

ORIGINAL ARTICLE

Underground Multiculturalism: Contentious Cultural Politics in Gold-Mining Regions in Chocó, Colombia

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Abstract

This article maps the contentious forms of political life that emerge when multicultural rights and non-formal gold extraction coincide. Specifically, it shows how, in the Colombian department of Chocó, Afro-descendant community councils have produced a unique form of mining governance that, while depending for its legitimacy on everyday uses of Afro-Colombian legislation, consists of the organisation, taxation and policing of mining activities that are in tension with official notions of extractive and multicultural law. In exploring such ‘underground’ cultural politics, the article highlights the limits of state-centric analyses of ‘neoliberal multiculturalism’ and, accordingly, underscores the instrumental role that governed subjects play in the on-the-ground unfolding of multicultural governance regimes.

Keywords: Colombia; Afro-descendants; governance; multiculturalism; neoliberalism

Introduction

In 1991, Colombia adopted a constitution that recognised its nation as multicultural and pluriethnic. The new constitution not only promoted the institutionalisation of Indigenous rights, but also, by means of Artículo Transitorio (Provisional Article) 55,¹ encouraged legislators to draw up specific legislation for Black Colombians. This constitutional affirmation of Black minority status eventually resulted in the passing of Law 70 in 1993.² Popularly known as the ‘Ley de las Comunidades Negras’, Law 70 assigned collective lands to rural Afro-descendants

¹The wording of the Article can be found at Ministerio del Interior, ‘Artículo Transitorio 55 de la Constitución Política de 1991’, available at <https://dacn.mininterior.gov.co/la-institucion/normatividad/articulo-transitorio-55-de-la-constitucion-politica-de-1991> (last accessed 25 Aug. 2020).

²Congreso de Colombia, Ley 70 (1993), available at [https://www.minagricultura.gov.co/Normatividad/Leyes/Ley 70 de 1993.pdf](https://www.minagricultura.gov.co/Normatividad/Leyes/Ley%2070%20de%201993.pdf) (last accessed 17 Aug. 2020).

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in the rainforest-dominated Pacific region,³ while also acknowledging the state's responsibility for protecting the culture and fostering the economic development of Afro-Colombians at large. In the aftermath of the law's passage, local initiatives for communal land tenure sprang up across the Pacific. In line with state criteria, Black communities started to organise themselves into 'community councils' (*consejos comunitarios*), with each land-holding council represented by a *junta directiva* – a locally-elected administrative body of community leaders.⁴

Much of the land that has been titled to the community councils is rich in gold. During slavery, Africans and their descendants were forced to search for gold in placer (stream bed) and tunnel mines and, as a historical outcome, many of today's Afro-descendants live in rural auriferous regions.⁵ In the past 10–15 years, community council organising within these regions has been swept up by a nationwide gold rush, largely triggered by the increased global price of gold. Multinational companies have applied for mining concessions in areas where Afro-Colombians enjoy or claim collective land rights, which has led to intense and sometimes violent conflicts over territory. In the meantime, small-scale miners from outside the region have entered ancestral lands to practise non-formal gold extraction, bringing with them the destruction of forests, the erosion of subsistence livelihoods and the arrival of non-state armed groups living on earnings from gold.

In this article, I explore the relationship between the Colombian gold rush and Afro-Colombian cultural rights. Recent scholarly analyses have mostly approached this relationship as one of antagonism, describing multinational and 'illegal' forms of mining that wreak havoc on, and are protested against by, rights-seeking Afro-descendant communities.⁶ Here, conversely, I focus on those instances when extractive expansion and grassroots organising are not opposing forces but find themselves in a constructive relation to one another. In the gold-mining regions of Chocó where I did fieldwork, Afro-descendant leaders invoked their multicultural rights not so much to safeguard traditional economic customs as to

³The 'Pacific region', or the 'Pacific', is shorthand for the tropical coastal area in western Colombia that lies between the Pacific Ocean and the Andes. It comprises, apart from the vast department of Chocó, large swathes of the departments of Nariño, Cauca and the Valle del Cauca.

⁴The department of Chocó – whose territory encompasses about half of the Pacific and whose percentage of Afro-descendants (74 per cent according to state estimates) is by far the highest of any Colombian department – was one of the regional protagonists of this process, acquiring roughly 3 million hectares of Afro-Colombian collective land (comprising 57 per cent of the total number of hectares titled). See Ministerio de Cultura, 'Afrocolombianos, población con huellas de africanía' (2013), pp. 4, 8, available at http://www.mincultura.gov.co/areas/poblaciones/comunidades-negras-afrocolombianas-raizales-y-palenteras/Documents/Caracterización_comunidades_negras_y_afrocolombianas.pdf (last accessed 17 Aug. 2020).

⁵For a historical analysis of colonial mining in the Pacific region, see Robert C. West, *Colonial Placer Mining in Colombia* (Baton Rouge, LA: Louisiana State University Press, 1952).

⁶Tianna S. Paschel, *Becoming Black Political Subjects: Movements and Ethno-Racial Rights in Colombia and Brazil* (Princeton, NJ: Princeton University Press, 2016); Irene Vélez-Torres, 'Disputes over Gold Mining and Dispossession of Local Afro-Descendant Communities from the Alto Cauca, Colombia', *Third World Thematics*, 1: 2 (2016), pp. 235–48; Viviane Weitzner, "'Nosotros Somos Estado': Contested Legitimacies in Decision-Making about Extractives Affecting Ancestral Territories in Colombia', *Third World Quarterly*, 38: 5 (2017), pp. 1198–1214.

claim participation in an expansionist gold frontier that entailed unlicensed methods of extraction.

In presenting this contentious intersection of wildcat mining and ethno-cultural law, I hope to answer to the ‘need’, as identified by Viviane Weitzner, ‘to go beyond state-centric perspectives of lawmaking’ and ‘to consider the perspectives of ancestral peoples and their lawmaking which question the very concept and locus of “the state” as the central regulator’.⁷ By favouring the goldfields over the bureaucracy as the ethnographic locus of multicultural lawmaking, I specifically seek to question the empirical practicality of the concept of ‘neoliberal multiculturalism’, which in recent decades has been frequently employed to argue that Afro-Indigenous recognition is predicated upon ‘endorsement, implicit or otherwise, of the broader political project of neoliberalism’.⁸ Although the notion of neoliberal multiculturalism explains persuasively what governing schemes pursue, it is less convincing, I find, in examining how these schemes unfold in contexts of heavily political fragmentation – to which Colombia is no stranger. Accordingly, whereas ‘neoliberal’ analyses say much about how ethno-cultural policies entangle governed populations within hegemonic projects of state disciplining, they say less about how populations appropriate policies to construct political realities that go beyond and destabilise these projects.

As will become clear from the ethnographic material that follows, a case in point of such multicultural appropriation is mining regions in Chocó, where the consolidation of collective land rights has produced community council-based governance regimes of unlicensed gold extraction. To grasp such digressive cultural politics, I employ the term ‘underground multiculturalism’, which can be defined as a unique form of governance that, while depending for its legitimacy on everyday uses of ethno-cultural legislation, consists of the organisation, taxation and policing of mining activities that are in tension with official notions of extractive and multicultural law.

My reasoning for choosing the metaphor of the ‘underground’ is threefold. First, and most obviously, the ‘underground’ plays on the subterranean, hidden-from-view materiality of gold. As such, it acknowledges, as other studies on small-scale gold mining have done,⁹ that the physical properties of the subsoil play a fundamental role in the shaping of extractive relations. Second, ‘underground multiculturalism’ flags the political peripherality of Chocó’s mining organisation, whereby people stake their claims to gold and negotiate their relations of property, land and labour outside, or *beneath the surface* of, official recognition. And third, speaking of underground governance has the additional rhetorical advantage – compared to, say, ‘illegal’ or ‘informal’ governance – that it does not imply a complete disjunction from social processes occurring *out in the open*, that is, legally and legitimately. After all, any movement on the surface resonates in the ground below, and vice versa. In a similar vein, the cultural politics of the underground continually encounter the footprint of *above-ground* governance techniques, markets and

⁷*Ibid.*, p. 1209.

⁸Charles R. Hale, ‘Activist Research v. Cultural Critique: Indigenous Land Rights and the Contradictions of Politically Engaged Anthropology’, *Cultural Anthropology*, 21: 1 (2006), p. 110.

⁹Sabine Luning and Robert J. Pijpers, ‘Governing Access to Gold in Ghana: In-Depth Geopolitics on Mining Concessions’, *Africa*, 87: 4 (2017), pp. 758–79; Nancy Lee Peluso, ‘Entangled Territories in Small-Scale Gold Mining Frontiers: Labor Practices, Property, and Secrets in Indonesian Gold Country’, *World Development*, 101 (2018), pp. 400–16.

multicultural discourses, which in their turn may be affected by the underground *tremors* of community council organisation.¹⁰

As for the structure of the article, in the following section I first provide a brief overview of analyses of neoliberal multiculturalism, thereby drawing attention to their insensitivity to the ‘unruly’ outcomes of state governance. Subsequently, I offer an ethnographic view of some of these outcomes for the case of Chocó and detail the organisational specifics of community leaders’ mining governance. I show that such underground governance, though making continuous reference to multicultural legislation, operates largely autonomously from and in discrepancy with central state regulation. Then, while not losing sight of unruly governing effects, I illuminate how underground multiculturalism may even be predicated on the regulatory practices of non-state armed actors. I zoom in on the rather unique case of the Bebará river, where in the recent past the local mining economy was co-governed by community representatives and a regional ‘front’ of the FARC.¹¹ In the last empirical section, I stay on the banks of the Bebará to illustrate how the unruly outcomes of top-down planning – that is, the politics of the underground – sometimes also *rebound* on such planning and give form to the governing aspirations of those working within the bureaucratic apparatus.

The empirical material presented in these sections stems from roughly 13 months of ethnographic fieldwork in Chocó, covering three different time periods: an exploratory research visit in February–May 2016; a year-long stretch of fieldwork lasting from February 2017 until January 2018; and a short follow-up stay in August 2019. Research was mostly carried out in, albeit not restricted to, three gold-mining regions: the Bebará river and a town and a village that I call Caliche and La Peña, respectively.¹² The fieldwork included over 90 semi-structured interviews,

¹⁰Quite a number of scholars (see, for example, Anthony Bebbington, ‘Underground Political Ecologies: The Second Annual Lecture of the Cultural and Political Ecology Specialty Group of the Association of American Geographers’, *Geoforum*, 43: 6 (2012), pp. 1152–62 and Boris Verbrugge, ‘The State of the Underground Economy’, PhD dissertation, Ghent University, 2015) have employed the notion of the ‘underground’ in regard to extractive politics, and at least one article has talked of the ‘underground’ in reference to (non-extractive) grassroots multiculturalism; see Steve Swerdlow, ‘Reflections on Transnational Minorities and Human Rights: Meskhetians and Hemshins in Georgia and Krasnodar’, *BAMM*, 5 (2004), p. 20. My own conceptualisation of the ‘underground’, however, is largely inspired by Austin Zeiderman’s article on the ‘politics of submergence’ of Afro-Colombian activists in Buenaventura. Like my notion of underground multiculturalism, Zeiderman’s politics of submergence refers to both the biophysical and the political aspects of social organising. While describing the heightened insecurity risks that Black Colombian activists face in protesting against the displacement of a waterfront settlement, Zeiderman observes how ‘[t]heir politics, like the intertidal zone in which they work, must exist both below and above the surface, occasionally submerging itself only to resurface later when the time is right’: Austin Zeiderman, ‘Submergence: Precarious Politics in Colombia’s Future Port-City’, *Antipode*, 48: 3 (2016), p. 822.

¹¹Acronyms are defined in [Annex A](#).

¹²‘Caliche’ and ‘La Peña’ are pseudonyms. In view of the politically controversial nature of the subject of this study, I am wary of giving names of people and places. Hence, most names in this paper are of my own invention. I have chosen, in agreement with local community leaders, to use the real name of the Bebará river. This is because the river’s history of FARC-assisted mining organisation is too distinctive and too well known (by public institutions, among others) to be disguised. The peculiarities of Bebará mining have already been the subject of local news reports, while Bebareño community leaders have championed their mining to national policy-makers in regional discussion platforms, resulting in

participant observation in and beyond gold-mining sites, and countless day-to-day conversations.

Theorising Multiculturalism

Since the early 1990s, many Latin American states have adopted ethno-cultural reforms through which they have granted differentiated citizenship rights to Indigenous and Afro-Latin populations. Entailing a strong disjunction with preceding nationalist ideologies of *mestizaje*, these reforms have taken on diverse shapes across different countries, ranging from linguistic rights to provisions of collective land tenure and substantive access to national political arenas. Scholars have put forward different explanations to account for this multicultural ‘awakening’. Some understand identity politics as the result of effective Afro-Indigenous mobilisation, catapulted in turn by neoliberal adjustment programmes that undermined rural livelihoods, lands and organisational forms.¹³ Others call attention to top-down governance rationales, arguing that Latin American states gave in to Afro-Indigenous demands as a way to solve their legitimacy crises in an era when citizenship had become increasingly devoid of substance. According to this perspective, diversity politics formed part of wider decentralisation agendas that sought to reincorporate regions and populations within projects of state ordering.¹⁴

Whereas the aforementioned explanations tend to acknowledge cultural rights as a productive retreat from previous political exclusions, a growing number of scholars have opted for a less sanguine view. Countering depictions of multicultural policies as a ‘postliberal challenge’ to ‘neoliberal citizenship’¹⁵ or a ‘friendly liquidation of the past’,¹⁶ this more sceptical scholarship tends to perceive ethno-cultural reforms as concomitant with late liberal rationalities of outsourced governance

NGOs and state representatives visiting the river’s excavator mines on multiple occasions. For local news reporting, see ‘La minería que el estado colombiano no quiere que conozcas’, *Radio Macondo*, 22 Nov. 2016, available at <https://www.radiomacondo.fm/sin-categoria/la-mineria-estado-colombiano-no-quiere-conozcas/> (last accessed 17 Aug. 2020). For official reporting, see Ministerio de Ambiente y Desarrollo Sostenible (Minambiente), ‘Estamos trabajando por un Chocó libre de mercurio’ (27 July 2017), available at <http://www.minambiente.gov.co/index.php/noticias/3087-estamos-trabajando-por-un-choco-libre-de-mercurio-minambiente> (last accessed 17 Aug. 2020).

¹³Alison Brysk and Carol Wise, ‘Liberalization and Ethnic Conflict in Latin America’, *Studies in Comparative International Development*, 32 (1997), pp. 76–104; Arturo Escobar, *Territories of Difference: Place, Movements, Life, ‘Redes’* (Durham, NC: Duke University Press, 2008), pp. 52–5; Deborah J. Yashar, ‘Democracy, Indigenous Movements, and Postliberal Challenge in Latin America’, *World Politics*, 52: 1 (1999), pp. 76–104 and *Contesting Citizenship in Latin America: The Rise of Indigenous Movements and the Postliberal Challenge* (Cambridge: Cambridge University Press, 2005).

¹⁴Kiran Asher and Diana Ojeda, ‘Producing Nature and Making the State: *Ordenamiento Territorial* in the Pacific Lowlands of Colombia’, *Geoforum*, 40: 3 (2009), pp. 292–302; Bettina Ng’weno, *Turf Wars: Territory and Citizenship in the Contemporary State* (Stanford, CA: Stanford University Press, 2007); Donna Lee Van Cott, *The Friendly Liquidation of the Past: The Politics of Diversity in Latin America* (Pittsburgh, PA: University of Pittsburgh Press, 2000).

¹⁵Yashar, ‘Democracy, Indigenous Movements’, p. 88.

¹⁶Van Cott, *Friendly Liquidation*.

and contends that ‘neoliberal multiculturalism’,¹⁷ or ‘neoliberal interculturalism’,¹⁸ involves the endorsement of policies that ‘do not [...] overhaul structures of economic inequality’ but, much more cynically, ‘seek to insulate centralized power [...] from various forms of “indigenous” and other “popular” forms of political engagement’.¹⁹ In other words, policy-makers purportedly promote a stripped-down set of cultural rights that leaves material deprivation untouched and serves to deflect more radical grassroots demands that do not mesh with private property regimes.

Arguably the most prominent advocate of this line of reasoning is Charles Hale. In his writings, Hale has convincingly outlined how cultural reforms aptly fit the neoliberal dogma of delegating governance to non-state actors. Adopting multicultural legislation, Hale contends, enables states to extend their territorial control and to harness the political power of Indigenous movements: ‘the state does not merely “recognise” community, civil society, indigenous culture and the like, but actively re-constitutes them in its own image, sheering [*sic*] them of radical excesses, inciting them to do the work of subject-formation that would otherwise fall to the state itself’.²⁰ Differently put, by distinguishing between subjects that are sufficiently and insufficiently ‘cultural’, political elites can mitigate the transformative potential of grassroots mobilisation and, in this way, re-entrench capitalist relations of subordination. Hale shows, for example, how in Guatemala, rural Ladino elites celebrate a docile, Indigenous subject – the *indio permitido* – while Mayas who oppose development models are defamed as *radicales*.²¹

Other scholars have similarly noted that Afro-Indigenous policies have not undone but rather reconfigured relations of domination.²² Some have specifically laid out, *pace* Hale, how these policies promote the exclusion of multicultural subjects who do not live up to essentialist notions of popular sovereignty. Patricia Richards observes that in Chile, Mapuche become ‘authorised’ as Indigenous whenever they participate in government programmes, yet turn into ‘terrorists’ when they challenge the political status quo through their pursuit of the recognition of ancestral rights and the redistribution of power and resources.²³ Lucas Bessire, in

¹⁷Charles R. Hale, ‘Does Multiculturalism Menace? Governance, Cultural Rights and the Politics of Identity in Guatemala’, *Journal of Latin American Studies*, 34: 3 (2002), pp. 485–524.

¹⁸Bret Gustafson, ‘Paradoxes of Liberal Indigenism: Indigenous Movements, State Processes, and Intercultural Reform in Bolivia’, in David Maybury-Lewis (ed.), *The Politics of Ethnicity: Indigenous Peoples in Latin American States* (Cambridge, MA: Harvard University Press, 2002), pp. 267–306.

¹⁹*Ibid.*, p. 270.

²⁰Hale, ‘Does Multiculturalism Menace?’, p. 496.

²¹*Ibid.*, pp. 511–21; Charles R. Hale, ‘Neoliberal Multiculturalism: The Remaking of Cultural Rights and Racial Dominance in Central America’, *Political and Legal Anthropology Review*, 28: 1 (2005), pp. 20–4.

²²Isabel Altamirano-Jiménez, *Indigenous Encounters with Neoliberalism: Place, Women, and the Environment in Canada and Mexico* (Vancouver: UBC, 2013); Gustafson, ‘Paradoxes of Liberal Indigenism’; Nancy Grey Postero, *Now We Are Citizens: Indigenous Politics in Postmulticultural Bolivia* (Stanford, CA: Stanford University Press, 2007); Shannon Speed, ‘Dangerous Discourses: Human Rights and Multiculturalism in Neoliberal Mexico’, *PoLAR*, 28: 1 (2005), pp. 29–51; Joel Wainwright and Joe Bryan, ‘Cartography, Territory, Property: Postcolonial Reflections on Indigenous Counter-Mapping in Nicaragua and Belize’, *Cultural Geographies*, 16: 2 (2009), pp. 153–78.

²³Patricia Richards, ‘Of Indians and Terrorists: How the State and Local Elites Construct the Mapuche in Neoliberal Multicultural Chile’, *Journal of Latin American Studies*, 42: 1 (2010), pp. 59–90.

turn, notes how cultural recognition goes hand in hand with the ‘hypermarginality’ of ‘ex-primitives’, namely Indigenous peoples whose alleged loss of nativism renders them unworthy of state attention.²⁴ By offering a gripping account of the political abandonment of Ayoreo people in the Bolivian/Paraguayan Gran Chaco, Bessire argues that ‘the social apertures of neoliberal culturalism depend on the creation of new exclusionary regimes based on [...] mechanisms of celebrating cultural difference’.²⁵ Somewhat differently, Shaylih Muehlmann examines how, in Mexico, neoliberal discourses and policies of multiculturalism and environmentalism assign Cucapá fishers responsibility for environmental preservation and, concurrently, portray them as the perpetrators of environmental destruction when their fishing practices fail to match with ideals of ecological guardianship.²⁶

Similar critiques have befallen Afro-Colombian recognition, with some authors reading Law 70 as a governmental stratagem that has allowed for the alignment of the Pacific coastal region with official development schemes. Peter Wade, for one, tentatively connects Afro-Indigenous legislation to a contemporary ‘project of state control’ that weds neoliberal restructuring to multiculturalism and environmentalism.²⁷ Rather than treating cultural rights as counterintuitive to capitalist development, Wade views ‘official multiculturalism’ as being ‘linked to a great extent with the defusing of indian [*sic*] and black protest’ and as ‘a process of compensating (at least symbolically) local groups located in zones of strategic economic interest in a process of economic restructuring and integration into a free world market’.²⁸ Roosbelinda Cárdenas suggests something similar in her ethnography of green business ventures that use the language of Afro-Colombian entrepreneurship to groom Pacific farmers for participation in risky oil-palm cultivation.²⁹ Cárdenas cites the appropriation of multicultural discourses by oil-palm proponents to sustain her broader argument of neoliberalism’s reliance on ‘green multiculturalism’: ‘black and indigenous subjects are recruited (both through consent and coercion) into green capitalist ventures and, subsequently, their very involvement in these undertakings serves to legitimize these endeavors as environmentally sound’. As Cárdenas sets out, the tragic flipside of such ethno-capitalism is that cultural recognition gets tied to displaying ‘appropriately “green” behavior’,³⁰ whereas people who choose not to participate in the green economy ‘are construed as unruly, or beyond the pale’.³¹

Certainly, the emphasis the above authorship places on neoliberal hegemony is not shared by all recent writings on cultural rights. Arguments of neoliberal multiculturalism have been critiqued for downgrading the role that social movements

²⁴Lucas Bessire, ‘The Rise of Indigenous Hypermarginality: Native Culture as a Neoliberal Politics of Life’, *Current Anthropology*, 55: 3 (2014), pp. 276–95.

²⁵*Ibid.*, p. 276.

²⁶Shaylih Muehlmann, ‘How Do Real Indians Fish? Neoliberal Multiculturalism and Contested Indigenities in the Colorado Delta’, *American Anthropologist*, 111: 4 (2009), pp. 468–79.

²⁷Peter Wade, ‘The Guardians of Power: Biodiversity and Multiculturalism in Colombia’, in Angela Cheater (ed.), *The Anthropology of Power: Empowerment and Disempowerment in Changing Structures* (London: Routledge, 1999), p. 82.

²⁸*Ibid.*, p. 83.

²⁹Roosbelinda Cárdenas, ‘Green Multiculturalism: Articulations of Ethnic and Environmental Politics in a Colombian “Black Community”’, *The Journal of Peasant Studies*, 39: 2 (2012), pp. 309–33.

³⁰*Ibid.*, p. 329.

³¹*Ibid.*, p. 321.

played in setting policy agendas,³² and for disregarding the opposition these movements faced from elites in seeing their demands codified in laws and constitutions.³³ In this light, many authors have opted for a middle-ground perspective, viewing the emergence of ethno-cultural reforms as the result of both social movement strategising and elite efforts to stimulate the expansion of capitalist development.³⁴

My own interest does not lie primarily in discussing the redistributive potential of legislation or, to quote Hale, its ‘underlying principles’.³⁵ Rather, I wish to draw attention to the awkward chasm that separates the ‘underlying principles’ of policies from the actual unfolding of neoliberal multiculturalism in specific times and locales and, while I am on the subject, to the *protagonismo* of governed subjects in bringing about this governance chasm. Hence, this is not one more case study of how neoliberal multiculturalism subverts grassroots organising, but, instead, an exploration of how the latter subverts the former; specifically, how Afro-Colombian subjects steer multicultural statehood into new, unexpected directions through their practical engagements with law.

Whereas, in my view, ‘neoliberal’ analyses have been helpful in unmasking ‘liberating’ reforms as predatory blueprints of governance, they have also been fairly inattentive to how multicultural subjects themselves shape state governance in ways that cannot be reduced to acquiescence to neoliberalism. Though some of these analyses do acknowledge ‘the potential for negotiation around the concessions of neoliberal multiculturalism’,³⁶ or the possibility of ‘unexpected outcomes’ deriving from ‘new forms of social mobilization and paradoxes of the reforms themselves’,³⁷ the overall tendency in the literature is to treat state governance as something that happens to Afro-Indigenous peoples: an external force that rules, seduces, excludes or (in the spirit of the *indio permitido* argument) *permissively* includes. Yet as various anthropologists have demonstrated, state-making is a two-way process that encompasses not only top-down interventions but also, at the receiving end, the localised practices of target populations that enable, undermine

³²Penelope Anthias, ‘The Elusive Promise of Territory: An Ethnographic Case Study of Indigenous Land Titling in the Bolivian Chaco’, PhD dissertation, University of Cambridge, 2014, p. 15. With regard to Afro-Colombian legislation in particular, Marta Isabel Domínguez Mejía argues that the understanding of Law 70 as a state instrument for territorial control bypasses the crucial role that community representatives from the Pacific region have played in its elaboration: *Territorios colectivos: proceso de formación del estado en el Pacífico colombiano (1993–2009)* (Medellín: Universidad de Antioquia, 2017), pp. 77–121.

³³Donna Lee Van Cott, ‘Multiculturalism versus Neoliberalism in Latin America’, in Keith Banting and Will Kymlicka (eds.), *Multiculturalism and the Welfare State: Recognition and Redistribution in Contemporary Democracies* (Oxford: Oxford University Press, 2006), p. 286.

³⁴Penelope Anthias and Sarah A. Radcliffe, ‘The Ethno-Environmental Fix and its Limits: Indigenous Land Titling and the Production of Not-Quite-Neoliberal Natures in Bolivia’, *Geoforum*, 64 (2015), pp. 257–69; Domínguez Mejía, *Territorios colectivos*; Paschel, *Becoming Black Political Subjects*.

³⁵Hale, ‘Does Multiculturalism Menace?’, p. 485.

³⁶*Ibid.*, p. 522. In centring his ethnography on Ladino rather than Maya actors, Hale recognises that he ‘cannot fully substantiate the assertion that neoliberal multiculturalism has served to re-constitute Maya political subjectivities’; he claims, instead, that his research has the ‘more modest purpose’ of demonstrating ‘that one version of multiculturalism – almost certainly its dominant form in Guatemala and Central America – carries considerable potential for menace’: *ibid.*, p. 491.

³⁷Gustafson, ‘Paradoxes of Liberal Indigenism’, p. 270.

and transform these interventions.³⁸ As such, in order for us to empirically grasp how governed subjects, such as Afro-Indigenous groups, relate to the ‘accomplishment’ of state rule,³⁹ we should not limit our attention to formal protocols and institutions, but should also, following Aradhana Sharma and Akhil Gupta, examine ‘the roles that “non-state” institutions, communities, and individuals play in mundane processes of governance’.⁴⁰

Clearly, the same is true when analysing the ‘roles’ that non-state actors ‘play’ in governance processes inspired by neoliberalism. By neoliberalism, I refer to a governing rationality that takes entrepreneurial criteria as fundamental to the successful operation of state functions⁴¹ and, consequently, promotes the minimisation of state regulation as a precondition for safeguarding the neutrality of financial markets.⁴² In being a rationality of governance – rather than an accomplished system of rule – neoliberalism, as others have pointed out, must ‘[co-exist] with other political rationalities’⁴³ and ‘takes place within existing political economic formations with which it has an antagonistic relationship’.⁴⁴ Therefore, whatever ‘minimisation’ neoliberals may promote in order to safeguard market growth – e.g. privatisation, decentralisation, trade liberalisation, self-regulation (multicultural or otherwise) – the outcomes are bound to be variegated and partial. Neoliberal policies often produce, as Rivke Jaffe notes for Jamaica, ‘hybrid’ political formations that are ‘not purely neoliberal’ but rather ‘the unstable, ambivalent outcome of an ongoing power struggle that takes place at different sites’, including those encompassing ‘nonformal systems of rule’.⁴⁵ Such hybridisation, as I outline below, equally pervades ‘the “cultural project” of neoliberalism’.⁴⁶ While multicultural policies may foster an ambition to map Afro-Indigenous territories more firmly within the grid of neoliberal rule, they often have different outcomes on the ground, especially in sites of contested state authority. When confronting the messiness of local power relations, policies routinely produce, as Penelope Anthias and Sarah Radcliffe

³⁸See Jeremy M. Campbell, *Conjuring Property: Speculation and Environmental Futures in the Brazilian Amazon* (Seattle, WA: University of Washington Press, 2015); Tania Murray Li, ‘Compromising Power: Development, Culture, and Rule in Indonesia’, *Cultural Anthropology*, 14: 3 (1999), pp. 295–322; David Nugent, ‘Building the State, Making the Nation: The Bases and Limits of State Centralization in “Modern” Peru’, *American Anthropologist*, 96: 2 (1994), pp. 333–69; Monique Nuijten, *Power, Community and the State: The Political Anthropology of Organisation in Mexico* (London: Pluto, 2003).

³⁹Li, ‘Compromising Power’, p. 295.

⁴⁰Aradhana Sharma and Akhil Gupta, ‘Introduction: Rethinking Theories of the State in an Age of Globalization’, in Aradhana Sharma and Akhil Gupta (eds.), *The Anthropology of the State: A Reader* (Malden, MA: Blackwell, 2006), p. 9.

⁴¹Graham Burchell, ‘Liberal Government and Techniques of the Self’, in Andrew Barry, Thomas Osborne and Nikolas Rose (eds.), *Foucault and Political Reason: Liberalism, Neo-Liberalism and Rationalities of Government* (Chicago, IL: University of Chicago Press, 1996), p. 28.

⁴²Postero, *Now We Are Citizens*, p. 15.

⁴³Aihwa Ong, ‘Neoliberalism as a Mobile Technology’, *Transactions of the Institute of British Geographers*, 32: 1 (2007), p. 4.

⁴⁴Karen Bakker, ‘The Limits of “Neoliberal Natures”: Debating Green Neoliberalism’, *Progress in Human Geography*, 34: 6 (2010), p. 720; see also Anthias and Radcliffe, ‘The Ethno-Environmental Fix’, p. 264.

⁴⁵Rivke Jaffe, ‘The Hybrid State: Crime and Citizenship in Urban Jamaica’, *American Ethnologist*, 40: 4 (2013), p. 745.

⁴⁶Hale, ‘Does Multiculturalism Menace?’, p. 494.

demonstrate for Bolivia, ‘hybrid, “not-quite-neoliberal” and potentially double-edged spaces’.⁴⁷

In the subsequent empirical sections, I explore the ‘not-quite-neoliberal’ spaces that have emerged in Chocó amidst the convergence of ethno-cultural organising and non-formal gold mining. To an extent, my analysis coincides with the work of authors who show how Afro-Colombian populations, through counter-hegemonic interpretations of law, actively contest the parameters of Black ethnicity that have been put in place by the Colombian state apparatus.⁴⁸ However, whereas these authors describe ‘contested legalities’⁴⁹ in contexts where Afro-descendants are still struggling to obtain ethno-cultural recognition – in urban and rural zones un contemplated by Law 70 – I want to shift attention to what legal bricolage looks like when rights have already been conceded. Stated otherwise, the underground legalities that I describe for Chocó do not pursue the expansion of the multicultural legal framework, but rather draw on this framework to produce hybrid governance regimes in already consolidated ethnic territories.

Mapping Underground Legalities

I admit that in the course of my fieldwork, I too was sometimes tempted to think of the model of the community council as a ‘neoliberal’ tool of state regulatory expansion. For one, local organising made continuous reference to formal styles. Community councils relied on their own ‘boards of directors’ (*juntas directivas*), consisting of ‘legal representatives’, ‘vice-presidents’, ‘secretaries’ and ‘treasurers’, all voted in during ‘popular elections’ at ‘general assemblies’. At these assemblies, as well as at regular meetings, bureaucratic prose abounded. Community members enjoyed the ‘right’ to vote for or against a pre-set ‘agenda’, leaders used their knowledge of multicultural reforms to win arguments, and audiences evaluated their leaders’ performances in an assessment vocabulary of ‘government’, ‘democracy’ and ‘corruption’.

Community council organising did not just mimic state structuring, though. *Junta directiva* members, often just ‘ordinary residents’ without notably higher socio-economic status, complied enthusiastically with the responsibility for territorial management that Law 70 had ‘outsourced’ to them.⁵⁰ They mediated internal conflicts over territorial borders. They assigned lands to individual families. They acted as gatekeepers to companies, NGOs and public offices determined to carry

⁴⁷Anthias and Radcliffe, ‘The Ethno-Environmental Fix’, p. 268.

⁴⁸Ng’weno, *Turf Wars*; Weitzner, ‘Nosotros Somos Estado’; Zeiderman, ‘Submergence’.

⁴⁹Weitzner, ‘Nosotros Somos Estado’, p. 1208.

⁵⁰Overall, I noticed no striking differences between *junta* representatives and other community members in terms of livelihood. For example, a lot of leaders had been born into or were still living in mining households – particularly the ones leading smaller community councils. However, community leaders of larger councils – especially those occupying the important positions – were more likely than their fellow villagers to hold higher-education qualifications or to be (or to have been) active in better-paid professions in Chocó’s capital, Quibdó. Their higher social mobility tended to coincide with them being comparatively well versed in the content of Law 70, well connected to people working in local state entities and well prepared (professionally speaking) to carry out administrative *junta* duties. That being said, what perhaps stuck out most in the demographic makeup of *juntas directivas* was gender, as men generally held more positions, and more important positions, than women (irrespective of the size of the community council).

out projects in their territorial commons. And, through their brokerage in requests for traditional mining titles, they assisted the bureaucratic apparatus with mapping its subsoil and surveying its subsistence miners.

Strikingly, in tandem with the mediation of state governance, *juntas directivas* were also held accountable by their communities for welfare and service provisions. Chocoanos I spoke to blamed the lack of medical centres, street lights or roads not only on their local and national politicians, but also on their *junta* leadership who, in their eyes, had failed to convert collective earnings into public works. On the banks of the Bebará river, a former stronghold of the FARC's 34th Front, community leaders were even expected to ensure public safety, now that the guerrilla group had left the territory. When, at one meeting, Bebareño leaders discussed the rumour that several young males had been carrying firearms, leaders complained about being abandoned by the national government, the police and the army, yet also connected the safety problem to their own failure to enforce internal community regulations, especially their prohibition on carrying weapons.⁵¹

All of the former arguably adds weight to the assertion, described in the previous section, that 'multiculturalism [...] has the effect of [...] liberating the neoliberal government from taking on certain forms of responsibility and [...] shifting this responsibility onto groups defined in cultural terms'.⁵² And still, though Law 70 may have encouraged a closer alignment between localised organisational forms and state disciplinary power, and has perhaps helped to disguise basic citizenship provisions as responsibilities of communal self-management, the ethno-territorial politics of Chocó's gold-producing communities are much more than just a hegemonic 'menace'.⁵³ In point of fact, amidst the recent proliferation of wildcat gold mining, it is community councils and their elected *juntas directivas* which predominantly menace formal governing rationalities.

Let me provide some context. During the past two decades, the department of Chocó, an important gold-producing region since the days of slavery, has been gripped by a mining boom of unprecedented proportions. In the goldfields where for decades – if not centuries, taking into account their mining bloodlines – Afro-descendant communities have been engaged with low-tech mining techniques (panning, tunnelling, motor pumps), miners from other departments (and even countries) have shown up, bringing with them hydraulic excavators and – more recently and in smaller numbers – two-storey suction dredges. Initially, the new machines arrived in small numbers, but when the global gold price skyrocketed by 91 per cent between 2008 and 2012, they came in droves. To give some food for thought: between 2008 and 2011, the quantity of gold registered as mined in Chocó mushroomed by 731 per cent, making it Colombia's leading gold producer in 2011 with 27,915 kilograms.⁵⁴

The excavator and dredge mines are controversial, to say the least. To begin with, the law considers them 'illegal'. In common with wider Latin American patterns,

⁵¹Fieldnotes, Oct. 2017.

⁵²Muehlmann, 'How Do Real Indians Fish?', p. 475.

⁵³Hale, 'Does Multiculturalism Menace?'

⁵⁴UPME, 'Boletín Estadístico de Minas y Energía 2008–2012' (2012), p. 49, available at http://www1.upme.gov.co/PromocionSector/SeccionesInteres/Documents/Boletines/Boletin_estadistico_2008-2012.pdf (last accessed 17 Aug. 2020).

Colombia's 2001 Mining Code⁵⁵ promotes a neoliberal model of extractive development that, while offering investment security to foreign corporations, provides few means for domestic, small-scale miners – like those in Chocó – to legalise their activities. Unable to comply with the demanding financial and technological requirements of mining legislation – the same as those that apply to multinational companies – the lion's share of Colombia's small-scale miners operate outside the legal regulatory framework. For Chocó, the latest census by the Ministry of Mines and Energy estimates that 99.2 per cent of gold extraction occurs without a mining title.⁵⁶

But the controversy concerning the new miners is about more than just their informality. For one, their ecological imprint on the rainforest has been enormous. The *retreros* (excavator miners) and *dragueros* (dredge miners) contaminate flora and fauna with mercury, silt up river bodies with mine tailings, and turn large swaths of gold-rich rainforest into pot-holed landscapes of rock and sludge. For another, the *retreros* and *dragueros* are taxed, or extorted, by paramilitaries and guerrillas. Consequently, their extraction has been recognised by Colombian policy-makers as a catalyst for armed conflict, with President Juan Manuel Santos (2010–18) describing 'criminal' mining as 'a business [...] that moves more money than narco-trafficking' and as 'an enemy that is much more powerful, much more dangerous, and one that does much more harm than we initially thought'.⁵⁷ To combat this 'enemy', Colombian legislators have adopted several punitive measures, amongst which stand out: restrictions on the sale of gold, the seizure of fuel tanks, the detention of workers, and the bombing of excavators and dredges, frequently carried out through police- and army-conducted helicopter operations.

Now, by laying waste to communal lands and swelling the treasuries of armed groups, these new forms of mining may appear, as other authors outline,⁵⁸ to be an intrusion into Afro-Colombian organising. Most assuredly, to an extent they are. In different parts of Colombia, destructive mining activities have encountered inspirational resistance from community leaders, who risk life-threatening situations, created by the armed groups profiting from gold mines, in defence of their cultural traditions and living environments. In some cases, such resistance has led to remarkable political achievements, not the least in Chocó, whose Atrato river was declared a '*sujeto de derechos*' ('legal entity') by the Colombian Constitutional Court in late 2016,⁵⁹ after an ensemble of grassroots organisations, together with the NGO Tierra Digna, filed a lawsuit against various state departments for their permissive attitudes in relation to the river's deterioration, particularly at the hands of outside gold miners.

⁵⁵Congreso de Colombia, Código de Minas, Ley 685 de 2001, available at https://leyes.co/codigo_de_minas/download.htm (last accessed 17 Aug. 2020).

⁵⁶Ministerio de Minas y Energía, 'Censo Minero Departamental 2010–2011' (2012), p. 12, available at www.minenergia.gov.co/documents/10180/698204/CensoMinero.pdf/ (last accessed 25 Aug. 2020).

⁵⁷'Minería ilegal: ¿Una nueva guerra?', *Semana*, 1 Aug. 2015, available at <https://www.semana.com/nacion/articulo/mineria-ilegal-una-nueva-guerra/437053-3> (last accessed 17 Aug. 2020). All translations are mine.

⁵⁸Paschel, *Becoming Black Political Subjects*, pp. 194–5; Vélez-Torres, 'Disputes over Gold Mining'.

⁵⁹Corte Constitucional, Sentencia T-622/16, available at <https://www.corteconstitucional.gov.co/relatoria/2016/t-622-16.htm> (last accessed 17 Aug. 2020).

However, while the narrative of intrusion is an unquestionably urgent one, it is only part of the story of wildcat extraction. In many mining areas of Chocó, extractive realities do not comply with a neat juxtaposition of foes versus victims. In Caliche, La Peña and Bebará – the places where I did fieldwork – many Chocoanos welcomed the *retrero* newcomers. They welcomed the profitable land rents they paid. They welcomed the employment they brought, which had even enabled a few lucky ones to buy their own excavators. And, most of all, they welcomed their deepening of alluvial mining pits, where artisanal operators could now find gold in quantities much greater than those present in the superficial subsoil layers to which they had hitherto been restricted.

What is more, local involvement with excavator mining went beyond the level of individual households and – more important for the argument of this article – included the quotidian practicalities of collective organising, as the *juntas directivas* of community councils attended to the governance of excavator extraction. To be sure, the most significant feature of such governance was taxation. In order to gain authorisation to work in a collective land, *retreros* had to pay the *junta directiva* of the relevant community council a small percentage of their net earnings. This tax ranged from 2 to 8 per cent and was due on top of the 12–18 per cent owed to the individual family who, on the basis of historical usage, was believed to ‘own’ the specific swath of land where the miners had set up camp.⁶⁰ The excavator tax was by far the most significant income for community councils and had helped to build many a community building. Often these were meeting halls, although there were also villages where earnings from gold had paid for a church, a school classroom, children’s playgrounds, paved pathways, and boat brigades supplying medicines and doctors. In most cases, however, fiscal imposts had not translated into many ‘public works’. Partly, this was the result of miners working in out-of-the-way forests where they could easily collect gold behind the backs of community leaders – a problem that some *juntas* managed to mitigate by carrying out monitoring visits or paying for guards. But there was another problem. Stories about *junta* members siphoning off community gold for personal gain were rife. Indeed, in two out of three of my research locales, the fiscal corruption of former *juntas directivas* had severely damaged the legitimacy of the relevant community council, with people portraying it as an institution that served not the whole community but only those who knew how to take advantage of the system.

Apart from taxation, the *juntas*’ mineral governance additionally involved some moderate degree of territorial regulation. This meant, primarily, that *retreros* were prohibited from working in places where they would interfere with important social and economic activities – for example, they could be forbidden from working immediately upstream from the village or in agricultural terrains. Community guidelines also dictated several environmental regulations. In addition to a general prohibition on the use of mercury, miners were commonly expected to reforest

⁶⁰For other empirical examples of such community council taxation in Chocó, see Marjo de Theije *et al.*, ‘Engaging Legal Systems in Small-Scale Gold Mining Conflicts in Three South American Countries’, in Maarten Bavinck, Lorenzo Pellegrini and Erik Mostert (eds.), *Conflicts over Natural Resources in the Global South: Conceptual Approaches* (London: CRC Press, 2014), pp. 139–40; Daniel Tubb, ‘Gold in the Chocó, Colombia’, PhD dissertation, Carleton University, 2014, pp. 231–40.

their terrains with tree saplings, to dig out tailing ponds (so that creeks would not clog up with mining debris), and to refill with earth their abandoned mining pits (to prevent them from becoming breeding grounds for malaria-carrying mosquitoes). To tell the truth, these guidelines lacked proper policing and their importance to community governance paled in comparison to the collection of gold taxes. Whereas a miner who failed in payment obligations could expect a tough conversation and the threat of suspension, those contaminating creeks or not planting trees rarely suffered punitive repercussions. In the absence of alternative means of income, *juntas directivas* favoured extractive pragmatism over environmental principles.

Certainly, the practices of taxation and spatial ordering described here clash with official governance schemes. For one, they sit uneasily with Afro-Colombian legislation. Whereas Law 70 perceives Black Pacific communities as those living off ‘traditional production practices’⁶¹ and excludes the mineral-rich subsoil from its conceptualisation of collective tenure,⁶² here we see a local system of governance that targets subsoil activities that are anything but traditional. For another, and more significantly, the *juntas*’ governing practices connote a transgression of formal mining regulation, since the extraction they govern lacks not just tradition but also the proper mining titles. And yet, such legal discordance notwithstanding, the underground multiculturalism that I witnessed in Chocó became symbolically meaningful and materially substantive through state law.

First, *juntas directivas* legitimised their involvement in excavator mining by invoking their territorial authority as vested in them by multicultural legislation. In effect, to convince miners, landholding families, or myself of the fairness of their compensation schemes, I heard leaders quote concrete passages of ethno-cultural law, specifying ‘their right to prior consultation’,⁶³ the ‘inalienable, inextinguishable and non-negotiable’ judicial status of their lands,⁶⁴ and their own position as ‘the highest authority’ within these.⁶⁵ While discussing the refusal of a landowner to share his gold rents with the *junta directiva* of La Peña, the secretary of the latter told me: ‘He says it’s his land and that there’s no law that stipulates that he should pay us the percentage. But there actually is. The internal regulations of the community council mention the percentage and we are the highest authority within this territory.’⁶⁶

Second, community councils’ environmental regulations were largely based on what *junta* representatives reckoned to be the formal guidelines for sustainable mining. Therefore, miners’ compliance with these regulations, especially the prohibition on mercury, mattered not just for the preservation of trees and rivers but also for more practical reasons, namely to increase the community council’s odds of receiving a mining title and to make the collective land a less likely target

⁶¹Ley 70, Art. 1, Art. 2, para. 7.

⁶²*Ibid.*, Art. 6.

⁶³Fieldnotes, Oct. 2017; as established by Decree 2613 of 2013, available at <https://www.mininterior.gov.co/la-institucion/normatividad/decreto-2613-de-2013> (last accessed 17 Aug. 2020).

⁶⁴Fieldnotes, May 2017; as established by Article 7 of Law 70.

⁶⁵Fieldnotes, July 2017; as established by Decree 1745 of 1995, available at <https://www.mininterior.gov.co/la-institucion/normatividad/decreto-1745-de-1995-2> (last accessed 17 Aug. 2020).

⁶⁶Fieldnotes, March 2017.

for operations by state forces. In other terms: in their juggling with extractive legislation, the *juntas* sought, albeit modestly, to align their mining forests with state formality before such formality had actually arrived.⁶⁷

Third, *juntas directivas'* mining governance relied for its implementation on official-looking paperwork. Counterfeit legal documents allowed community leaders to perform – vis-à-vis miners and fellow community members – their administration of an otherwise ‘illegal’ activity as a legitimate expression of multicultural politics. Leaders sent out ‘written approvals’ in which they professed consent to a certain excavator operation. They listed their communities’ expectations of reforestation in their internal regulations. They signed off letters that invited *retreros* to contribute to the upcoming Christmas celebrations or to discuss a new taxation policy. And they decreed usufruct documents that acknowledged local families’ ‘ownership’ of a certain swath of collective land – these usufructs had gained in popularity in the wake of new inter-family land conflicts set in motion by the arrival of excavator mining and the consequent increased value of land. In producing all this paperwork, *juntas directivas* not only mimicked state morphology – the application of writing and signatures as proof of authenticity – but also implemented the letter of the law. In their documents, there was no shortage of legal innuendo, community council logos, fiscal codes and personal identification numbers. I once read a *junta*-drafted ‘approval form’ that told miners that the community council had ‘issued its approval’ of their mining operations in light of it ‘being covered by Law 70 of 1993 and Decree 1745 of 1995’. Additionally, to stress its authority, it listed the *junta* members along with their signatures and social security numbers.⁶⁸

Fourth, ironically enough it was the state apparatus that functioned as the muscle for the *juntas'* underground governance. When miners did not live up to community regulations (i.e. when they did not pay up), *junta* members threatened to request that the municipal administration, the local police station, or CODECHOCÓ (the regional environmental authority) shut them down. Whereas all these entities enjoyed the legal competence and obligation to police illicit mining, in practice they largely left such work to the national police and army, unless gold extraction interfered with local interests, including the territorial regulations of community councils. In Caliche, for instance, the municipal mining inspector had twice threatened to suspend excavator mining, not out of loyalty to extractive law, but to convince miners to pay the *junta* their dues in gold. Most *retreros*, however, in Caliche and elsewhere, perceived such taxation not as a genuine expression of ethnic rights but as an abuse of authority. They did pay up, though, because they understood very well that the *juntas directivas*, as lawful landholders and formally recognised community leaders, enjoyed considerable power to set police operations in motion. So, in a sense, *juntas'* claims to legality – vis-à-vis miners – worked because they could bank on the ‘illegality’ of extraction.

⁶⁷For an ethnographic account of how Chocó’s excavator miners adopt similar anticipatory stances of ‘bottom-up’ formalisation, see Jesse Jonkman, ‘A Different Kind of Formal: Bottom-Up State-Making in Small-Scale Gold Mining Regions of Chocó, Colombia’, *The Extractive Industries and Society*, 6: 4 (2019), pp. 1184–94.

⁶⁸Fieldnotes, Feb. 2017–Jan. 2018.

Taken together, these four interrelated performances of statehood by *juntas directivas* in Chocó's mining zones are indicative of a grassroots, or 'vernacular', kind of state-making.⁶⁹ With the *juntas'* underground multiculturalism, the state is moulded into new forms, operating predominantly in contradiction with centralised planning. For sure, by claiming 'legal' entitlement to gold, *junta* leaders consolidate the ontological condition of the state as the rightful arbiter of multicultural and mining regulation, and thus help to extend the spatial reach of statutory authority. But their performance of statecraft is mostly on their own terms. They appropriate statutory languages, styles and structures to make them comply with the regulation of a non-formal mining economy that, legally speaking, is not theirs to regulate. And so, by 'overstepping' their ethno-legal mandate this way, by reconfiguring state categories, *juntas directivas* in Chocó's gold-bearing areas end up producing multicultural territories that are more *underground* than hegemonic; more aligned with the organisation of the subsoil than with neoliberal designs.

Now, while such – underground – territory-making found resonance in all the three places where I conducted ethnographic research – as well as in other villages I visited – it was on the banks of the Bebará that cultural politics assumed a particularly 'underground' form. As the following section makes visible, mining governance in Bebará was strongly interwoven with the regulatory practices of the FARC, whose involvement with gold extraction went far beyond the straightforward extortion of miners as practised by paramilitaries and guerrillas elsewhere in Chocó.⁷⁰

Co-Governing with the Guerrillas: A Curious Case of FARC-Backed Community Rule

The Bebará river – a tributary of the Atrato river and roughly four hours by motor boat from the departmental capital of Quibdó – encapsulates impeccably what Veena Das and Deborah Poole have called the margins of the state: 'sites of practice on which law and other state practices are colonized by other forms of regulation'.⁷¹ State marginality, for instance, saturated the stories Bebareños told me about the preceding years of armed conflict. From the mid-1990s until the Colombia Peace Deal signed in Havana in late 2016, their river had been a stronghold of the FARC's 34th Front. These years encompassed, amongst other things, piecemeal displacement, night curfews, helicopter attacks by the Colombian army and, on one occasion, a village on the river coming under fire from soldiers' bullets. Yet while the guerrillas had been gone for about a year when I conducted fieldwork

⁶⁹Rudi Collaredo-Mansfeld, 'The Power of Ecuador's Indigenous Communities in an Era of Cultural Pluralism', *Social Analysis*, 51: 2 (2007), pp. 81–106.

⁷⁰Many excavator miners I spoke to mentioned such extortion so as to underscore what they saw as their unfair political treatment. While their state legislators justified the bombing of mining equipment by pointing to the armed actors profiting from it, *retreros* saw themselves primarily as victims of the armed conflict; as hard-working men who, under the threat of violence, were obligated to pay a percentage of their gold to paramilitaries and guerrillas. In their eyes, they deserved not the government's castigatory measures but its pastoral protection against these groups.

⁷¹Veena Das and Deborah Poole, 'State and its Margins: Comparative Analyses', in Veena Das and Deborah Poole (eds.), *Anthropology in the Margins of the State* (Santa Fe, NM: SAR Press, 2004), p. 8.

in Bebará, marginality was by no means a thing of the past. In our conversations, Bebareños assertively listed all the state services that they identified as rightful citizenship entitlements, but which, to their dismay, were absent from their lives in the depths of the jungle. They mentioned that they had no roads; no terrestrial infrastructure that offered a rapid alternative to their slow boats. They had no sewage system and no drinking water supply. They had no telephone connection and no internet. They had no secondary schools and no permanent teachers in their primary schools. They had no medical supplies nor personnel in their health clinics – the nearest hospitals were in Quibdó. They had no connection to the department's electrical grid and, since the late 1980s, no police officer stationed at their river. And, of course, they had no 'legal' mining. Despite having one of the most ambitious excavator economies of Chocó, none of the *retreros* working along the river had a concession contract.

Still, the Bebará I encountered in 2017 was no stateless river, and Law 70 had a lot to do with that. The banks of the Bebará were within the collective territory of COCOMACIA, at 685,000 hectares the largest community council in Colombia. Under the auspices of this mother organisation, each of the river's four villages – El Llano, La Villa, La Peña and Pueblo Viejo – had an individual 'lower community council', represented in turn by a 'lower *junta directiva*'. These four lower councils, in conjunction with three nearby villages/councils on the Atrato riverbank – Boca de Bebará, Boca de Agua Clara and San Francisco de Tachigadó – were organised in a sort of pan-riverine regulatory structure. Many community matters were discussed and decided on by the community leaders of the river at large, rather than by the individual lower *juntas directivas* or the upper *junta* of COCOMACIA.

One of the organisational achievements of Bebará's *juntas directivas* was a shared set of community regulations, which were displayed on large plastic notices that imposingly adorned the walls of the villages' community buildings. The level of detail and legal refinement of the notices was eye-catching. After an introductory statement that mentioned 'ethno-territorial principles', 'juridico-popular conscience' and 'legal faculties established by Law 70', the notices charted out a solid 32 regulations that ranged from minor injunctions – e.g. no littering; no loose animals – to more serious rules – e.g. no selling of drugs, no physical maltreatment of children, no carrying or firing of weapons. The penalty – mainly monetary fines and community work – for the breaching of each prohibition was listed, while repeat infringements were to be punished with a 'complaint to the competent organism'.⁷²

What was noteworthy about this code of conduct was that many of its regulations had been introduced by the FARC. In fact, during their prolonged stay at the river, the guerrillas had played a pivotal role in setting up and assessing the supra-alliance of community councils. Besides the notices, this collaboration had resulted in an unparalleled micro-governance of the river's excavator mines – the owners of which were mostly Chocoanos, and in several cases, natives of the river's villages.⁷³ Governance stood out for various reasons. First of all, unlike elsewhere,

⁷²Fieldnotes, Sept. 2017.

⁷³Such 'local' ownership was the exception rather than the rule in Chocó. Contrary to the situation in Bebará, migrants from Antioquia formed the larger part of the excavator-owning population in other field-work locales.

juntas directivas' ecological demands had paid off. The riverbanks still boasted abundant vegetation, because excavator extraction had been permitted only in goldfields roughly an hour's walk inland from the river. The shorelands, in contrast, had been safeguarded for 'future generations' and could be worked only through agriculture or low-intensity forms of mining. Moreover, in the inland goldfields, *retreros* by and large complied with their obligation to dig tailing ponds, and some had even reforested their mined-out terrains with saplings and subsistence crops. Also, for years there had been a general prohibition on the use of mercury, which few miners dared to violate – at least publicly. As a matter of fact, several *retreros* explained to me that it was because of their collective compliance with the sustainable policies of their community councils, and because of the FARC's former commitment to enforce these policies, that they had not fallen victim to equipment-destroying police and army operations.

Yet arguably the most impressive achievement of micro-organisation was ASOBAMINARMEA. Under the supervision of the FARC, and in collaboration with their peers from the adjacent Bebaramá river, the Bebareño councils had started the association (named after the Medio Atrato municipality where both rivers are situated) in 2009 in order to regulate the *bareque*, a form of mining in which artisanal operators (*barequeros*) use rudimentary equipment to search for gold within the mud walls – sometimes several dozen metres high – of excavator mining pits.⁷⁴ From the mid-2000s onwards, with the arrival of the first *retreros* in Bebará, the practice of *bareque* had boosted the income of many low-tech miners who, thanks to the mechanical excavators, could reach deeper – and richer – gold-bearing layers than before. But, as Bebareños informed me, the *bareque* had also resulted in injury (sometimes even death) and social disorder: before ASOBAMINARMEA began to regulate the practice *barequeros* had been trapped and even killed by landslides (especially when working at night), and some *retreros* had provided privileged access to their pits to befriended *barequeros* and denied entry to others. Furthermore, there had also been political disorder, since crowding in the mining pits during the *bareque* had hindered the guerrillas in their endeavour to distinguish harmless villagers from possibly infiltrated enemy elements.

ASOBAMINARMEA had been founded to remedy all these ills. Since its foundation, the association had developed a robust set of regulations to circumvent extractive – and political – disorder. The regulations restricted *bareque* to specific days and times and to local miners registered with the association. They also stated that, on *bareque* days, *retreros* should remove their machines from the mining pit/*bareque* area. In addition, each community council had to assign one or more *líderes de bareque* to the association. These *líderes* functioned as a type of *bareque* patrol, preventing people from entering before opening times and keeping an eye out for possible skirmishes and landslides. In the event of a disturbance (e.g. a fight, the sighting of a weapon), they had to report the relevant lawbreaker to their community council of origin, with the likely penalty of temporary expulsion

⁷⁴The 2001 Mining Code understands *barequeo* (or *bareque*) as 'the washing of sediments in a manual way without the help of machinery or mechanical means': Congreso de Colombia, Código de Minas, Art. 155. Bebareño *barequeros* do not fit this description, since their manual labour rests on *mechanical* excavators moving tons of earth.

from the association/*bareque*. Further, both *líderes* and *barequeros* had to wear uniforms in order to facilitate the identification of those imposing the rules and those infringing them. *Líderes* dressed in green, while *barequeros* wore T-shirts whose colours signalled their village affiliation, with some also having a unique identifying number on the back. As *líder* Moisés explained:

They wear uniforms so we can sanction [*sancionar*] them. If everyone is in uniform, we know which community is most disorderly. It's a form of control and discipline. The principal objectives of the association are control and vigilance, that people respect the norms, respect the hour of arrival and departure, and that all can benefit from the *bareque* in an equitable way.⁷⁵

During my stay in Bebará, the association's regulations were still binding. However, 'control and discipline' were not what they used to be, as disobedient *barequeros* had started entering the mining pits before the designated times. Their disrespect for the schedule had encouraged others to do the same, fearing that the law-breaking early birds would catch all the gold. The situation eventually escalated into whole villages boarding their boats to travel to the mines under cover of darkness. In the absence of the FARC, it became clear to me, community leaders had great trouble keeping their *barequeros* in line. As Breiner, the legal representative of one local community council, argued at a community meeting:

We are lawless! Last Sunday people started their *bareque* at four in the morning! I told them: 'My family, let's wait until the right hour', but they hurried down to the mining pit and nearly knocked me over! We do not have the support of the state. The order comes straight from the council. But here, people only listen to the ones carrying the guns.⁷⁶

Who had started the chaos was a matter of debate. Most hurled their accusations beyond their village boundaries. All leaders agreed, however, that the lack of respect for the *bareque* schedule was a serious matter. In the early morning, there were no association representatives checking for landslides. Also, by entering the mines early, the unscrupulous were profiting at the expense of the virtuous, as early arrival implied more time and more excavator-smoothed pit walls in which to find gold.

In light of these worries, the matter was taken up at a pan-riverine meeting, attended by the leaderships of the *juntas directivas* and of the association, as well as by Ancizar García Ospina, former commander of the 34th Front, and Israel Zúñiga, the front's alleged intellectual leader, who was praised by many Bebareños as the person responsible for their state-of-the-art mining governance. In dialogue with the ex-combatants, the river's community leaders declared that further violation of ASOBAMINARMEA's schedule would be penalised with the indefinite suspension of all excavator mining.⁷⁷ In deciding on this general extractive shutdown, the leaders and ex-guerrillas hoped not just to win the compliance of

⁷⁵Interview, Nov. 2017.

⁷⁶Fieldnotes, Oct. 2017.

⁷⁷Fieldnotes, Oct. 2017.

the *barequeros*, but also to motivate the *retreros* to fulfil their responsibility for not letting anyone near their extraction pits before the designated times.

The threat did not work. Although in the first *bareque* after the meeting, people did indeed respect the schedule, from the second *bareque* onwards chaos resumed. The *barequeros* entered the mines at night, the association's guards did not stop their entry, the *retreros* did not banish them and the *barequeros'* association did not push through any type of suspension. Pretty soon, things were, in their own disorderly way, back to normal. 'It's the same as always', *junta directiva* member Sairi complained to me. 'They always say they'll change it and then nothing happens. People here don't listen! I'll tell you something: here the people only listened when there were guerrillas.'⁷⁸

Sairi's opinion was widely shared. When confronted with auto-governance, Bebareños acknowledged that it had been convenient to have the 34th Front around, no matter how much they were now enjoying the nascent peace stemming from the Havana accords. For sure, the most pressing point in case was the administration of the *bareque*. Nonetheless, I also heard people voice nostalgia for the FARC when they reminisced that 'before' – in contrast to today – no youth dared to carry a gun, no miner dirtied the water by working illicitly on the riverbank, no community leader skipped a meeting, no villager failed to carry out a well-deserved punishment prescribed by her *junta directiva*, and no *retrero* had to fear for his safety due to the threat of bandits. 'They were the state here', José Luis, the legal representative of one community council, said. 'They organised the communities and defended our interests. You cannot deny this because you cannot deny the truth.'⁷⁹ Other leaders made similar comments: 'Here, the guerrillas were the state'; 'With the FARC gone, we are without governance.'⁸⁰ Indeed, without the combatants around, the authority and mining organisation of *juntas directivas* seemed to be adrift. It was as if the community leaders had lost their military leverage.

In my view, the disintegration of multicultural authority following the FARC's departure and the previous involvement of guerrillas like Zúñiga in ethno-cultural organising provide productive ethnographic lenses that reveal how state-centric arguments of 'neoliberal multiculturalism', though offering sophisticated explanations of the rationales of neoliberal rule, have less merit for understanding the practicalities of such rule in cases of fragmented statehood. While 'the neoliberal state' may well increase its grip on regions with limited state authority by outsourcing governance to Afro-Indigenous communities, it also inevitably opens itself up to the mimicry, counterfeiting and citizenship claims of the subjects through whom it intends to govern, as well as to the whims of non-state armed actors, as in the case of Colombia, who may take advantage of multicultural law as an instrument for spatial control. In Bebará, as in the wider municipality of the Medio Atrato, it was not state technocrats but a coalition of FARC combatants and community councils who produced the symbolic and material conditions through which multicultural statehood – by means of Law 70 – became territorialised. Hence, the

⁷⁸Fieldnotes, Nov. 2017.

⁷⁹Interview, Nov. 2017.

⁸⁰Fieldnotes, Sept., Oct. 2017.

statehood that had come about had more to do with the underground politics of the ‘margins’ than with the bureaucratic rule of the ‘centre’. After all, Bebará’s community councils were key participants in a sophisticated extraction regime that regulated miners working outside the legal framework: *retreros* operating without the necessary permits, and *barequeros* whose excavator-dependent extraction was incompatible with Colombian mining law.⁸¹ What is more, this community council-based extraction regime had emerged from, and depended for its effectiveness on, the rule of force of an anti-state guerrilla group.

In short, the confluence of Bebará’s community council organisation with FARC domination is illustrative of how, within state margins like Chocó, neoliberal rationalities of rule do not result in a unitary structure of political domination, but rather tend to generate what Jaffe calls a ‘hybrid form of statehood’ that is ‘characterized by the prominence of multiple governmental actors’⁸² and operates through ‘hybrid structures and techniques of governance [that] shape and are reinforced by populations that understand themselves as members of overlapping political communities’.⁸³ Hybrid forms of statehood are ‘neither hegemonic nor subaltern but a [...] mix of both’ and neatly mesh seemingly contradictory languages of political authority, as evidenced by the hybrid political formation of underground multiculturalism.⁸⁴ Certainly, in Bebará, articulations of multicultural and guerrilla sovereignty easily overlapped, the FARC felt very much – to paraphrase José Luis – like the state, and Law 70 had no problem with getting tangled up in the illegalised business of gold mining.

Breaking out from the Underground into Public Institutions

The role that Bebará’s community councils played in state-building was not restricted to the performance of alternative multicultural legalities in remote goldfields, as outlined in the previous section. In point of fact, their performance of law, itself being an unruly, on-the-ground outcome of state governance, in turn influenced – via a somewhat reversed logic – the aspirations of rule of the governing state apparatus. While happening largely outside the formal framework, the underground multiculturalism of Bebará – and its sister river, the Bebaramá – helped to set in motion, albeit tentatively, official schemes of governance; in the form of, on the one hand, community-produced documents (an ID card and a miners’ register) that served the local municipal office for identification purposes, and, on the other, non-formal (yet formal-like) mining organisation that enabled a formalisation project.

The ID Card and the Register

As mentioned earlier, I came across a torrent of community documents during my fieldwork. Probably the most credible of these documents was ASOBAMINARMEA’s ID card. Beneath its laminated surface, allusions to officialdom abounded. The card

⁸¹See note 74 above.

⁸²Jaffe, ‘The Hybrid State’, p. 737.

⁸³*Ibid.*, p. 736.

⁸⁴*Ibid.*

bore the names and logos of the association and the Medio Atrato municipal office, the bearer's photograph and social security and tax registration numbers, and what appeared to be a personalised bar code. The card felt very much like a legal document. Community council regulations on the Bebará and Bebaramá rivers – the *barequeros*' association, after all, covered both rivers, comprising a total of 12 community councils – even ordered that miners had to bring the card to the *bareque* in order to demonstrate their proof of association membership and, as such, their right to mine.

Nonetheless, after spending more time in Bebará, I discovered that most people left their cards at home when heading out for the mines, confident that the *bareque* leaders – their neighbours, friends, family – would not kick them out of the mining pits. The *barequeros* had not always been so casual, though. I was told that, when the FARC were around, everyone always carried their ID: the 34th Front *did* punish failure to show ID, since they had promoted the cards as a means to implement the association's task of keeping enemy elements out of the region. In effect, though the card replicated the seriousness of formal politics – in both form and content – most *barequeros* explained the document to me through this functionality: a former instrument of guerrilla surveillance that kept state spies and paramilitary informers at bay.

But the peculiarity of the ID card went further. In the days of the FARC, the card had also been employed by the local bureaucracy. Talking to community leaders, I learned that the previous municipal administration of the Medio Atrato had certified people's membership of ASOBAMINARMEA as official proof of their artisanal miner status. In keeping with this policy, the then mayor had signed the association's ID cards so that the *barequeros* could use them to sell their gold to legitimate buyers. In addition to this selling function, the signature had likewise helped *barequeros* to prove their artisanal – and thus legal – mining status vis-à-vis the navy, who in the Bebará/Bebaramá–Quibdó fluvial passage continually checked whether miners were carrying illegally mined gold.

The current mayor, however, was unwilling to sign the cards. Consequently, the *barequeros* had stopped using them to sell and transport their gold. Their IDs were, after all, no longer 'valid', much to the dismay of association leaders like Moisés:

They [the municipal government] harm the *barequeros*! Without the signature, the card does not have the validity [*validez*] that is required to sell [gold]. But signing it only benefits the mayor. We're only reducing his workload. If we don't organise the *barequeros*, the law obliges him to provide them with a certificate that says they're legal. But a card is easier to carry in your pocket than a certificate.⁸⁵

Moisés' ideas were not shared by the secretary of governance of the Medio Atrato, who, as the mayor's right-hand man, was the municipal official responsible for registering the *barequeros*. In an interview, he argued that ASOBAMINARMEA's card had no official value. He preferred to certify miners by way of an official document called the 'Mayor's Certificate', thereby enacting, in his own words, 'the

⁸⁵Interview, Nov. 2017.

certification coming from the normativity of the National Mining Agency.⁸⁶ Nevertheless, despite adhering to the 'rightful' line of certification, the secretary did seek the assistance of the *barequeros*' association for administering said certification. In order to ensure that applicants for the Mayor's Certificate really were artisanal operators from the Medio Atrato, he made use of a *barequeros*' register that had been produced some years previously by ASOBAMINARMEA for the distribution of its ID cards. Moreover, at a meeting with *junta directiva* leaders belonging to the association, the secretary complained that their census was outdated and that, therefore, he had been unable to effectively ascertain whether or not the applicants were local *barequeros* from the Medio Atrato, given that the association's – and thus the municipality's – obsolete records failed to mention all the currently active *barequeros*. In the face of such 'illegibility',⁸⁷ he called on the *junta* representatives present at the meeting to provide him with up-to-date verification lists:

I want to remind all the community councils, all the *juntas*, that the certification of *barequeros* expires in December. Since I don't have a workforce, nor secretaries, I work with the register [...] And I encountered a little problem, because many people [applicants] come here and tell me: 'They have not certified us, we are not in the census.' Let me repeat what I've said before: conduct another census, so that the people can work with their certification! [...] I want this information to be disseminated widely, because this is your responsibility. People request their certificates [Mayor's Certificates] in person. But we need the census to check the list. The community councils should send a register to the municipal administration on which it can base its certification.⁸⁸

Though the speech did not generate its desired effect – the *juntas directivas* did not conduct a new census – it is most effective in illuminating how the 'official' politics of state bureaucrats and the underground politics of community councils are not strictly separate domains. When faced with the arduous task of territorial control, the municipal administration of the Medio Atrato, like the preceding administration, resorted to the community councils' association of *barequeros* and its documentary practices; specifically, to its miners' register and ID cards. To put it differently, these community documents, though produced outside the formal economy, helped bureaucratic government interventions to unfold, thus clearly underscoring the argument made by various scholars that state governance may acquire form through activities that allegedly exist in conflict with state law.⁸⁹ Having said that, the influence that the FARC-assisted communities asserted over the legal apparatus reached further than the municipality's office. As the following account of a formalisation project illustrates, underground multiculturalism also affected centralised state planning.

⁸⁶Interview, Nov. 2017.

⁸⁷Das and Poole, 'State and its Margins', p. 9.

⁸⁸Fieldnotes, Nov. 2017.

⁸⁹See Aldo Civico, "'We are Illegal, but not Illegitimate': Modes of Policing in Medellín, Colombia', *PoLAR*, 35: 1 (2012), pp. 77–93; Jaffe, 'The Hybrid State'.

The Pilot Programme

By the time I did my fieldwork in 2017, the Bebará river had been selected, along with the neighbouring Bebaramá river, for a forthcoming mining formalisation project, led by the Ministry of the Environment and supported by the OHCHR, UNIDO and the CIRDI.⁹⁰ For Bebareño *junta* members, *retreros* and *barequeros* this ‘pilot programme of formalisation’ – as it was popularly known – was a source of great joy. It was allegedly thanks to the imminent pilot programme that police and army clampdowns did not go near the Bebará river, and that the Bebareños would very soon enjoy their own mining titles and receive ‘sophisticated’ equipment to explore and exploit these titles more efficiently.

Equally enjoyable, perhaps, was the fact that this was ‘their’ project. In a mining region that was so often criminalised, they were the ‘chosen ones’. Time and again, Bebareños proudly explained to me that they had been selected for the pilot programme because of their comparatively sustainable excavator economy and because local community leaders and the FARC had managed to convince their government to acknowledge this sustainability. This idea had been cemented by the community leaders and guerrilla ‘brokers’ themselves. For instance, at one of the pan-riverine meetings I attended, former guerrilla strongman Zúñiga claimed that the FARC had managed ‘to propel the theme of the pilot programme’ amidst the peace negotiations in Havana. And at that same meeting, authoritative community leader Winston proudly stated that the Bebará and Bebaramá had been ‘prioritised for the pilot’ due to his and his fellow leaders’ negotiation efforts in the department’s *mesa minera* (mining roundtable), a bimonthly meeting during which government representatives and community council leaders discussed mining formalisation.⁹¹

When I interviewed the representatives of the Ministry of the Environment and the UN offices involved, I learned that the project had other drivers, which had less to do with grassroots organising and more to do with re-establishing government control in a post-conflict region. The Ministry/UN stakeholders made no mention at all of exploring for and exploiting gold more efficiently – the topic that was on community leaders’ minds – nor did they foreground mining concessions or the cessation of operations of equipment destruction – the perks that *retreros* associated with the pilot. Instead, they understood the project in three programmatic key lines: ‘the empowerment of community councils’, ‘clean mining’ and ‘alternative development’ – or, in the words of the spokesperson of the Ministry of the Environment: ‘alternative forms of entrepreneurship that support the communities in focusing on a direction outside of mining, so that they resume their normal activities’.⁹²

Still, even after talking with these ‘institutional’ stakeholders, there was good reason to believe that the Bebareños were right about this being at least partly a community initiative. First, Miguel Sánchez, the coordinator of OHCHR’s Quibdó office – who, as both he and other stakeholders said, had been instrumental in pushing the project at the Ministry of the Environment – confirmed to me the community-endorsed theory that the formalisation pilot had originated in the

⁹⁰See Minambiente, ‘Estamos trabajando’.

⁹¹Fieldnotes, Oct. 2017.

⁹²Interview, Nov. 2017.

mesa minera and the Havana negotiations. In fact, Sánchez had attended a meeting of victim organisations in Havana, during which the FARC had raised the issue of the formalisation of Medio Atrato miners. From there, Sánchez – according to his own testimony – had passed the idea on to the minister of the environment and UNIDO.⁹³

Second, the macro-stakeholders confirmed the communities' assertion that the decision to run the project in the Medio Atrato had been inspired by the community councils' – claim to – high-standard mining organisation. The former had even carried out visits to the region to verify whether the production practices were really as sustainable as the communities had indicated. According to Sánchez, the two rivers had been chosen as the zone of intervention because of both the region's post-conflict regulatory vacuum and its 'different' way of mining:

These are riverbanks where the mining associations said they worked in a different way [...] But we have to prove that [...] We already conducted visits. They told us: 'This is how we mine.' We arrived there with the ambassador of Austria and we got to see the actual mines. We arrived with CIRDI and we saw some interesting practices that caught our attention. Indeed, it appeared to be true [...] So let's say, we chose the region because it's a riverbank that conducts mining, that wants to be formalised, that is part of the *mesa minera*, and that is in a region where there was influence of the FARC.⁹⁴

When I last visited Chocó (August 2019), the formalisation pilot programme had still not commenced – a delay that institutional stakeholders blamed on Colombia's change of national government (August 2018).⁹⁵ Now, whether or not it eventually kicks off (unknown at the time of writing), the coming into being of the pilot does affirm, once more, the political potentiality of the community councils' underground politics. Whereas the pilot programme's initial outline seemed to follow neoliberal doctrine – its objectives being community empowerment and the stimulation of ecological entrepreneurship; its operations being outsourced to various civil society actors – it was nevertheless a project that had partly arisen from the ground upwards. The community councils of the Bebará and Bebaramá, together with their FARC assessors, had not passively waited for regulation to be imposed on them. They had attracted the 'eyes' of bureaucracy, first, by organising their excavator mines in accordance with formal criteria, and second, by convincing their legislators of such *de facto* formality. In this way, they had allowed for the emergence of the pilot programme and, concomitantly, for the possibility of state centralisation.

Concluding Remarks

This article has charted the organisational practices of Afro-Colombian community leaders in gold-mining regions of Chocó. Rather than providing yet another case study of how Afro-Indigenous legislation helps to reaffirm neoliberal hegemony,

⁹³Interview, Nov. 2017.

⁹⁴*Ibid.*

⁹⁵Fieldnotes, Aug. 2019.

the paper has highlighted the political bricolages and bottom-up forms of state-making that take place in Afro-descendant territories. In doing so, it has identified the emergence of underground multiculturalism; that is, governing practices by community council representatives who, on the basis of their authority as lawful administrators of collective lands, have assumed the responsibility – and benefits – of regulating the local exploitation of gold. Although these cultural politics have arisen against a backdrop of neoliberal state planning and derive their on-the-ground legitimacy from Afro-Colombian regulation, they connote, in the words of Anthias and Radcliffe, ‘forms of not-quite-neoliberal governmentality’,⁹⁶ given that their organisational contours are mostly determined by localised socio-political relations, as well as by the materiality of the subsoil – its provision of gold – conditioning these relations. If anything, Chocó’s underground multiculturalism predominantly operates in opposition to state regulatory authority: its involvement in heavy extraction mismatches with the traditionalist and ‘subsoil-excluding’ gist of ethno-cultural law, its regulated miner population is severely criminalised by extractive legislation, and – as in the exceptional case of the Medio Atrato – its regulatory effectiveness may even depend on access to the ‘muscle’ of extra-state armed actors.

Nonetheless, the extractive politics of Chocoano mining regions, while being directed at a ‘shadow economy’, does not exist outside formal governance but, on the contrary, is formative of state-building in multiple ways. First, *juntas directivas* rely on their connectedness to local bureaucracy in order to acquire the assent of the *retreros* they govern. Second, in their organisation of an informalised economy, the *juntas* replicate formal organisational structures, discourses and documentary practices. And third, although these structures, discourses and practices mostly take effect under the radar of statutory surveillance, they sometimes break out from the underground into the public sphere – as in the Medio Atrato – and end up giving form to the governing techniques of the state apparatus.

Suffice it to say that, in light of the above, the articulations of political life described here are neither absolutely formal nor informal, neither completely concurrent with nor antagonistic to neoliberal politics, and neither perfectly hegemonic nor unequivocally emancipatory. By implementing state-like organisation amidst police-persecuted gold extraction, underground multiculturalism affirms and rejects statutory authority at the same time. By entangling non-state armed groups in its operations, underground multiculturalism compromises community autonomy for armed governance, yet simultaneously establishes regulatory mechanisms for social order and environmental preservation where these have been unaccounted for by the state apparatus. And for sure, by endorsing wildcat excavator extraction, underground multiculturalism partakes in the destruction of subsistence crops and rainforests, but likewise increases the short-term spending power of mining communities that have been excluded from Colombia’s extractive framework. In sum, rather than proposing a single answer regarding its revolutionary potential, the politics of the underground are as contingent as they are open-ended.

⁹⁶Anthias and Radcliffe, ‘The Ethno-Environmental Fix’, p. 261.

Annex A: Acronyms

ASOBAMINARMEA	Asociación de Barequeros de Minería Artesanal del Medio Atrato (Middle Atrato Artisanal Mining Operators' Association)
CIRDI	Canadian International Resources and Development Institute
COCOMACIA	Consejo Comunitario Mayor de la Asociación Campesina Integral del Atrato (Higher Community Council of the Atrato Unitary Countryside Association)
CODECHOCÓ	Corporación Autónoma Regional para el Desarrollo Sostenible del Chocó (Chocó Regional Autonomous Authority for Sustainable Development)
FARC	Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia)
OHCHR	Office of the United Nations High Commissioner for Human Rights
UNIDO	United Nations Industrial Development Organization
UPME	Unidad de Planeación Minero Energética (Mineral Energy Planning Unit)

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Spanish abstract

Este artículo mapea las formas contenciosas de la vida política que emergen cuando los derechos multiculturales y la extracción no formal de oro se conectan. Específicamente, muestra cómo en el departamento colombiano del Chocó, los consejos comunitarios afrodescendientes han producido una forma de gobernanza única alrededor de la minería. Mientras su legitimidad depende del uso cotidiano de la legislación afrocolombiana, esta forma de gobernanza incluye la organización, fiscalización y supervisión de actividades mineras que están en conflicto con nociones oficiales del derecho extractivo y multicultural. Al explorar estas políticas culturales 'subterráneas', el artículo subraya los límites de los análisis estado-céntricos del 'multiculturalismo neoliberal' y, por lo tanto, resalta el papel instrumental que los sujetos gobernados juegan en el desenvolvimiento de los regímenes de gobernanza multicultural.

Spanish keywords: Colombia; afrodescendientes; gobernanza; multiculturalismo; neoliberalismo

Portuguese abstract

Este artigo mapeia as formas contenciosas da vida política que surgem quando direitos multiculturais e extração ilegal de ouro se conectam. Mais especificamente, demonstra como na região Colombiana de Chocó, conselhos comunitários afrodescendentes produziram uma forma única de governança de mineração, cuja legitimidade, apesar de depender do uso diário da legislação Afro-Colombiana, é composta de organização, taxaço e policiamento de atividades mineradoras que estão em tensão com noções oficiais de lei extrativa e multicultural. Ao explorar políticas culturais ‘subterrâneas’, o artigo destaca os limites das análises estadocêntricas de ‘multiculturalismo neoliberal’ e, logo, ressalta o papel instrumental dos atores submetidos a essas políticas nos desdobramentos de regimes de governança multicultural.

Portuguese keywords: Colômbia; afrodescendentes; governança; multiculturalismo; neoliberalismo

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