of the Cauca. The land represents their primary source of food production and other things they require for their livelihoods. The communities use the land to grow traditional crops like maize, cassava and yucca, as well as to gather firewood and raise livestock. As the lands are communal, the indigenous community members I interviewed emphasised that the economy is also a communal sharing economy, and if a family has a surplus of something they are expected to share it with other families. As such, the autonomy and control of land represents food security and sovereignty.

While this material aspect of the land might seem rather obvious, most of the indigenous people I talked to would emphasise the significance their territories had for their culture, or their cosmovisión (worldview). Correa-García et al. argue that the conventional understanding of territory as just a container disguises and conceals the many other complex aspects and it entails, and that the construction of territory also includes political, economic and cultural processes (Correa-García et al. 2018, 849).

“In particular, it hides the ways in which cultural trajectories are rooted in place and create territory as the space for being of local communities. In this territorial being, communities practice dances, music, spirituality, emotionality and other processes that constitute the material sustenance of culture, such as planting and processing food” (Correa-García et al. 2018, 849).

Many indigenous groups across the Americas worship a deity known as Mother Earth in English or Pacha Mama in Quechua (Humphreys 2017, 460). In Nasa Yuwe, the language of the indigenous Nasa group, this deity is known as Uma Kiwe. Kiwe is also the central principle that the Nasa use to define the spaces they inhabit. While it can be roughly translated into the English term territory, “[…] it means at one and the same time the following concepts: soil, terrain, individual landholdings, tribal territory, the dominion of a political leader, and the whole world. In essence, kiwe is the Páez [Nasa] universe” (Rappaport 1985, 31).
In Nasa culture, land is intrinsically intertwined with culture, to a degree that “the territory or “mother, as it is called by the Nasa natives, is life itself; the place and the being, who provides and shelter, and must be cared for and protected” (Correa-García et al. 2018, 847). My informants shared the same view; “[...] for every [indigenous] people, the land is the base of their culture, the base of their subsistence because for us it’s not something apart, the land is part of life. The spirits of your ancestors live in it” (Franco, 26.10.2016, p. 19). Agustín emphasised that “[...] the defence [of the land] is done by the traditional doctor [...] this work is done by [interpreting] signs and dreams, with the symbols or the representations by the Mother Earth” (Agustín, 03.12.2016, p. 11) and offered several analogies explaining the meanings of certain of birds, plants and animals in order to show that by interpreting these signs, the communities knew when to exercise territorial control. “All of this has to do with control, with the cosmovisión and education, which we stopped doing for 150 years, but in the last 15 years we have been in the process of taking it back” (ibid, p. 13).

Alfredo pointed out precisely this link between land and identity as one of the principal experiences they had made from the occupation and liberation of land. In particular, he accentuated that many of their youngsters had been losing their identity as indigenous because they were losing contact with the land. One of the foremost examples of this is
northern Cauca where “there were many indigenous that believed little within these structures, but today they are doing many cultural practices […] and starting to identify [as indigenous]” (Alfredo 29.11.2016). Both Franco from CRIC and Rikard Skretteberg from the Norwegian Refugee Council pointed out that the suicide rates among young indigenous people who have been displaced from their territories, in particular men, is unusually high compared to other groups in society, which is also supported in medical research (Azuero et al. 2017, Henry 26.10.2016, p. 20, Rikard Skretteberg 29.09.2016).

Using a case from a Nasa community in north-eastern Cauca, Rappaport argues that “[…] in highland Colombia, territory means much more than the land encompassed within a set of boundaries. Territory is that expanse of physical space that sustains people both physically and spiritually” (Rappaport 1985, 28). The territory is not only linked to the production of culture and livelihoods, it is also a symbol of their identity as a people. While many formally adhere to the Roman Catholic religion after years of European domination and influence, symbolism and myths connected to the land are also well integrated in their belief systems which are deeply connected to the land (ibid).

Thus, the control over land is not only of economic and political concern, which as we saw in chapter 3.7 makes land a key determinant of power. It is also of vital importance for the cultural integrity and survival of a community, in addition to providing food security. The indigenous territories represent all of these, and are spaces of the innovation, production and re-production of the communities’ history, culture, worldview and political organisation.

5.1.4 The Case of Northern Cauca

The northern part of Cauca, in the regions surrounding the ton of Santander the Quilichao, is notable for its high concentration of indigenous resguardos (as seen in figure 2). The area is also notable for its high levels of conflict surrounding the local indigenous movement's attempts to reclaim land from vast haciendas that often grow monocultural crops. As such, it is an especially relevant case for the research question, as there is a direct conflict between government extractivism and the indigenous land movement, as we will see sometimes with grave results.
Nineteen of the communities residing there are organised in the indigenous organisation of ACIN (Asociación de Cabildos Indígenas del Norte del Cauca – Association of Indigenous Councils of Northern Cauca), which is forms part of CRIC (ACIN 2019). This is also the part of the indigenous movement that is mostly associated with the liberation of land.

**The El Nilo Massacre**

A momentous occasion referred to by most of my informants when discussing the liberation of mother earth, and central to understanding the situation in Northern Cauca, is the El Nilo Massacre. It took place in the context of the initial euphoria of the adoption of the new constitution of 1991 described in chapter 3.

On the 16th of December 1991, a group of about 80 people from the surrounding Nasa communities met at the hacienda El Nilo in Caloto, Cauca, after having been invited by its new owners to discuss the indigenous presence in the area and the possible recognition of some of the hacienda’s land they had been occupying for the past four years, as part of the new constitutional framework. At night, a group of heavily armed men, some with uniforms from law enforcement, surrounded and detained the Nasa, before searching for the remaining community members in their households. Once they were rounded up, the attackers started shooting indiscriminately, as the indigenous tried to flee. Twenty Nasa community members were killed, many more were injured, and all their dwellings, livestock and belongings were put to the torch. Among the victims were five women and four children. The victims showed wounds from both bullets and axes (Cajas Sarria 2011, 77-78, Murillo 2009, 140).

President César Gaviria acted swiftly and visited the hacienda, where he condemned the attack as a gross violation of human rights and promised the community that the killings would not happen with impunity. Later, by the end of December in 1991, Gaviria’s government signed a deal with the indigenous community promising to give them 15 663 hectares of land as reparations for the massacre. In addition, the case was brought before the Inter-American Court of Human Rights (CIDH – la Corte Interamericana de Derechos Humanos) in the middle of December the same year, who immediately proceeded to request information about the ongoing investigation from the Colombian government (ibid).
After the massacre, the affected indigenous community started legal mobilisation, turning to the Colombian criminal jurisdiction and the administrative jurisdiction, by using a lawyer affiliated with CRIC. Within a short period of time, the lawyer was assassinated in the town of Santander de Quilichao, and several Nasa indigenous community leaders as well as CRIC members were subjected to attacks and threats. The indigenous then hired a larger lawyer collective, who brought the case of the extrajudicial execution of an indigenous group before the CIDH under the name “the Caloto Massacre”. The CIDH found that; (ibid, 77-89).

“[…] on the 16th of December a group of civilians acting together with agents from the Colombian National Police, arbitrarily deprived an indigenous group of Nasa Paez of life in the hacienda “El Nilo”, in violation of the obligations established in the articles 4(1) and 5(1) in the American Convention on Human Rights, in the light of the obligation of particular protection of indigenous populations” (Cajas Sarria 2011, 89)

The documentation presented to the CIDH showed that members of the National Police had been involved both before and during the massacre, and that they “[…] were working hand in hand with wealthy landowners with ties to the drug trade, who were not comfortable with the organising and mobilising capacity of the CRIC and the local communities” (Murillo 2009, 141). Furthermore, the CIDH came with a list of recommendations to the Colombian State, including (1) completing a full and impartial investigation in order to judge the perpetrators, (2) to adopt the necessary measures to compensate the families of the victims, (3) to adopt the necessary measures to provide the indigenous Nasa community in northern Cauca with social compensations and (4) to adopt the necessary measures to avoid and prevent similar events in the future, in line with fundamental rights outlined in the American Convention (Cajas Sarria 2011, 90).

The ‘social compensations’ outlined in the third recommendation include the 15 663 hectares of land that were already promised to the community. However, as Cajas states (writing in 2009), 18 years later the Colombian State still hadn’t fulfilled their commitment to the Nasa with regards the transfer of land. While the state has partially
fulfilled its obligations and obtained some of the land promised, it was still 5581 hectares short. On their side, the state argues that there are three main reasons why the acquisition of land in Northern Cauca is difficult. Firstly, the area is well suited for the cultivation of agro-fuels which makes buying the land expensive. Secondly, they argue that it is an area with a high level of interethnic conflict, where afro descendants and farmers also seek land restitution from the state. Thirdly, the contentious political act of land occupations by the indigenous groups provoke the State to suspend land allocation processes (Cajas Sarria 2011, 91-93).

“When the massacre happened the president was César Gaviria, and then Samper took over, and with the process that ensued, the indigenous and the lawyers successfully proved that these murders, this massacre of El Nilo, had been done by military forces, per se committed by the forces of the government. So Samper’s government had to contact the indigenous families that had stayed, and the Cabildo, and admit that the government forces had acted against them and apologise to these families, and this is why they were promised to be given 15600 hectares of land in northern Cauca” (Alfredo 29.11.2016, p. 7).

On their side, several people I interviewed from the indigenous movement voiced their resignation and disappointment that the State still hasn’t bought and transferred the land to them, despite them trying to prove their cooperation. Sofía, who is from one of the Nasa communities in Northern Cauca, told me that after the massacre the indigenous stopped occupying land, but that “[…] approximately in 2005 the recuperation of the land was resumed because of the non-compliance of the State. […] So far, the state has not paid us back” (Sofía, 17.11.2016, p. 2). She continued explaining that “[…] we have had like two stages, one with recuperation with mandates, and the other where we try dialogue before beginning recuperation again and try to recover more land, and now we are in this stage” (ibid).

As a result of the massacre and the promises of land that were given in the aftermath, the indigenous movement and communities ceased their occupation of land in the region. However, because of the state’s failure to fulfil these agreements, the indigenous

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5 As of 2008, the Colombian Government had promised to return the 5581 remaining hectares of land to the affected communities (Cajas Sarria 2011, 91).
groups restarted the process of occupying the Emperatriz hacienda in 2014 (Agustín 03.12.2016, p. 3.). As we will see in chapter 5.2, the revival of occupation of land in 2014 followed a long period of attempting to get the rights to the land through other means.

### 5.1.5 La Emperatriz

The hacienda of La Emperatriz in Caloto in northern Cauca is one of the areas that has been at the centre of the conflict surrounding the indigenous liberation of land. According to Alfredo, La Emperatriz was one of the first properties that the indigenous community petitioned the State to buy. It was also where the police, the army and some government officials met up and organised the killings of the families that were in El Nilo. It is also, together with Garcia Riva and some other properties, among the areas that the indigenous communities most vehemently protect and liberate (Alfredo 29.11.2016, p.7.).

Another reason why northern Cauca is such a conflicted zone, is that although the area is characterised by a high amount of indigenous reserves, they are concentrated in the highlands. While the area has no shortage of fertile land in the lowlands, it is mostly used for big monocultures, such as sugar cane production;

> “The indigenous are in the mountain range, in the mountainside, in the hillsides, where the steepness is very high […] so the land that you can use for production and food sovereignty is limited. […] there are families with 5-8 children and they have 3 hectares of land, it’s not going to be possible to live there” (Agustín 03.12.2016, p. 7).

Because the zone is so conflicted, with the indigenous communities repeatedly descending upon it to liberate the land and make use of it, only to be confronted by security forces, there have been several tragic incidents. About every two years, the surrounding Nasa indigenous communities descend upon the territory in an attempt to recuperate and occupy parts of the land, because “[…] through the agreements […] the government doesn’t comply” (Agustín 03.12.2016, p. 5). Several indigenous community members participating in the liberation and the ensuing confrontation with riot police (ESMAD – Escuadrón Móvil Antidisturbios – Mobile Anti-Disturbance
Squadron) and security forces have been severely wounded and killed. On several occasions, the security forces attempting to vacate the indigenous from the area have also been injured and killed. In the words of the local community, “La Emperatriz isn’t a caprice, this farm has already been paid with blood” (Autoridades indígenas de Huellas Caloto 2018).

My informants who discussed the La Emperatriz case lamented the deaths of both security forces and community members and said that it was an issue they diligently attempted to amend by banning arms from their territories. They also argued that in the past there had been incidents where members of guerrilla or other clandestine forces groups would pose as regular community members;

“[…] because there was a time when some of the dark forces, let’s say from the insurgency, started to meddle and wanting to erase the efforts by the indigenous. This has led to a lot of confusion, but now again it’s only the indigenous because the indigenous won’t let anybody enter with firearms there” (Alfredo, 29.11.2016, p.7-8).

One of my informants claimed that members of the police force itself will infiltrate the indigenous communities and kill members of the ESMAD, in order for the indigenous movement to look bad in the newspapers (Sofía 17.11.2016, p.5). However, she also admitted that although they have an expressed pacifist stance and most community members will evacuate the area when the security forces come, there are often “[…] young persons that are very, well, that confront them, and that is where the wounded come from. Although we are careful for no one to get hurt, it is quite difficult to control the youngsters” (ibid, p. 5).

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Experiences from La Emperatriz

I had a first-hand experience with the indigenous movement’s stance on firearms when I attended the *II Asamblea Nacional de Autoridades Indígenas del Pueblo Nasa*, a national assembly for the Nasa people where several different communities and hundreds of community members came together for a week long gathering with *mingas*, workshops and exchanging of experiences in the *resguardo* of Lopez Adentro in Caloto. On Tuesday 22 November, three mysterious persons dressed as police officers were seen at the farms of Huellas and La Emperatriz, asking for indigenous authorities and people no-one knew, and claiming they were there to control drug trafficking in the *resguardo*. They were apprehended by the *guardia indígena*, the indigenous guard, who carry no weapons apart from their ceremonial cane signalling their authority. The *guardia* also confiscated the group's vehicle, where they encountered several guns that weren’t licensed for police use, fake ID-cards, cash, as well as women’s clothing that was covered in clay and mud. Two were found to be police officers, while the last one was a civilian.

When we arrived at La Emperatriz on Thursday, the three men were standing accused in a trial led by the traditional authorities. The field surrounding the three men was crowded with Nasa people, who were all discussing what do to do with the guns, as they had already decided to hand the men over to the police. They did this by arguing back and forth with a microphone, voicing their opinions, while the crowd cheered and booed. A representative from the police also partook in the discussions. Usually they would burn the guns, because of the no-firearms policy, but seeing that they hadn’t been used to harm anyone, several were arguing that they should be handed over to the police to undergo ballistic tests. In the end, the indigenous decided to burn and destroy the guns.

When I shortly after discussed this with Alfredo, he told me that because the indigenous territories in the northern part of Cauca are so contested, they’ve developed a logic of “[…] everything that can do harm to the territory should be destroyed”. However, considering that it hadn’t been proven whether the firearms had been used, he disagreed with the decision to burn them, as their ballistics could act as evidence against them in a conventional court. (Alfredo 29.11.2016, p18-20).
5.1.6 Economic Development through Securitisation

While I am not aware of whether or not the men were actually convicted in a court of law, all of the members of the indigenous movement I talked to afterwards were convinced that the men were affiliated with the paramilitaries and had come to the area to identify indigenous leaders affiliated with the communities performing the liberation. Talking on a more general note, Simón told me that the paramilitarism has gotten worse in Colombia with the current government, especially as the FARC entered willingly into a disarmament deal with the government as part of the Colombian peace process. When asked what he thought of the new president, Iván Duque, whose electoral campaign promised to revise the peace treaty (Economist 2019), he responded:

“With the new government, really, well, the rise of the Águilas Negras and the paramilitarism has always existed in Colombia, and now with the new government it has gotten worse. After the elections, they started to kill many indigenous leaders, many from the social sectors, afros, campesinos, indigenous. They started to kill everyone who opposed […] the politics of the government. Everyone! Now we’ve had many deaths, we’ve had hundreds of deaths […] in the last 3-4 months” (Simón 26.08.2018, p. 13).

Simón said that all social sectors who are opposed to the policies and especially the economic policies of the government are at risk from the paramilitaries, and as a result the CRIC has had to evacuate several of its leaders out of Cauca. “For example with the protection of the environment; the no to the mines, the protection of water, the no to power plants, the no to mass production, well everyone who gets involved in these topics, they’re being assassinated!” (Simón 26.08.2018, p. 13).

Simón’s statements align well with the two separate paradigms of Colombia’s extractivist governmentality and ethnic rights, as described by Vélez-Torres. Although Colombia officially pursues a pluri-national state project as defined in the Constitution of 1991, ethnic rights must often yield when confronted with resource-based development schemes. This development scheme, as explored in chapter 2.7, emphasises the securitisation of private property as a means to attract private and foreign investment. This securitisation is achieved both through the means of legal
actors such as the military and the national police, but also by illegal and clandestine forces (Vélez-Torres 2014).

The prioritisation of economic development through securitisation is not a new phenomenon in Colombia. In 2008, during the presidency of Álvaro Uribe, the security budget reached a record high 6.5% of GDP, equivalent to the combined spending on health, education and the environment. While the conventional concept of development has been that resolving conflict requires economic opportunities and combating inequality, “[…] the political rationale of the DDSP [Defence and Democratic Security Policy] is the opposite: conflict is the cause of a lack of economic growth, as economic growth follows security” (Rojas 2009, 233-234). The DDSP was a policy strategy by Uribe’s government aiming to strengthen the securitisation of the country and combat insurgent forces (Rojas 2009, 229). “This double strategy has facilitated the insertion of the country into circuits of international capital for agribusiness and foreign investment in natural resources; the model is one of ‘securitisation by dispossession’” (Rojas 2009, 234). This dispossession has led to the abandonment of between two and seven million hectares of land, and most of the dispossession has happened in areas dominated by large landholdings and territories inhabited by indigenous and afro descendants (ibid).

“This fight over land has also led to an aggressive backlash directed at the leadership from all sides in the conflict who are seeking territorial control within indigenous reserves – government forces, right-wing paramilitaries, and left-wing guerrillas, particularly FARC” (Murillo 2009, 141-142).

While the government has an expressed interest in protecting indigenous and other ethnic minorities’ rights, “[…] military violence as a mechanism for territorial control is not the monopoly of the government but is a highly contested source of power” (Vélez-Torres 2014, 76). The interference by paramilitary forces, as well as their occasional outright collaboration with government and military officials, is part of a complex securitisation paradigm where paramilitary groups are either working in collusion with economic elites or take it upon themselves to ‘promote’ right-wing policies or combat civil society actors they see as left-leaning. As a result, “[…] the control of land-based resources interlocks with military mechanisms that are not the monopoly of the state but pieces of a complex power game with many interests and legal and illegal actors” (Vélez-Torres 2014, 77).
“[...] members of the national government, the big multinationals, all those who have great extensions of land, big companies, big ranchers, well... All those who have [wealth], the rich who want to keep staying rich, those who will become the owners, who are the owners of the country, they don’t want to let go of anything. Right? So in the end, with the paramilitaries, you know who is paying them. To realise this control, to all those who think differently or are against all these policies, well, they remove them from the face of the earth” (Simón 26.08.2018, p. 14.)

**A Cultural Collision**

According to renowned Colombian anthropologist Arturo Escobar, ‘development’ is both an economic and cultural project. He argues that it is cultural in two ways: firstly, as it originates from the particular experience of European modernity, and secondly as it subordinates other cultures and knowledges which then aim to develop under Western principles. Furthermore, he argues, development favours economic growth, exploitation of natural resources, the logic of the market and the search for material and individual satisfaction over all other goals (Escobar 2011, 307).

“Development and modernity involve a series of principles: the rational individual, not attached to any place nor community; the separation of nature and culture; the separation of economy from the social and natural; the priority of expert knowledge over any other form of knowledge” (Escobar 2011, 307).

Because of this, he argues, it becomes difficult to imagine any different kind of society, or as Boaventura de Sousa Santos puts it, what “doesn’t exist” is actively produced as being non-existent, “or as a un-credible alternative to what exists” (Sousa Santos 2007 in , Escobar 2011, 310). As a result, alternatives put forward from indigenous, peasant and afro descendants and their organisations are constructed as being non-viable alternatives (Escobar 2011, 310).

When the indigenous movement advocates another worldview then, where territory is essentially a being that both provides and sustains both culturally, socially and materially as we saw in chapter 5.1.3, but also should be respected and safeguarded, this collides with the traditional Western extractivist view which according to Escobar not
only separates the nature from the economy, but also the social aspect of territory. Because of its Western and European origins, ‘development’, alternative realities and views such as the ones championed by the indigenous movements are deemed and actively produced as being “less than” and subservient to the prevailing one favouring growth and material satisfaction.

5.1.7 Summary

I began this chapter with the aim of shedding light on the following research question;

*How does the amplification of indigenous resguardos by the indigenous movement in the Cauca interact with Colombia’s extractivist development regime?*

As we have seen, land and territory carry different connotations to the indigenous communities and movement of the Cauca region. They have adopted an essentially colonialist measure to confine and control the indigenous in certain areas and reinvented it to become synonymous with indigenous communal land. These old titles to land, once meant to constrain them, are now their focal point of mobilisation vis-à-vis the state and great landowners and make up unique opportunities as they are clearly and well documented.

To the indigenous communities, land represents their primary source of food production and other livelihood requirements. As the indigenous lands are communal, production of foodstuffs and other essentials go into a sharing economy, and as such the autonomy and control over land represent food security and sovereignty for the entire community in question. However, land also carries a specific cultural significance for their entire cosmovisión, or worldview. In Nasa culture, land is intrinsically intertwined with the deity *Uma Kiwe*, to the degree that it both defines their land and territory, but also their understandings of life and being. This is accentuated by the fact that several of my informants emphasised that the indigenous who were displaced from their territories, in particular young people, stopped identifying as indigenous once they lost contact with the land. As such, the control of land and territory is a principal determinant for the integrity of the cultural identity of the communities. It is not only of economic and political concern, but also represents the innovation, production and re-production of the communities’ history, culture, worldview and political organisation.
However, many of the existing *resguardos* suffer from overpopulation and are situated in areas with little productive land that sometimes also overlap with nature reserves. This has led the indigenous communities to seek to expand and get access to new and productive land through a process they call liberation of Mother Earth, alluding to the fact that they see these areas as part of their ancestral territories. In a country where “[…] the top one percent of the largest holdings control more than 80 percent of the land, while the remaining 99 percent account for less than 20 percent all together” (Guereña 2017, 13), this leads to confrontations with both private, public and clandestine forces.

Northern Cauca is the part of the region where the indigenous movement most often undertake the liberation process, after having tried to solve the situation through dialogue and political agreements. As we have seen, both tactics have been met with severe violence by paramilitary forces working with big land owners, and by the military and public forces at the behest of politicians. Cases include the El Nilo Massacre, as well as several subsequent attempts by the communities of claiming the land by the La Emperatriz hacienda after political solutions had stagnated. This can be coupled with the Colombian government’s emphasis on development through securitisation, which has been prioritised by successive governments in the country.

The development through securitisation paradigm, and the government’s emphasis on economic development, has materialised in an outright criminalisation of actors in civil society that are perceived as left-leaning and working against the hegemonic project of the state. At the same time, violence is a contested source of power between several armed actors such as guerrilla groups, paramilitaries as well as public forces. This puts the indigenous movement as well as other parts of civil society in a difficult and vulnerable position in between these actors.

At the same time that the Colombian government seeks development through securitisation and puts emphasis on economic development through extractivism, it is also devoted to protecting ethnic rights, and has adopted a strong legal framework on the matter. However, when Colombia’s extractivist development regime is faced with the need to amplify indigenous *resguardos*, the indigenous rights must often yield. In the case of the aftermath of the El Nilo massacre, where the affected communities were promised 15 663 hectares of land, the failure of the state to provide this land was
blamed partly on the fact that it is well suited for agro-fuels, and subsequently expensive.

Following Escobar, the government’s understanding of development builds on a series of experiences of European modernity, which subordinates other forms of culture and knowledge. When the Colombian’s state rationale positions economic growth as the solution to violence and considers resources on and below the ground as something which should be extracted by private and foreign investment, this is in direct conflict with the indigenous movement’s understanding of land. The different perceptions of land, as well as the state’s hegemonic superiority in defining the national project of “wealth”, subordinates the project of the indigenous movement as something that is subservient to the national project. This, as we will see in the following chapter, leads the indigenous movement to employ different strategies in order to claim their rights.
5.2 Three Ways to Rights

As mentioned in the literature review, Colombia has come a long way when it comes to formalising indigenous rights. They have ratified major international agreements such as the ILO 160 on indigenous and tribal peoples’ rights and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and have a progressive constitution that recognises cultural and linguistic diversity as well as certain land rights on a legal level. This, however, is a result of long and dedicated mobilisation by the indigenous movement in the country, and the struggle for rights is very much an ongoing process.

All of my informants who identified as indigenous and were associated with the indigenous organisations CRIC or ACIN, followed a pattern of making a threefold division when asked about their struggle to achieve political rights. They described it as three ways, vías, which were essentially different strategies in rights-related work. The different strategies can be used separately, but are often used either in conjuncture, or alternatingly, with the failure or ineffectiveness of one strategy leading to the employment of another. Together they constitute a strategy employed by the indigenous movement to gain new rights and ensure that they are formalised as well as actively implemented and followed up. These were vías políticas, vías jurídicas and vías de hecho.

In this chapter, I will look at my second research question:

*What are the mechanisms available to the indigenous movement of the Cauca to obtain and claim their rights vis-à-vis the state?*

I do this by following the threefold pattern of routes drawn up by my informants as explained above. Starting with the vía política – the political route, I demonstrate how the indigenous movement have gained important victories such as the Constitution of 1991, as well as many other political agreements, but which have been slow in materialising. I then visit the vía jurídica – the juridical route, which I exemplify through the Decree 2333 - which, while being a potentially important legal tool for the recognition of territorial communal rights, lacks political will for its effective implementation.
I then explore the *vía de hecho*, which I define as contentious politics, and show how this route consists of collective semi-legal or illegal collective actions that are lumped together in the term *minga*. By drawing on the case of the nation-wide *Minga Indígena y Popular* of 2008, I show that these *mingas* can galvanize the nation and contribute to staunch political fronts, but that it also has the potential to open up possibilities for new political alliances with other sectors in civil society, in order to reach converging goals. I then briefly look into the state’s reaction to this united front, which has partly been a strategy of co-optation of parts of the movement. Lastly, I explore how these three *vías* form part of a coherent strategy by the indigenous movement in issues of territorial rights, and that their employment can be simultaneous or consecutive, depending on the situation.

Figure 4 "We are ancient peoples", alluding to the fact that the indigenous movement see their struggle as a direct continuation of the struggle against European colonialism.  

Photo taken by Lovisa Prage at La Emperatriz, Northern Cauca
5.2.1 Vías Políticas

In a broad sense, *la vía política* can be translated into “the political route” or “by politics” and is used when referring to working politically to achieve specific rights through the existing established legal channels, through elected parliament and government officials or presidential decrees.

The indigenous movement of Colombia has established political channels at their disposal. For one, the Constitution of 1991 guarantees two seats to indigenous senators. At the local level, hundreds of candidates have run for election and been elected at the municipal level, and 1997 saw the election of the first indigenous governor, as well as eleven mayors (Van Cott 2007, 133). Through political deals and meetings, the indigenous movement has made great strides on paper, but not always in reality. Simón argued that “The big problem is that the government has signed multiple deals with the indigenous, right?”, before mentioning a long list of political deals; “The act of 2005, the act of 2013, the act of 2016, the act of 2017, they’ve signed thousands of documents, in 2005 it was 80.000 hectares, then 40.000 hectares, then 30.000 for buying… it has fulfilled absolutely nothing! We’re stuck with the same” (Simón 28.08.2018, p.8-9).

The inability or unwillingness to enact the deals is an important background for the great mobilisations by the indigenous movement in the Cauca; “[...] it’s not that we are rebels because we want to be rebels, it’s because of so much incompliance. There are around 1300 deals that have been signed, that the government hasn’t fulfilled” (Simón 28.08.2018, p.8).

“[..] I’d say that if the government had been more strategic, they would have looked for money and fulfilled the requirements. I’d say that the indigenous would be a bit more calm, and that they wouldn’t have all of this strong opposition that the government has from the indigenous, but the government hasn’t fulfilled absolutely anything, and the lands in Colombia really are in the hands of only a few” (Simón, 2008.08.2018, p.8).

Simón’s statement reveals that the indigenous movement isn’t necessarily against the policies of the central government, but that there exists a willingness for dialogue and to work with it, in order to find compromises. However, it also reveals the frustration felt
by the movement when political agreements fail to materialise, especially when it comes to land and territorial rights, and that this forces the movement to seek other ways to achieve existing deals.

### 5.2.2 Vías Jurídicas

Similarly, *la vía jurídica*, “the juridical route” or “by juridical channels”, refers to court cases and laws that are passed that enshrine and protect indigenous rights. For example, Colombia’s progressive constitution is celebrated as a victory for the *vía jurídica*.

The case of El Nilo, as described in chapter 5.1.4, is an example where the indigenous movement attempted the resolution of a conflict through established legal and juridical means. After years of waiting for the rulings from the court case to be fulfilled, however, the indigenous movement restarted recuperation of the land through occupation and liberation. This is not a singular case, and several of my informants explained that in both land- and rights-related issues, they would often turn to extra-legal means after attempting to solve the issue through established legal channels “[…] the juridical without action doesn’t lead to anything, and this is the reality” (Alfredo 29.11.2016, p. 8.).

#### Decree 2333 of 2014

An important legal tool for the juridical recognition of land occupied by the indigenous movement is the Decree 2333 of 2014. The decree harmonises with the ILO Convention 169, and “[…] is perhaps the only legal measure that created a system of information and interconnection, […] in order to 1) administrate more efficiently the lands of the territory and 2) reduce the disputes over the land between the indigenous peoples and the government” (Mora Vera 2015, 95);

“The State recognise, respects, protects and guarantees the special importance of the cultures and spiritual values of the indigenous peoples of their relationship with the lands or territories, or with both, which they occupy or use in some other way, and in particular the collective aspects of that relationship” (Calderón et al. 2014 my translation).
The decree established a system of inter-institutional coordination for the protection of indigenous territorial rights for indigenous peoples, and was an important legal victory for the indigenous movement (Vélez-Torres 2018, 47). According to Alfredo, the decree was won through a process of recuperation and positioning which the indigenous families did out of necessity, as they needed land to sustain themselves. Because of overpopulation and the “[…] growth of the families, many families started to emigrate to other departments and some are in cities […] and they have occupied their spaces. They bring with them only their identity, nothing else” (Alfredo, 29.11.2016, p.1). When they get to these new territories, “[…] the community organises their cabildo, but they have no territorial settlement, and this is a weakness” (ibid, p.2). The decree, however, establishes the procedure of saneamiento territorial, or territorial formalisation. “[…] So the Decree 2333 is like the part that guarantees the juridical way of recognition” (ibid, p.3).

Following Alfredo, the Decree 2333 of 2014 is a product of the mingas that were undertaken in 2012, 2013 and 2014. “A community minga on the national level where all the indigenous peoples protested against the government and they accomplished the recognition of this Decree 2333” (Alfredo, 29.11.2016, p.2). This shows that the organisation of vías de hecho, as explained below, doesn’t necessarily follow failed vías jurídicas, but that vías de hecho such as collective mingas and protests can also result in concrete juridical action. However, the actual implementation and prioritisation of the legal framework might require further mobilisation by the indigenous movement.

Although the Decree 2333 of 2014 was an important achievement that provides some legal security, Alfredo also pointed out that it hasn’t been prioritised by the government. “The decree is recognised but there lacks a resolution or something that generates its implementation, or a statistical study of the families that occupy territorial spaces. […] The decree is formulated but they haven’t put resources to make it viable” (Alfredo 29.11.2016, p.2.).

5.2.3 Vías de Hecho

The third mechanism employed by the indigenous organisation as explained by my informants is the vías de hecho, which is a rather more complex term, and somewhat difficult to translate. Directly translated, it translates into “route of the facts”, but can
also be understood as “the way things are done”. In legal terms, it refers to taking the law into one’s own hands, and often relates to violence and vigilante or criminal activities. However, a suitable English translation of the term is “direct action” or “contentious politics”.

The way my informants used the term differs from these understandings of unlawfulness. When talking about *vías de hecho*, they collectively referred to civil disobedience such as protests, demonstrations, road blockades, rallies, marches and social mobilisation to create pressure on decision makers. As we’ve seen with the Decree 2333, these rallies and blockades can indeed lead to political and juridical action, which result in new laws and political promises.

### 5.2.4 Contentious Politics

A suitable translation of *vía de hecho* would thus be ‘contentious politics’ or ‘direct action’. Tarrow and Tilly defines contentious politics as “episodic, public, collective interaction among makers of claims and their objects when (a) at least one government is a claimant, an object of claims, or a party to the claims and (b) the claims would, if realized, affect the interests of at least one of the claimants” (Tarrow and Tilly 2009). The term refers to a broader range of episodes that distinguishes it from civil wars, strikes, ethnic conflict and revolutions. Furthermore, contentious politics has the characteristics of being contentious “[…] in the sense that they involve the collective making of claims that, if realised, would conflict with someone else’s interests” and politics “[…] in the sense that governments of one sort or another figure in the claim making, whether as claimants, objects of claims, allies of the objects or monitors of the contention” (ibid).

Moreover, the use of the term “episodic” excludes “regularly scheduled events” such as parliamentary elections and votes, and “public” is used to “[…] exclude claim making that occurs entirely within well-bounded organizations, including churches and firms” (Tarrow and Tilly 2009). Although admittedly defining it as excluding activity that occurs within well-bounded organisations, I would argue that *vías de hecho* still qualify as contentious politics as they are not necessarily top-down events, but spring out of the various indigenous communities through community-based decision making and *cabildos*. While some are partly scheduled events, such as marches and other *mingas*,
the organisations act more as coordinators spreading information, and often act together with other interest groups such as Afro descendants, Women’s groups, campesinos and other parts of civil society with overlapping and coinciding aims.8

A common denominator for these contentious politics in Cauca and the neighbouring regions such as the Valle del Cauca, is that they are collectively organised and participatory. Such direct action is not unique to the indigenous movement of the Cauca, but is known to be employed by indigenous peoples vis-à-vis governments and companies worldwide. These events where indigenous groups try to bring attention to matters such as land dispossession or rights to resources, employing tactics such as road blockades, often receive considerable media attention because they affect the general Cauca populace. A Canadian study into media coverage of the first nations’ collective action found that disruptive tactics increase front page coverage, but that this coverage is not necessarily positive (Wilkes, Corrigall-Brown, and Myers 2010, 327-328).

Oftentimes, these mobilisations come as reactions after political promises fail to materialise, rather than prior. Rallies and road blockades are also often organised because existing laws and decrees fail to be implemented to a satisfactory degree. For example, one informant explained to me how the Decree 2333, which regards the effective protection and judicial status of resguardos and indigenous territories, is “[…] product of the minga in 2012” (Alfredo 2016,2) which was a nation-wide protest where “[…] indigenous people protested against the government and achieved the recognition of the Decree 2333” (Alfredo, 2016,2).

5.2.5 The Mingas

The term vías de hecho also refers to a set of other forms of protests and disobedience, such as sowing maize and constructing buildings when reclaiming or occupying land. As such, it is closely linked to the term minga, or communal work.

A minga is an indigenous word used by several groups across the Andean region of South America. While it can be translated into communal work, such as sowing and

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8 See for instance the March for Peace on Cali on 25th of November 2016 together with Womens’, campesino and student groups https://nasaacin.org/nos-movilizamos-por-la-paz-acompanados-de-los-espiritus-de-la-madre-tierra-que-con-su-frescura-nos-recibieron-en-cali/
harvesting crops, it is also used to describe the planning that goes into as well as the execution of big mobilisations and protests. What they have in common is that “[…] everybody in the community commits all their resources and time to achieve a common objective” (Murillo 2009, 137). Furthermore, “a minga can only be carried out after the deliberation and consultation with the people; its legitimacy thus emanates from the base. A successful minga requires full consensus” (ibid).

A minga is thus both communal tasks such as building bridges, canoes, building and repairing schools, which can be lumped together as mingas de trabajo (of work), as well as mingas related to protests and resistance. As we have seen in the case of northern Cauca, reclaiming land through planting traditional crops such as maize, beans and cassava is done as a communal minga to reclaim land in a way that has thick symbolic connotations. These are often called minga de control territorial (minga of territorial control). Oftentimes, the indigenous community and movement will meet to have a minga de pensamiento (minga of reflection/thinking) to communally plan how to solve a problem, often related to land issues. “Recover the culture, recover the language, everything is through mingas” (Alfredo, 29.11.2016).

“It is an expression to advance in the demands of the government, to advance in the demands of compliance with the law or in demands of territorial respect, in demands to the mining, in demands to the respect and care of the water, this is how the word minga grew to embody political actions” (Alfredo, 29.11.2016, p.15).

Alfredo explained that “[…] the mingas or the movements or the mobilisations that we do always take on the topic of territory”. In these mobilisations, not only the indigenous people of the Cauca contribute, but there will typically be indigenous people organising and joining the protest all over the country, either together or in solidarity. “Oftentimes those [communities] who put in the most people are the ones who benefit the least” (Alfredo 29.11.2016, p.3).

5.2.6 The Minga Indigena y Popular of 2008

The last quarter of 2008 saw the indigenous movement of the Cauca mount a massive minga which mobilised upwards of 50 000 people throughout the process which lasted
from early October until late November. The tens of thousands of participants were chiefly indigenous community members but were eventually joined by disgruntled sugarcane workers on strike, peasants, public university students and state workers who mobilised against what they saw as a violent and undemocratic Colombian system. The six-week mobilisation led the protesters to block the Pan American Highway, which connects the departmental capitals of Popayán and Cali, before marching on Cali and the capital of Bogotá, and is known as la minga indígena y popular de 2008 (the indigenous and popular minga of 2008) (Murillo 2009, 137-138, 2010, 13).

During the mobilisation, the marchers were “[…] dramatically confronted by heavily armed state security forces as communities blocked the Pan American Highway in an act of civil disobedience (resulting in three deaths and over 120 wounded)” (Murillo 2010, 138). The mobilisation also led to meetings with President Uribe and his government at a resguardo in Cauca, after the government had attempted to link the marchers to the FARC guerrilla in order to “[…] justify the heavy-handed military approach to dislodging them from the Pan American Highway” (Murillo 2010, 147).

**Background of the Protest**

The background for the massive minga was a new wave of threats, repression and violence against indigenous communities and their leaders, as well as harsh political rhetoric from government officials including from the presidency that accused the indigenous movement’s leadership of having links with dark, subversive and terrorist forces, essentially the FARC guerrilla. CRIC received threats which announced forthcoming assassinations, stating that they wanted to rid Popayán, Cali and Bogotá free of Indians. The threats were signed by a new group calling themselves Campesinos Embejucados del Cauca (The Furious Peasants of Cauca) – CEC – who were not easily identifiable. Within the next two months of receiving the treats, “[…] eight Nasa people were killed by gunmen in different parts of the department, while several other indigenous activists and their collaborators had to go into hiding, some forced into exile abroad” (Murillo 2009, 139-140, ONIC 2008).

Part of the background of the minga was the El Nilo Massacre, covered in chapter 5.1.4, where 20 indigenous community members were killed;
“[…] it soon became apparent that the masterminds of the massacre were not simply narco-traffickers operating outside of the law. The killings had followed a relentless pattern of harassment and threats against the Huellas community by gunmen loyal to local landowners who were disputing the indigenous community’s claims to ownership of the land” (Murillo 2009, 141).

The following investigation by the Inter-American Court of Human Rights (CIDH) lead to President Ernesto Stamper eventually acknowledging “[…] the responsibility of state actors in the massacre […]” and to signing an agreement with CRIC in 1999 promising to implement certain recommendations made by the CIDH, “[…] including the court-mandated return of the 16,000 hectares of land” (Murillo 2009, 141). At the time of the minga, less than half of the land promised had been returned to the communities, although the indigenous had attempted to gain land through the via jurídica and via política for close to two decades. As such, the fulfilment of the government’s promises was one of the five main rallying points of the minga;

“(1) an end to the proposed free trade agreements with the United States, Canada and Europe; (2) an end to legislation that surrenders the country to mining, forestry, and water companies without consulting the indigenous communities whose land would be used; (3) an end to the militarisation of indigenous territory and the expansion of the government’s “war on terror” under the guise of Uribe’s Democratic Security program; and (4) the fulfilment of Colombia’s legal obligations to indigenous peoples under national and international agreements, including the UN Declaration on the Rights of Indigenous Peoples (Murillo 2010, 16).

The fifth point was an open call for all sectors to join in with the indigenous peoples to construct a “new society” (Murillo 2009, 142).

Mobilising in protest with such a broad agenda proved both a challenge and an opportunity. On the one hand, parts of the indigenous movement felt that the CRIC’s executive committee were becoming too bureaucratic, and had strayed too far from the traditional authorities and the cabildos. This sentiment had already led to a split of CRIC, where the Guambiano people left objecting to the inclusion of non-indigenous partnerships with the organisation. In the minga of 2008, similar criticism came from certain cabildos and resguardos where the repression and violence were felt most
keenly. The broadness of the agenda also meant that it was harder to communicate it clearly to both decision-makers and the popular press (Murillo 2010, 13-15, 2009, 142-144).

5.2.7 Cooperation with other sectors

On the other hand, mobilising on such a broad agenda created the possibility of reaching out and including and cooperating with many other parts of the civil sector in Colombia. It opened up the possibility for cross-sectoral political alliances, as the agenda itself was cross-sectoral and focused on aspects and policies many parts of society recognised affecting them adversely. “It was an unprecedented message to the nation that the indigenous movement was no longer acting alone to defend its own interests, but part of a national struggle against the entrenched interests that control the state” (Murillo 2010, 15). While the mainstream media and Uribe’s government disparaged the agenda as being unrealistic, it “[…] was never meant to be a proposal to be negotiated with the government. Rather, it was meant as a declaration of principles that would serve as the starting point for a new cycle of grassroots consciousness-raising and organizing” (Murillo 2010, 16).

The minga marched from Popayán, through Cali to Bogotá, and held several rallies and meetings in towns along the way, which served to increase its legitimacy. It culminated in a big rally in front of the presidential palace in the capital of Bogotá, where Feliciano Valencia, one of the members of the CRIC’s executive committee, symbolically shook hands and pledged cooperation with the president of the Central Union of Workers (CUT – Central Unitaria de Trabajadores), Narciso Mora (Murillo 2010, 13-14).

To this day, the indigenous movement keeps mobilising together with other sectors of civil society. Especially in the framework of the peace process, the CRIC and ACIN have joined forces with other civil society actors to push the policy makers and parties in the peace process to create a lasting peace that includes their demands. Demands which the various civil society actors can convene around and agree on include aspects such as victim reparation; stopping the assassinations of community and social movement leaders by insurgency and paramilitary forces, as well as dismantling these structures; the protection of human rights and the right to protest; and battling inequality, poverty and social and economic exclusion (CRIC 2018a).
I partook in two *mingas* that were organised by the indigenous movement together with other social sectors. One was a *Caravana por la Paz* (Caravan for Peace), which was organised by the Comission for the Integration of the Colombian Massif (CIMA – *Comité de Integración del Macizo Colombiano*) together with indigenous, afrodescendant, *campesino* and women’s rights-based organisations. The village of Lerma had reportedly lost more than 25% of its population of less than 400 in the five year period between 1983 – 1988 to violence and assassinations, and was declared a Territory of Peace and Coexistence in 2013 (Comisión Europea 2015, 21, 29). The group travelled in dozens of *chiva* buses, making several stops and rallies in the towns along the way, before culminating in a large presentation and planning session in Lerma. The goal of the Caravan was to demand the inclusion and participation of the social sector in the peace process, particularly in the then-ongoing peace talks between the government and ELN guerrilla in Quito (CRIC 2016b).

The other *minga* I participated in was a march in the city of Cali at the end of November 2016, with a broad alliance from the civil society made up indigenous, afrodescendant, *campesino*, labour, student, women, and other groups who demanded that the dialogue between the government and ELN guerrilla group be made public and inclusive. According to CRIC almost 6000 people participated in the march from the University of Valle to the provincial government building of the Valle del Cauca (CRIC 2016a). The march started in Popayán and culminated in front of the governorship of Cali, where a large and heavily armed police turnout was waiting. When I asked a group of bystanders and police officers why there were so many police officers there, they replied mockingly “because the guerrilla is coming down from their mountains”.

Several of the persons I interviewed underlined the importance of cross-sectoral cooperation with the different civil society actors in Colombia;

> […] the indigenous movement has to surround itself with other social actors who fight for the same, with different things, different with regards to their customs, cultures, but we say that in the middle of this diversity we have to have the capacity of unifying ourselves, to unite. To discuss consensus and census to look what we agree on, and on what we don’t agree on we discuss […] because what is clear is that among ourselves we cannot destroy ourselves. Because the indigenous, the *campesino*, the *afro*, all have the same necessities” (Joaquín 29.11.2016, p.1).
Joaquín argues that although the various ethnic groups in society, the indigenous, the afrodescendant and the campesino don’t always have goals or needs that converge, and might certainly have opposing claims, they also have many overlapping and coinciding goals where they can unite under a common cause. Although there might be disagreements, such as specific territorial boundaries or the ownership of part of a river, those specific issues also have wider and overarching goals, both related to territorial rights but also to issues of violence and threats towards civil society leaders. “[…] with the campesinos and the afros we’ve already been unifying ourselves in that the enemy is not among ourselves, the enemy is the one outside” (Joaquín 29.11.2016, p.2).

“So this fight, it is clear that we must make sure that the government doesn’t divide us, but that we must make a social block with civil society organisations, and we have every capacity to demand these rights; lands for the indigenous, lands for the campesinos, lands for the afros. Life is dignified for the campesinos, life is dignified for the afros and the indigenous, and the government has to protect this ethnic and cultural diversity in the country” (Joaquín 29.11.2016, p.2).

**Ethnicity, Conflict and Cooptation**

There are examples of inter-ethnic conflicts between for instance indigenous, Afro-descendant and campesino groups, but also between different indigenous peoples. Simón explained how a conflict between a Nasa group of the resguardo Laguna Siberia in Northern Cauca and a neighbouring Misak group unfolded, where the Misak had been granted resguardo land by the Ministry of the Interior that overlapped with the existing Nasa resguardo, including an important fishing river. This has created a source of much conflict, with the ESMAD intervening on behalf of the Ministry and the Misak which resulted in several injuries. According to Simón, this conflict stems from two underlying causes. One is the difference in which the Misak and the Nasa govern themselves, where the CRIC-aligned Nasa call for mingas in the form of big assemblies where each community member expresses their view, and they aim to come to a collective decision. “[…] this is why our form of government is slower but I would say that it’s more democratic” (Simón, 26.08.2018, p.11) The Misak community on the other hand, who aren’t aligned with the CRIC, reportedly have a more top-down and
time-efficient form of government in which the leaders make the decision “[…] because this [group of] Misak are more like the government” (ibid). This results in prolonged processes (Espectador 2018, CRIC 2018b, Enrique 26.08.2018, p.9-15). According to this reasoning, the communitarian approach to decision-making by the CRIC-aligned Nasa can potentially be a source of conflict with other groups with different approaches.

The other reason Simón argued is that the Misak “[…] are more pro-government, it is like they are always on the side of the government” (Simón, 26.08.2018, p.6.). While I haven’t interviewed any members of the Misak people nor community in question, nor government officials, Simón claimed that the territorial conflict is an effort by the government to “[…] break a little the structure of CRIC” (ibid, 10.), and that the government “got in with the Misak, giving them preference so that they can establish themselves” (ibid, 12.).

A Counter-Hegemonic Project?

It’s not the first time the CRIC and ACIN have claimed that the government pits different indigenous interests against each other. After the minga of 2008, a group of Nasa broke out of the indigenous movement and created the OPIC (Organización Pluricultural de los Pueblos Indígenas del Cauca – Pluricultural Organisation of the Indigenous Peoples of Cauca). They represented a part of the base in the organisation that had a deep evangelical Christian affinity, as well as sympathised with the then president Álvaro Uribe and his administration’s development through securitisation policies. As such, they directly challenged the leadership of the CRIC and ACIN, who they criticised for being imposing their beliefs, being backwards and monopolising policy issues such as health and education through the positioning of traditional authorities. Particularly, “[…] they wanted to delegitimise the cabildo (council) structure in Cauca by funneling resources into some of the most marginalized communities” (Murillo 2010, 18). The leader of the OPIC openly declared the organisation as being uribista, and that they wanted to serve as a counterweight against the CRIC. It was formed during an event that was organised as a response to the Minga Indígena y Popular led by the then Minister of the Interior, Joaquín Valencia Cossio, as the minga and the indigenous movement had directly challenged the development
model of “democratic security” championed by Uribe’s government (Cortes 2010, 73, Murillo 2010, 18).

According to Carlos Andres Ramirez, the rise and creation of OPIC as a reaction to the nationwide Minga Indígena y Popular can be seen in two ways. One is that it is a direct result of a government strategy to “divide and conquer” the indigenous movement by creating a division in a part of the opposition that was vocal and well-organised, namely the indigenous movement of the Cauca. According to this reasoning, the indigenous community members joining the OPIC, did so as the closer ties with the government would grant them more resources and legal recognition in exchange for political loyalty and electoral support (Ramírez 2015, 89-91).

Relying on solely this explanation however, he argues, would be reductionist, as it removes the agency from the indigenous creating the OPIC, and the reality is more complex. While he doesn’t dismiss the first reasoning, the co-optation of the indigenous movement by the Uribe administration could only be realised because of a pre-existing division within the movement itself, where a Christian-conservative base had a difference in ideology and sympathised with Uribe’s government and political project.

“In other words: the existence of OPIC isn’t exclusively due to a temporal strategic game nor is it based only in the exchange of benefits between actors who look to satisfy an interest […] but is also a result of a complex process of ideological adhesion from a significant sector of evangelical indigenous Caucans to the political project of the right’s national order” (Ramírez 2015, 91, my translation).

Uribe’s approach to the indigenous movement is not the first example of a policy of co-optation of civil society. Similar cases have happened to workers’ unions, political parties and Afro-Colombian organisations, which was accompanied by a polarising discourse that placed the opposition of the national government on the side of “narcoterrorism” and Marxists (Ramírez 2015, 95).

Looking at the Minga Indigena y Popular through a Gramscian lense, Ramirez argues that the state’s hegemonic project of development from above through extractivism, foreign trade treaties and democratisation through securitisation can be analysed as a
top-down project by the national bourgeoisie (or in this case, the economic and political elites) who are then met with resistance. This resistance, in this case spearheaded by the indigenous movement in the form of a non-violent, counter-hegemonic minga, interferes with state functions (through i.e. blockading the Pan-American Highway between Popayán and Cali) and mobilises against the hegemonic capitalist project. Faced with this counter-hegemonic resistance, which threatens the hegemonic project, the elites employs a strategy Gramsci phrased as a passive revolution, as “[…] its hegemony is seriously threatened and a process of extensive reorganisation is needed in order to re-establish its hegemony” (Simon 2015, 21). In this process “social reforms which have been demanded by the opposing forces may be carried out, but in such a way as to disorganise forces and damp down any popular struggles” (ibid). Through this interpretation, the growth of OPIC is a result of the expansion of the Uribe government’s hegemonic project, and its employment of a passive revolution where government were able to weaken the indigenous movement’s counter-hegemonic project whilst at the same time present itself internationally as amicable to the indigenous movement through the favours granted to OPIC (Ramírez 2015, 100-102).

5.2.8 The Three Vías as a Strategy

Faced with threats, assassinations, displacement, and the non-compliance of formally achieved rights, the indigenous movement of the Cauca has had to employ different tactics in order to get their demands across and for them to be fulfilled vis-à-vis the successive Colombian governments. In order to do so, they typically employ three different tactics; two of them, the juridical and political, go through channels that are viewed as legal and formal by the State, while the third is a mechanism of contentious politics which involve extra-legal means such as protests, blockades, marches and land occupation.

Together, these three form the main strategy for the achievement of the movement’s demands. In the case of La Emperatriz and the El Nilo Massacre, as outlined in chapter 5.1.4 and 5.1.5, the movement was already engaged in a process of recuperation of land through occupation, as there was little other existing legal framework for the expansion or creation of resguardos prior to the Constitution of 1991. With the Constitution, the movement gained an important juridical structural framework for the recognition of
land, whereby the indigenous community attempted to enter into dialogue with the
formal owners of the land. When this resulted in the horrific massacre of El Nilo, the
indigenous movement entered into a juridical process with the state and the CIDH, and
attempted to resolve the land issue as well as the reparations for the massacre in a legal
way. The case, albeit after a long process, ended in juridical and political promises from
the CIDH and the government that the indigenous community would and should be
compensated with the 15 663 hectares of land they had been promised. Both as a result
of the massacre and of the court case and promises from the state, the indigenous
movement ceased their occupation of the land, and awaited these promises and legal
actions to be brought to fruition.

As it gradually became clear that the restitution of land wouldn’t be fulfilled, the
indigenous movement of the Cauca, spearheaded by both the ACIN and the CRIC put
the vía política and the vía jurídica aside, and embarked on a series of vías de hecho,
both through the massive minga indígena y popular, marching from Popayán through
Cali and to Bogotá, blockading the Pan-American Highway on the way. The Nasa
communities affiliated with ACIN also took to restarting the liberation of land in the
areas of the La Emperatriz farm.

While the great mobilisations such as marches, blockades and land occupation can be
straining on the relationships between the indigenous communities, the state and the
urban city-dwellers, it is often a result of having tried several other routes and
mechanisms to achieve rights. “When the non-compliance [of the government] starts,
the most effective strategy that we the indigenous people adopt has without doubt been
the mobilisation. So we’ve always had to look at the strategy of mobilisation” (Manuel
07.12.2016, p.3).

Manuel’ argument is resonated among most of my informants. A recurring challenge, as
also stated in chapter 5.2.2, is that the movement might get seemingly great legal and
political breakthroughs in the forms of agreements, laws and deals, but that there is a
lack of political will in implementing these, blaming procedural problems, allocation of
funds or administrative issues. “So they are like beating around the bush [es una
mamadera de gallo], and this is to waste time, to make us lose momentum, it’s a waste
of time they’re doing there and there’s no progress” (Agustín 03.12.2016, p. 5). Thus,
the movement turns to mobilisation and contentious politics;

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“It’s a political game they are playing with the communities. […] It’s a political strategy to wear [us] out. So when 20,000 indigenous come to la María [a resguardo], the government comes and says “please do not block the highway, go away and we will sign an act of agreement, we will give you land, we will give you houses, we will do productive projects, everything”, but they don’t fulfil anything!” (Agustín 03.12.2016, p. 6).

Unfulfilled promises that were made during mobilisations thus lead to more mobilisations in order to keep the government to their word. This has been a tactic employed by the movement for some time;

“From the first mobilisations there were deals and acts signed by the national government to resolve the demands from the mobilised communities. But the national government has not complied in the least. This is why it can be said that every new mobilisation is the result of the incompliance of the former” (CRIC 1999).

However, organising these great mobilisations is also demanding for the movement and the communities, especially when there is little result. As Simón states, these mobilisations can also be straining, as it requires the coordination and participation of several communities in a potentially very hostile environment;

“[…] as leaders of the movement, they [the community members] tell us; we are tired of signing papers and papers, yeah? So this is why sometimes they tell us; no, now we’re going to the vías de hecho and then we do vías de hecho and the government comes back and lies to us, they come back and sign things, but they don’t fulfil it and then we look bad to the people. And really this is the problem in Cauca, because in this sense, with the vías jurídicas and all the other mechanisms, the people get burnt out, the people get tired, and then they ask us “why so much vías de hecho?” Because of all the non-compliances of the state!” (Simón, 26.08.2016, p.9).

As is also clear from Simón’s statement, there is no guarantee that the various vías de hecho will yield concrete results, but actions such as marches and blockades also has the intention of forcing the government to react to the movement’s claims. Admittedly,
these reactions are often adverse, as we have seen with the *minga indigena y popular* of 2008, where there were several clashes between protesters and police forces. However, the *minga* also brought the movement’s agenda to the national stage, albeit with very varying degrees of positive coverage, and led to meetings and statements from government officials.

### 5.2.9 Summary

I set out on this chapter with an intention to answer the following research question:

*What are the mechanisms available to the indigenous movement of the Cauca to obtain and claim their rights vis-à-vis the state?*

I’ve done this by looking at the three different ways my informants said the indigenous movement work towards their goals; politically, juridically/legally and through contentious politics, and explored examples of successes and pitfalls of each mechanism.

The *vía política*, *vía jurídica* and *vías de hecho* are three different ways of working towards a common goal. Although they are different approaches to the same goal, where one is an attempt at a political resolution, the second a way of achieving demands through legal action, and the third is a way of either forcing the government to react, or to attempt to resolve the issue by their own means such as land occupation, together they constitute a strategy. The three different mechanisms in this strategy can be enacted consecutively or simultaneously, but in many cases the indigenous movement see it necessary to push for rights and demands to be fulfilled through collective mobilisations known as *mingas*.

The victories achieved through the political and legal way in the forms of political agreements, laws and decrees are in most of the cases I’ve encountered achieved as a result of mobilisations done by the indigenous movement. However, having the right formalised on paper doesn’t necessarily mean that they will be effectively implemented, and oftentimes the political will to allocate funds or simply prioritise such work politically is lacking. These *mingas*, then, often come about as a result of broken promises, lagging processes or simply unliveable situations in the communities as a
result of threats, violence and overpopulation leading to a scarcity of land and food. This strategy of working politically and legally, followed by mobilisation and contentious politics in the cases of broken or unfulfilled promises, is a strategy the indigenous movement has employed since the formalisation of rights in the Constitution of 1991, which granted them a legal and rights-based framework to so.

The state’s reaction to the demands forwarded by the indigenous movement is experienced by my informants as one where they actively and consciously make promises that they do not intend to keep. In their experience, the promises made remain empty words and statements, and in the cases where there is a signed agreement the government at times finds reasons to drag out the process through not allocating funds or procedural lethargy. An example of this is the case of El Nilo, where the communities and the movement have waited for close to two decades for the promises to be fulfilled.
6 Conclusion

I started out this thesis with an aim to shed light on the struggle undertaken by the indigenous movement in the Cauca, what defines this struggle and which techniques the indigenous movement employ to bring their struggle forward and claim their rights. I have looked at this through the following research questions;

*How does the amplification of indigenous resguardos by the indigenous movement in the Cauca interact with Colombia’s extractivist development regime?*

*What are the mechanisms available to the indigenous movement of the Cauca to obtain and claim their rights vis-à-vis the state?*

In this chapter I will as far as possible provide an answer to these questions through the arguments and the reasoning presented in this thesis, as well as briefly discuss certain points of further research.

The struggle by the indigenous movement in southern Colombia is to a high degree defined by the access to, rights over and use of land, in particular the institution of indigenous *resguardos*. This institution was, as we have seen, originally a colonial measure to confine the indigenous and provide a steady labour-force, but has been re-invented by the indigenous movement to become the focal point of their mobilisations and organisation. The fact that they were created from the colonial times and onwards means that the indigenous can take advantage of the existence of papers formally granting them the right to the use of the land, although this is not the case for all *resguardos*. Several communities do either not have the formal rights to the land they claim, or the land that they occupy is too little to sustain the people residing there. In addition, some territories overlap with natural reserves, and envelop territories and landscapes that are infertile or otherwise ill-suited for food production as well as contain vulnerable biotopes such as the unique *páramo* ecosystem.

At the same time, large landholdings with often absentee landowners occupy the fertile lands in the lowlands. These landholdings often focus on monocultures such as sugarcane, and the landowners include some of the richest men in Colombia. They also form part of the Colombian government’s developmental focus on extractive industries,
as it emphasises the national project of “wealth”. Part of this national project has through the last successive presidencies been a developmental scheme that prioritises economic development through securitisation, where the securitisation of economically valuable industries is given precedence. In this prioritisation, civil society leaders such as those of the indigenous movement have been accused of collusion with insurgent forces and terrorism. As a result, they have been specifically targeted by paramilitary forces at the behest of powerful economic and political forces, sometimes working in conjunction with the national military forces, in addition to the national police forces.

Whilst prioritising and incentivising economic development through extractivism and securitisation, the Colombian government also has an outspoken emphasis on protecting ethnic and indigenous rights. Through its ratification of international agreements concerning these rights, as well as a progressive constitution that defines the nation as multicultural and pluriethnic, Colombia has a relatively strong legal framework for the protection of the rights of indigenous people. However, when confronted with the other paradigm of resource-based economic development schemes, these rights become subservient.

As mentioned above, existing resguardos suffer from overpopulation and not sufficiently fertile lands, and the indigenous communities subsequently claim adjacent lands that they see as forming part of their ancestral territories. In the cases I have explored in northern Cauca, these adjacent lands form part of large landholdings with fertile lands growing sugarcane, and the indigenous communities in question see themselves as having both legal and ancestral claims to the areas in the aftermath of the El Nilo massacre. While they have attempted to get access and acceptance for the use of this land through legal and political mechanisms, which has led to the Colombian government promising to acquire the land for their use, the process has been slow and lagging. As a result, the indigenous communities have taken to occupying the land by slashing the sugarcane and planting traditional crops, as well as constructing and making use of existing buildings for community purposes.

To answer my first research question; this is where the amplification of indigenous resguardos come into confrontation with Colombia’s extractivist development scheme. While the state has promised to acquire the La Emperatriz farm as part of the reparations for the El Nilo massacre, it argues among other things that the land is well
suited for the cultivation of agro-fuels, which makes buying the land expensive, as seen in chapter 5.1.4 and 5.1.5. It has also suspended land allocation processes as a result of the *mingas* of liberation undertaken by the indigenous communities. Instead, the state gives legal precedence to the landowners by deploying military and police forces to forcefully evict the indigenous community members participating in the liberation processes, oftentimes with grave results. Additionally, the communities are under pressure from paramilitary forces who also seek to evict the communities. This shows that the Colombian government is attempting something of a legal split, where it is obligated to protect the indigenous rights enshrined in both the Constitution of 1991 and in the international declarations it has ratified. However, when these rights are confronted with the economic development scheme of the state, the latter are given precedence.

As a result, the indigenous movement is faced with a dilemma. The communities need to expand and get access to fertile land to sustain both their communities and their culture, which is intrinsically tied to the land they inhabit. If they do this through extra-legal means, they might obtain de-facto use of the land they liberate and occupy, at least temporarily, but also risk facing severe confrontations with both clandestine and public forces. In addition, the state argues that these occupations make them cease land allocation processes. However, if they follow established legal and juridical channels, as they have for several decades, they face a lack of political will and long processes without any actual gains.

This predicament has made the indigenous movement employ a three-fold strategy when it comes to obtaining and claiming their rights vis-à-vis the state, particularly when related to land issues. In order to manoeuvre this political landscape, the movement adapts three different mechanisms, or *vías*, in rights-related work, namely the *vía política*, *vía jurídica* and *vías de hecho*. While both the political and juridical way have had certain breakthroughs in the shape of laws and rights, most prominently in the Constitution of 1991, the movement finds that these are often slow in implementing. It also finds that that there is a lack of political will to prioritise these rights through i.e. the absence of allocation of funding, which means that the movement must claim them through other means.
The third of these mechanisms employed by the indigenous movement is different expressions of contentious politics that are known collectively as vías de hecho. These are a series of collectively organised and participatory acts such as road blockades, marches, liberation of land and mobilisations, and as such closely related to the term for collective mobilisations known as mingas. Mingas and vías de hecho are often carried out as a result of broken promises or lagging implementation after having attempted the vía política and vía jurídica, in order to force the government to react and push for rights. While they are often met with fierce resistance from the public forces, and are taxing for the movement, they also have the potential of placing the demands of the movement on the political agenda. In addition, these mobilisations have worked as catalysts for cooperation with other civil society sectors on common issues and challenges.

Coming back to my second research question, the indigenous movement have three different mechanisms to obtain and claim their rights vis-à-vis the state. In a usually hostile environment, the indigenous movement has to be strategic in the tactics they employ. Together, the vía política, vía jurídica and vías de hecho are three different approaches of working towards a common goal, and together they constitute a strategy. The great mobilisations undertaken by the indigenous movement have resulted in laws, agreements and decrees, but again, the formalisation of these rights doesn’t necessarily lead to an effective implementation of them, which might require further mobilisations.
References


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# Appendix A – List of Informants

## Interviews

<table>
<thead>
<tr>
<th>Date</th>
<th>Person, Organisation and Place</th>
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<tbody>
<tr>
<td>29.09.2016</td>
<td>Rikard Skretteberg, Norwegian Refugee Council (NRC)</td>
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<tr>
<td>26.10.2016</td>
<td>“Franco”, indigenous authority, CRIC in Popayán</td>
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<tr>
<td>31.10.2016</td>
<td>Group interview with ACIN-members in Santander</td>
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<td>05.11.2016</td>
<td>Group interview with the indigenous university of UAIIN outside Popayán</td>
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<td>17.11.2016</td>
<td>“Sofía”, indigenous authority, ACIN, Santander de Quilichao</td>
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<tr>
<td>29.11.2016</td>
<td>“Alfredo”, indigenous authority, CRIC, Popayán</td>
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<td>29.11.2016</td>
<td>“Joaquín”, indigenous authority, CRIC, Popayán</td>
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<tr>
<td>03.12.2016</td>
<td>“Agustín”, indigenous community leader and his wife “Natália”, Popayán</td>
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<tr>
<td>07.12.2016</td>
<td>“Manuel”, indigenous community leader, Fundación Sol y Tierra, Popayán</td>
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<tr>
<td>26.08.2018</td>
<td>“Simón”, indigenous authority, CRIC, Oslo</td>
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## Participant Observation

<table>
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<tr>
<th>Date</th>
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<tr>
<td>13.10.2016</td>
<td><em>Caravana por la Paz</em> (Caravan for Peace) to Lerma, Cauca</td>
</tr>
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21.11.2016  *II Asamblea Nacional de Autoridades Indígenas el Pueblo Nasa* (The Second National Assembly of Indigenous Authorities of the Nasa People), Northern Cauca

25.11.2016  March to Cali together with indigenous organisations, student associations, women’s organisations, peasant organisations and other sectors of civil society to demand an end to killings of civil society leaders and an lasting peace
Appendix B – Interview Guide

Pregunta de investigación: ¿Cuáles son los mecanismos dispuestos por el movimiento indígena del Cauca para reclamar/liberar sus territorios ancestrales?

Organización
¿Cómo se formó el movimiento indígena?
¿Cuáles son los metas/objetivos del CRIC?
¿Cómo está organizado?

Proceso de paz
¿Qué significa la paz para ustedes?
¿Cómo se posiciona su organización frente al proceso/acuerdo de paz?
¿Cómo han participado en el proceso?
Organizaciones en el movimiento indígena han dicho que no están dispuestos a aceptar cualquier tipo de paz. ¿Qué tiene que incluir el acuerdo final para que lo puedan aceptar?
¿Cuáles son los retos principales para el movimiento indígena en el contexto del proceso de paz?

Participación
¿En qué medida es importante la participación de los pueblos indígenas originarios?
¿Cómo ha sido su relación con el gobierno central y regional históricamente y actualmente?

Tierra/derechos territoriales
¿Qué significado tiene la tierra y autonomía para ustedes?
¿Cuál es el rol de la madre tierra en la lucha indígena?
¿Cómo está conectada la identidad indígena a la tierra?
¿Qué opina usted sobre las reservas campesinas?

¿Pueden ser una fuente de más conflictividad?

¿Hay una plataforma en donde los diferentes grupos del sector civil pueden reunirse y discutir? ¿Cómo ha funcionado?

**Identidad**

¿Cómo se identifica usted? (Grupo social, colombiano/-a, pueblo etc.)

¿Cómo se identifica frente a otros grupos indígenas/étnicos en el país?

**Otro**

En su opinión, ¿cuál es el mayor obstáculo para el movimiento indígena hoy?

¿Cuáles son las lecciones aprendidas en la liberación de la madre tierra?

Según usted, ¿cuál es la razón o razones por las que se ha retomado la práctica de recuperaciones de tierras en el 2014?

¿Cómo trabajan políticamente para la recuperación de tierras?

¿Cómo trabajan jurídicamente con la recuperación de tierras?

¿Cómo trabajan en vías de hecho con la recuperación de tierras?