# Multiculturalism, Legal Pluralism and Local Government in Colombia: Indigenous Autonomy and Institutional Embeddedness in Karmata Rúa, Antioquia

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*Abstract*. In the 1990s, Colombia decentralised politics and passed multicultural reforms as part of wider strategies to strengthen the state. Multiculturalism produced a complex institutional environment marked by jurisdictional overlap and legal plurality. The literature on Colombia's multiculturalism confirms that violence, indigenous rights abuses and the lack of enabling legislation on indigenous territorial entities limited ethno-political autonomy and instead enhanced the capacity of the state to transform indigenous identity and bureaucratise local decision-making practices. However, some indigenous authorities used the new institutions to take control of communal matters, changing local governments along the way. The better-known case of indigenous self-government is that of the Nasa people in Cauca, characterised by the capture of local institutions to advance ethnic rights. In my study of the Embera Chamí of Karmata Rúa (Antioquia) I argue that they represent an alternative approach centred on institutional embeddedness, or the repetition of ethnic autonomy rules by multiple layers of government.

*Keywords:* multiculturalism, legal pluralism, local governance, indigenous politics, institutional embeddedness, decentralisation

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## Introduction

Karmata Rúa, also known as Cristianía, is an Embera Chamí indigenous village surrounded by the predominantly mestizo municipalities of Jardín and Andes in the southwest part of the department of Antioquia.[1] In 1998 Karmata Rúa's general assembly approved a local constitution known as 'Dachi Código Embera' to address internal conflict.[2] This was the result of two years of consultation involving all groups in the village to create a 'normative body' to 'regulate the life of the community' and handle relations 'with society in general'.[3] The Código is based on interpretations of Embera Original Law and integrates constitutional principles and international legislation on ethnic rights. It was enacted under the framework of the 1991 National Constitution that formalised multiculturalism and legal pluralism in the country.

Violation of indigenous rights,[4] armed conflict and central government control of strategic natural resources ultimately undermined the reforms.[5] But even if most communities failed to experience the benefits of these new policies, many used the new institutions to build local governance capacities to access fiscal resources or to cope with conflict. To do so, indigenous authorities began to 'harmonise local customs with state law',[6] which led them to articulate customary rules with those of the government. Some argue that, by doing this, indigenous authorities helped reproduce state power, and raise concerns about the way Latin America's multiculturalism strengthened central state authority from the bottom up.[7]

It would be nonetheless remiss to ignore the extent to which Colombian indigenous authorities embraced the new rules to exercise territorial control, address internal conflict, appropriate fiscal resources, or mitigate the

[1] Colombia's main administrative districts are known as 'departments'.
[2] Cabildo de Karmata Rúa, 'La experiencia de la Constituyente Embera del pueblo Embera Chamí de Cristianía', unpubl. [1998].
[3] María del Pilar Valencia and Luis Javier Caicedo, 'Constituyente Embera. Proyecto de divulgación de los derechos de las comunidades indígenas', unpubl. (Medellín: Organización Indígena de Antioquia [OIA], 1998), p. 3.
[4] Donna Lee Van Cott, 'Political Analysis of Legal Pluralism in Bolivia and Colombia', *Journal of Latin American Studies*, 32: 1 (2000), pp. 207–34.
[5] Alberto Chirif and Pedro García, *Marcando territorio: Progresos y limitaciones de la titulación de territorios indígenas en la Amazonía* (Copenhagen: International Work Group for Indigenous Affairs [IWGIA], 2007), p. 72.
[6] Juan Vera, 'Multiculturalismo, etnografía, y estado. Retóricas del derecho y jurisprudencia indígena en las márgenes del estado', in Margarita Chaves (ed.), *La multiculturalidad estatalizada. Indígenas, afrodescendientes y configuraciones de estado* (Bogotá: ICANH, 2011), p. 140.
[7] Charles Hale, *Más que un Indio (More than an Indian): Racial Ambivalence and Neoliberal Multiculturalism in Guatemala* (Santa Fe, NM: School of American Research Press, 2006), p. 20; Margarita Chaves, 'Presentación', in Chaves (ed.), *La multiculturalidad estatalizada*, pp. 9–10.

influence of dominant power brokers. As they used the new institutions, indigenous activists followed different social and legal adjustment strategies,[8] changing local governance along the way. The Nasa people's autonomy project in Toribío (Cauca) reflects the co-optation of local institutions to advance ethnopolitical rights.[9] Toribío and other Cauca communities are usually featured as critical cases for the study of indigenous–state relations in Colombia. This is not surprising considering the role that the Cauca department's governments have historically played in the design and application of indigenous law[10] and the response of indigenous leaders to such laws. Their contentious interactions have shaped the national indigenous movement and, in turn, indigenous rights legislation. Despite the importance of Cauca's indigenous movement, it is not representative of local ethnic politics in the country, nor of the variety of indigenous–state relations that are taking shape in other departments. To address this gap in the literature, I present Karmata Rúa as another approach to local governance based on institutional embeddedness, or the repetition and mutual affirmation of norms by different and overlapping jurisdictions, from central to local governments.[11] The strategy advocates for a greater level of cooperation and coordination between different types of authorities.

Cauca's indigenous communities are located both at the heart of Cauca's economy and in peripheral areas, and indigenous populations either represent a majority, or their authorities are visible or even dominant in local politics. Toribío is a case in point. It is constituted by the Tacueyó, Toribío, and San Francisco *resguardos*, or reserves, and is considered an 'indigenous vanguard'.[12] Toribío's leaders are thrusting municipal politics towards a 'communitarian alternative of governance' based on a communitarian mayoralty, a community assembly of delegates, consuetudinary law and a communitarian identity, and are replacing the partisan mayoralty, municipal council, ordinary justice system and individualistic forms of interest representation.[13] This reflects the strategies of the Consejo Regional Indígena del Cauca (Cauca Regional Indigenous Movement, CRIC) of co-opting dominant institutions to advance ethno-political rights.[14] Indigenous authorities also confront a

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[8] Vera, 'Multiculturalismo, etnografía y estado', p. 135.

[9] Marcela Velasco, 'Contested Territoriality: Ethnic Challenges to Colombia's Territorial Regimes', *Bulletin of Latin American Research*, 30: 2 (2011), pp. 213–28.

[10] Such as Law 90 of 1859 which delimited the administrative and judicial functions of *cabildos*, or Law 89 of 1890 on *resguardos* (reserves).

[11] Elinor Ostrom, *Governing the Commons. The Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990).

[12] David Gow, *Countering Development: Indigenous Modernity and the Moral Imagination* (Durham, NC and London: Duke University Press, 2008).

[13] Adolfo Rodríguez, Claudia Pulido, Eduardo Prada and Álvaro Rojas, 'Resistir para vivir: Una mirada histórica al movimiento indio del Cauca: 1970–2000', *Polémica*, 4 (Special Issue) (2005).

[14] Velasco, 'Contested Territoriality'.

violent setting and intransigent local elites unwilling to accommodate indigenous demands,[15] and have had to cope with violent groups, namely the Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia, FARC), who have historically targeted indigenous organisations in this territory.

Karmata Rúa is not in a similar position to transform local governance. Its small population faces a shortage of land in a majority mestizo area, and Antioquia's small indigenous population is settled in areas mostly on the periphery of Antioquia's power centres. Furthermore, political elites avoided the escalation of ethnic conflict by accommodating some indigenous demands for land and local governance. As a result, Karmata Rúa reflects a pattern of institutional embeddedness in different jurisdictions. This was achieved in two ways: first, departmental and municipal governments approved legislation on ethno-political autonomy and, second, rules devised by indigenous authorities reflect traditional worldviews, but also social movement claims, liberal precepts on individual and collective rights and some Christian social justice elements. Municipal and departmental norms recognise indigenous ethno-territorial rights and the legality of indigenous jurisprudence. Such institutional embeddedness – in which rules are repeated and, thus, affirmed by different levels of government – builds inter-ethnic institutional relations.

By focusing on Karmata Rúa, I explore the extent to which an indigenous government in an inter-ethnic setting adapted to multicultural legal provisions in relatively complex interactions with neighbouring governments, and tentatively propose that the expansion of ethnic rights in shared mestizo and indigenous spaces may also occur where overlapping jurisdictions embed ethnic rights in different institutions. This process involves diverse authorities in the application and interpretation of different rights and legal viewpoints, ultimately producing a type of governance based on legal plurality, or the coexistence in the same social field of various legal systems based on different cultural frameworks or sources of jurisdictional authority.[16] This confirms that neoliberal multiculturalism 'operated within a dense field of social relationships' that gave it new shape[17] and produced uneven outcomes.[18]

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[15] Carlos Salazar, *Dayi Drua – nuestra tierra: Comunidad y territorio indígena en Antioquia* (Medellín: Gerencia Indígena, 2000).

[16] Sally E. Merry, 'Legal Pluralism', *Law & Society Review*, 22: 5 (1988), pp. 869–96.

[17] Will Kymlicka, 'Neoliberal Multiculturalism?', in Peter Hall and Michèle Lamont (eds.), *Social Resilience in the Neoliberal Era* (Cambridge: Cambridge University Press, 2013), pp. 99–125.

[18] José Lucero, 'Ambivalent Multiculturalisms: Perversity, Futility, and Jeopardy in Latin America', in Todd A. Eisenstadt, Michael S. Danielson, Moises Jaime Bailon Corres and Carlos Sorroza Polo (eds.), *Latin America's Multicultural Movements: The Struggle between Communitarianism, Autonomy, and Human Rights* (Oxford: Oxford University Press, 2013), pp. 18–39.

## The Research Project

In this study of Karmata Rúa, I try to answer two main questions: how do multi-ethnic politics affect indigenous self-governance at the local level? And how do different authorities address governance in multi-ethnic settings? These questions speak to two wider concerns: do processes of institutional embeddedness support multicultural governance? And under what conditions are local authorities more likely to coordinate different jurisdictions? To answer these questions, I interviewed community leaders and local government officials,[19] observed routine governance activities, and held a meeting with about 16 residents in Karmata Rúa in July 2009 and June and July 2011. I went back to Karmata Rúa in July 2016 to participate in a celebration marking the 45th anniversary of the official demarcation of the *resguardo*.

This was not, however, my first interaction with leaders from Karmata Rúa or with members of Colombia's indigenous movement. For two years, between 1992 and 1995, I worked for the Organización Nacional Indígena de Colombia (National Indigenous Organisation of Colombia, ONIC) in the women's affairs office and, between 1998 and 2008, I went on field visits or participated in training activities in indigenous and Afro-Colombian communities. These were planned by the Colectivo de Trabajo Jenzerá (Jenzerá Work Collective), a loosely structured group founded by indigenous and non-indigenous activists to bring together traditional authorities, practitioners and professionals, generally on a volunteer basis. I offered research support on national ethnic policy and politics, prepared discussion materials, and facilitated workshops. Over the years, I have gathered field notes and organisational documents, and engaged in interviews and interpersonal communications on ethnic politics.

In Karmata Rúa I asked people to describe the process of ethnic governance. I formally interviewed 12 people including the governor and other members of the *cabildo*, health authorities, *jaibanás* (shamans), school teachers, the head of the communications project, members of the Guardia Indígena (Indigenous Guard), and the team in charge of the Consejo de Justicia y Conciliación (Justice and Conciliation Council, CJC). I also had informal conversations with other authorities and members of the community. I held a group discussion with 16 people who represented organised groups in the *resguardo* including the women's association, coffee producers and health, education and communications authorities. I observed two *cabildo* events and participated in a trip to Dojuro with the Guardia Indígena and *cabildo* authorities hosting a visit of Afro-Colombian leaders from the Pacific coast.

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[19] To protect people's privacy, I refrain, in most cases, from using their names.

In Jardín I asked local government officials to describe how their different offices supported the *cabildo*. I interviewed eight people and participated in some informal conversations. I also observed a meeting of the 'Carbon Zero' initiative with leaders putting forward Jardín as a local project for environmental services.

My contacts with municipal officials were carried out through Aquileo Yagarí, the *cabildo* governor, who generally made himself absent while I conducted interviews. In my experience conducting research in Colombian municipalities, functionaries are normally wary of people unfamiliar to them, unless introduced by someone they trust or respect. Sr Yagarí was such a person. His leadership is recognised outside his community, giving me the sense that non-indigenous authorities held him in high esteem. Although it was possible that people might have seen me as one of the governor's contacts, they were candid and willing to express a variety of views. Most people offered careful opinions and seemed open to indigenous rights, while a minority dismissed indigenous rights and interests.

Finally, I interviewed a few people from the Organización Indígena de Antioquia (Indigenous Organisation of Antioquia, OIA), a representative of the Gerencia Indígena (Indigenous Board) – a government office created by the department of Antioquia to address indigenous affairs and centralise resources for indigenous communities – and members of the Alianza Social Independiente (Independent Social Alliance, ASI), one of Colombia's main political parties supporting an inter-ethnic agenda. I asked them to describe the process of ethnic governance in Antioquia.

In sum, people in Karmata Rúa generally believe that achieving ethno-political autonomy has complications, but it is a necessary step for it to be a resilient community. Municipal authorities seem to be taking a pragmatic approach, and though a few had their doubts about indigenous governance, they understood that it was convenient to engage with Karmata Rúa, at the very least to comply with the law. Departmental authorities agreed that, in the context of Antioquia's politics, which are based on negotiation and co-optation in order to avoid conflict, indigenous movement leaders were making instrumental use of formal political institutions.

### Multiculturalism, Legal Pluralism and Decentralisation in Colombia

The 1991 neoliberal Constitution decentralised the state and introduced measures to liberalise financial and labour markets, privatise state-owned assets, transform social policy and increase citizen participation. The reforms came against the backdrop of unrelenting violence, and responded to widespread perceptions that the country's political foundations were failing. Government analysts at the time believed that 'low governability' was partly to blame for the

violence undermining Colombia's institutions, and favoured decentralisation and territorial re-organisation as policy solutions.[20]

As in other Latin American countries, the reforms marked a shift in political attitudes about 'rights grounded in cultural difference' and acknowledged the prevalence of ethnicity despite prior efforts to homogenise national identities.[21] Perceiving the benefits of local ethno-political autonomy,[22] Colombia's political elites yielded to indigenous movement claims for the constitutional recognition of cultural diversity. The constitution formalised individual and collective citizenship rights and different jurisdictional boundaries, effectively implementing multiculturalism, or the accommodation of group-differentiated rights.[23] Special indigenous jurisdictions were thus part of larger decentralisation and state-building efforts that modified the relationship between different tiers of government,[24] prompting new forms of inter-institutional coordination to handle fiscal transfers, health and education programmes, natural resources and customary justice systems. This stands in contrast with the historical attitude of ruling elites unsympathetic to the role of a relatively small indigenous population in the nation-building process,[25] who considered the indigenous population to be an inferior race to be separated in reserves,[26] or who saw the 'Indian problem' as a matter of security or public order, of acculturation, or of integration into the ranks of peasant workers.[27]

The perception that Amerindians use sustainable environmental practices also influenced the views of the elites.[28] The World Bank, for example, encouraged the demarcation of indigenous collective lands to address sustainable

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[20] Rodrigo Uprimny, 'Constitución de 1991, estado social y derechos humanos: Promesas incumplidas, diagnósticos y perspectivas', in Universidad Nacional de Colombia (ed.), *1991–2001: Diez años de la constitución colombiana. Seminario de evaluación* (Bogotá: ILSA, 2001), pp. 97–110.

[21] Kymlicka, 'Neoliberal Multiculturalism?'

[22] Charles Hale, 'Neoliberal Multiculturalism: The Remaking of Cultural Rights and Racial Dominance in Central America', *PoLAR: Political and Legal Anthropology Review*, 28: 1 (2005), p. 13.

[23] Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995).

[24] Christian Gros, 'Indigenismo y etnicidad: El desafío neoliberal', in María Victoria Uribe and Eduardo Restrepo (eds.), *Antropología en la modernidad: Identidades, etnicidades y movimientos sociales en Colombia* (Bogotá: Instituto Colombiano de Antropología, 1997), pp. 15–59.

[25] *Ibid.*

[26] *Ibid.*

[27] Efraín Jaramillo, *Los indígenas colombianos y el Estado: Desafíos ideológicos y políticos de la multiculturalidad* (Copenhagen: IWGIA, 2011).

[28] Michael Dove, 'Indigenous People and Environmental Politics', *Annual Review of Anthropology*, 35 (2006), pp. 191–208.

development,[29] and the 1991 Constitution established collective property rights of indigenous communities to about 30 per cent of the country's territory. It also decentralised environmental governance[30] in efforts to alleviate poverty, address social justice and conserve natural resources.[31] Decentralised environmental governance, however, collides with growth priorities. This became evident in legislative initiatives to open markets for extractive activities that offered loopholes to circumvent the rights of ethnic groups, and which were found unconstitutional for that reason.[32] Environmental governance institutions, therefore, overlap indigenous jurisdictions.[33]

The 1991 reforms also represented the culmination of indigenous movement efforts to reshape or give new meaning to what were mostly regressive laws, in order to defend the legal boundaries of collective lands. For example, Law 89 of 1890, which legally recognised the function of *resguardos* and *cabildos* to protect indigenous people in their transition to a more 'civilised' stage, nonetheless offered a legal mechanism to reclaim collective lands. Following the teachings of autodidact lawyer and Nasa leader Manuel Quintín Lame, and encouraged by the agrarian reform movement of the 1960s, activists strategically reframed Law 89 to stake out indigenous rights.[34] Activists looked as well for opportunities to advance ethnic rights in ethno-education programmes[35] and in census work that gauged the demographic clout of minority populations.[36]

Even if the 1991 reforms transformed postcolonial jurisprudence declaring indigenous groups incapable of self-government,[37] they nevertheless maintained

[29] Banco Mundial, División de Medio Ambiente, *Pueblos indígenas y desarrollo en América Latina: Memorias del Segundo Taller Inter-Institucional sobre Pueblos Indígenas y Desarrollo* (Washington, DC: Banco Mundial, 1993).

[30] See Departamento Administrativo Nacional de Estadística (DANE), *Censo General 2005* (Bogotá: DANE, 2005). Collective land rights are curtailed by Article 332 of the Constitution, which recognises state ownership of subsoil and nonrenewable resources.

[31] Ernesto Sánchez-Triana, Kulsum Ahmed and Yewande Awe, *Prioridades ambientales para la reducción de la pobreza en Colombia: Un análisis ambiental del país para Colombia* (Washington, DC: Banco Mundial, 2007).

[32] Efraín Jaramillo and Marcela Velasco, 'Las políticas públicas de Uribe contra los territorios de indígenas, negros y campesinos', *Nueva Gaceta*, 13 (2007), pp. 55–62.

[33] The Ministry of the Environment and the national parks system, the regional autonomous corporations, municipal governments and indigenous authorities all have a role in the implementation of environmental policies.

[34] Christian Gros, *Colombia indígena: Identidad cultural y cambio social* (Bogotá: CEREC, 1991), pp. 174–8. Law 89 of 1890 is still in force, but the Constitutional Court's ruling C-139 of 1996 declared many of its parts unconstitutional.

[35] Gros, *Colombia indígena*, pp. 213–15.

[36] Fernando Urrea, 'Contar y ser contados: El censo 2005 y las minorías étnicas', in Chaves (ed.), *La multiculturalidad estatalizada*, pp. 67–90.

[37] Enrique Sánchez, Roque Roldán and María Sánchez, *Derechos e identidad: Los pueblos indígenas y negros en la Constitución Política de Colombia de 1991* (Bogotá: Disloque Editores, 1993), p. 25; Jaramillo, *Los indígenas colombianos*, pp. 16–18.

longstanding legal traditions that, on the one hand, guided judicial thinking on the rights of indigenous subjects and, on the other, offered contentious movements a legal framework to protect collective lands.[38] The renewal of colonial institutions such as *cabildos* and *resguardos* is proof of this. In accordance with Colombia's tradition of applying indigenous land rights to spatially-contained communities, the reforms covered ethnic groups and social institutions enclosed within delimited ancestral territories.[39] Most ethnic territories, however, are lands shared by different cultural groups, now required to coordinate government activities. Consequently, the main practical implication of multiculturalism was the ratification of legal pluralism.[40]

Though legal pluralism 'redressed historical wrongs' and was a necessary condition for ethno-political autonomy,[41] it was limited by the failure to legislate constitutional Articles 288 on an Organic Law of Territorial Ordination (enabled in 2011) and 329 on the conformation of Indigenous Territorial Entities (still pending legislation).[42] Ambiguity with respect to the limits of customary law and the declining use of consuetudinary rules also weakened indigenous jurisdictions.[43] Overlapping jurisdictions, evolving policies and multi-ethnic spatial dynamics demanded the harmonisation of different bodies of law and legal principles, and compelled *cabildos* and municipalities to coordinate activities.[44] This situation challenged many unprepared or unwilling local authorities and explains why, by 2007, only 18 per cent of Colombia's indigenous territories had applied the new legal framework.[45]

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[38] Sánchez *et al.*, *Derechos e identidad*, p. 25.

[39] Eisenstadt *et al.* (eds.), *Latin America's Multicultural Movements*, pp. 133–68; Almut Schilling-Vacaflor and René Kuppe, 'Plurinational Constitutionalism: A New Era of Indigenous–State Relations?', in Detlef Nolte and Almut Schilling-Vacaflor (eds.), *New Constitutionalism in Latin America: Promises and Practices* (Burlington, VT: Ashgate, 2012), pp. 347–70.

[40] Horacio Serpa, 'Introducción: Justicia, diversidad y jurisdicción especial indígena', in Ministerio de Justicia y del Derecho, Consejo Regional Indígena del Cauca and Dirección General de Asuntos Indígenas (eds.), *Del olvido surgimos para traer nuevas esperanzas: La jurisdicción especial indígena* (Bogotá: Ministerio de Justicia y del Derecho, 1997), pp. 17–23.

[41] M. Valencia, 'Legal Pluralism: The Basis for Collective Intellectual Rights', *Beyond Law: New Work on Law and Social Change*, 18–19 (1998), p. 40.

[42] Edith Bastidas, *Conformación y delimitación de territorios indígenas como entidades territoriales: La historia de nunca acabar*, Boletines Temáticos, 3 (Bogotá: Centro de Cooperación al Indígena [Cecoin], 2007).

[43] Gow, *Countering Development*, pp. 117–18.

[44] Constitutional Decree 1953 that passed in 2014 confirmed *cabildos*, *resguardos* and indigenous territories as state administrative political entities, and will probably change local governance.

[45] Juan Carlos Houghton and William Villa, *Violencia política contra los pueblos indígenas de Colombia* (Bogotá: Cecoin, 2004); Pedro García and Efraín Jaramillo, *Pacífico colombiano: El caso del Naya* (Bogotá: Fundación Jenzerá/Copenhagen: IWGIA, 2008); and Efraín Jaramillo, *Los indígenas colombianos*.

The reforms reshaped local political practices, revived many communities by recognising their political agency and transformed local power dynamics.[46] However, indigenous leaders were now managing their affairs in a relationship of dependency with the state,[47] moderating, in some respects, the more contentious political claims of the 1970s and 1980s.[48] Multiculturalism enhanced the potential of the state to transform ethnic identity and decision-making processes, specifically where indigenous authorities bureaucratised local practices to access state resources[49] or codified communal laws to 'equate themselves with the state'.[50] Hence, 'state multiculturalism', as experienced in the adjudication of justice, administration of fiscal transfers, or participation in congress, 'statalised' indigenous governments instead of enhancing autonomy.[51] In this view, rather than ending historical injustices, multiculturalism reshaped identities,[52] as, for example, in the way in which indigenous and black communities are internalising state rules and procedures in their practices and forms of knowledge.[53]

Despite these limitations, the reforms supplied a comparatively more progressive body of law. They enabled new jurisdictions as well as socio-political actors who are testing the scope and meaning of multiculturalism in local state networks generally dominated by power brokers that control local resources and political networks.[54] Nowhere is this more evident than in the interactions between the Constitutional Court and indigenous leaders and activists.

## *The Constitutional Court and the Scope and Meaning of Multiculturalism*

The slow pace of ethnic rights implementation compelled indigenous activists to appeal to the Constitutional Court through the recourse of the *tutela* to enact their rights. *Tutelas* are court orders for the immediate protection or 'guardianship' of basic constitutional rights, and were strengthened by the 1991 Constitution. *Tutela* rulings on multicultural rights have become a vital instrument by which indigenous 'legality and that of the hegemonic society

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[46] Gros, *Colombia indígena*, p. 314.
[47] William Villa, 'El movimiento social indígena colombiano: Entre autonomía y dependencia', in Ana Cecilia Betancur (ed.), *Movimientos indígenas en América Latina: Resistencia y nuevos modelos de integración* (Copenhagen: IWGIA, 2011), pp. 42–67.
[48] *Ibid.*, p. 62.
[49] Chaves, 'Presentación', p. 14.
[50] Vera, 'Multiculturalismo, etnografía y estado', p. 135.
[51] Chaves, 'Presentación', p. 14.
[52] *Ibid.*
[53] *Ibid*, p. 23; Sandra Martínez, *Configuraciones locales del Estado. Titulación colectiva, economías de enclave y etnicidad en el Pacífico colombiano* (Cali: Universidad del Valle, 2013).
[54] Marcela Velasco, 'The Territorialization of Ethnopolitical Reforms in Colombia: Chocó as a Case Study', *Latin American Research Review*, 49: 3 (2014), pp. 126–52.

enter into communication and edifying dialogue'.[55] Advocates have used them widely to settle disagreements over the meaning of multiculturality or to protect rights to free, prior and informed consent in the planning and execution of development projects.[56]

The Court has articulated a theory of inter-cultural relations on a case-by-case basis, influencing how indigenous leaders think about their rights[57] and are developing their governance institutions. For the Court, inter-culturality as a principle hinges on the acceptance of communal rights and the respect of the fundamental rights of individuals living in indigenous communities.[58] Indigenous leaders rather view inter-culturality as cultural equality.[59] As defined by the CRIC's Bilingual Education Programme, inter-culturality is the integration of different types of outside knowledge while firmly situated in one's own knowledge base, revealing 'a welcoming embrace of difference, provided it is something that is not imposed'.[60]

Though initially the Court annulled decisions made by indigenous authorities, a breakthrough case (T-349 of 1996) established that indigenous jurisdictions must 'comply only with a limited set of rules and not with the whole gamut of national legislation'.[61] The Court has since explored the limits of indigenous jurisdiction in a process described as irregular and 'subject to the diverse philosophies of the various judges and the antagonistic political interests that are at play in each case'.[62] Another issue of concern is that rulings have tended to define indigenous identities on the basis of ambiguous notions of acculturation and culture, or by resorting to spatial categories such as indigenous territories or habitats that contain indigenous peoples.[63]

The Court is nonetheless committed to the development of progressive rulings on multicultural rights.[64] Decisions on indigenous rights increasingly evaluate 'individual identities that derive from specific differences and concrete

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[55] Esther Sánchez Botero, 'The Tutela-System as a Means of Transforming the Relations between the State and the Indigenous Peoples of Colombia', in Willem Assies, Gemma van der Haar and André Hoekema (eds.), *The Challenge of Diversity: Indigenous Peoples and Reform of the State in Latin America* (Amsterdam: Thela Thesis, 2000), p. 239.

[56] Juan Fernando Jaramillo, 'Colombia's 1991 Constitution: A Rights Revolution', in Nolte and Schilling-Vacaflor (eds.), *New Constitutionalism*, pp. 313–31.

[57] Vera, 'Multiculturalismo, etnografía y estado', p. 136.

[58] Sánchez Botero, 'The Tutela-System', pp. 223–41.

[59] Joanne Rappaport, *Intercultural Utopias: Public Intellectuals, Cultural Experimentation, and Ethnic Pluralism in Colombia* (Durham, NC: Duke University Press, 2005), p. 5.

[60] Gow, *Countering Development*, p. 143.

[61] Jaramillo, 'Colombia's 1991 Constitution: A Rights Revolution', p. 316. The rules with which indigenous jurisdictions must comply include due process, and the prohibition of the death penalty, torture and slavery.

[62] Rappaport, *Intercultural Utopias*, p. 244.

[63] Diana Bocarejo, *Tipologías y topologías indígenas en el multiculturalismo colombiano* (Bogotá: ICANH, 2015).

[64] *Ibid.*, p. 102.

ethnic and cultural values' instead of from abstract concepts of citizenship enforced by a mono-cultural liberal state.[65] The Court's evaluation of customary norms commonly draws from a more diverse set of expert advice on culture, which it sees as a complex concept shaped by changing contexts.[66] Its jurisprudence, therefore, reflects a more multifaceted 'appreciation of the conditions in which indigenous individuals nowadays find themselves' and uphold their own identities.[67]

In sum, multicultural reforms were part of wider efforts to strengthen state legitimacy, and produced a political and legal environment of institutional overlap and legal plurality. To maintain decision-making autonomy and access state resources under the new framework, indigenous authorities are using the available institutions to claim indigenous land rights, challenge vested interests and secure new power bases.

### Karmata Rúa: An Embera Territory in Southwest Antioquia

The Embera are part of the Chocó cultural family and their traditional territory spanned the lands of western Colombia and parts of Panama.[68] Colombia's Embera population now numbers about 70,000 people, whose territories include humid tropical forests and mountainous terrain. Climatic and spatial conditions made settlement and agriculture difficult, explaining why Embera communities were traditionally dispersed and isolated.[69] Colonisation and state expansion into tropical lowlands changed Embera 'customary practices of household autonomy, upriver retreat, and limited exchange with neighbouring groups'.[70] More recently, resource-intensive extraction has uprooted their economies and empowered new leaders with increasing influence over local affairs.[71] Embera cultural cohesiveness and economic survival are further threatened by inequality and discrimination, while armed conflict and human rights violations have overwhelmed them with forced displacement, assassinations of their leaders, abuse of women, loss of food security and natural resource degradation.

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[65] Sánchez Botero, 'The Tutela-System', p. 220.

[66] Sánchez Botero, 'The Tutela-System'.

[67] *Ibid.*, p. 220.

[68] Astrid Ulloa, 'Grupo indígena los Embera', in Instituto Colombiano de Cultura Hispánica (ed.), *Geografía humana de Colombia. Región del Pacífico*, vol. 9 (Bogotá: Biblioteca Virtual del Banco de la República, 2004), available at www.banrepcultural.org/blaavirtual/geografia/geograf/indice.htm (last access 28 Aug. 2017).

[69] Roberto Pineda and Virginia Gutiérrez, *Criaturas de Caragabí: Indios chocoes: emberaes, catíos, chamíes y noanamaes* (Medellín: Universidad de Antioquia, 1999), p. 224.

[70] Stephanie Kane, *The Phantom Gringo Boat: Shamanic Discourse and Development in Panama* (Washington, DC and London: Smithsonian Institution Press, 1994), p. 5.

[71] Velasco, 'The Territorialization of Ethnopolitical Reforms'.

The Embera Chamí of Karmata Rúa are settled in southwest Antioquia, a region of mestizo municipalities and a cultural stronghold of Colombia's Antioqueño subculture, traditionally organised around the coffee economy and shaped by Catholicism and strong beliefs in property rights, hard work, resourcefulness and family values. Karmata Rúa's population of 1,736 currently lives on 391 hectares of land, 201 hectares of which are unproductive. Farming families have small plots where they grow organic-certified coffee that they market through the Asociación de Productores Indígenas de Karmata Rúa (Karmata Rúa Indigenous Coffee Producers, ASOPICK) with the support of the Federación Nacional de Cafeteros de Colombia (National Federation of Colombian Coffee Growers, Fedecafé); they also sell arts and crafts, raise cattle, and produce sugar cane, plantains, corn, beans and vegetables, mostly for domestic consumption.[72]

Karmata Rúa's autonomy project began in 1967 when Cristianía first mobilised to recover *resguardo* lands. In the 1960s, Antioquia's isolated indigenous population was suffering from acculturation, poverty and high mortality. The department's indigenous population had been reduced to around 9,000 people, their land reserves extinguished and their political organisations non-existent.[73] At that time, the people of Karmata Rúa were crowded into 140 hectares of reserve land, 50 per cent of which was unproductive. According to Aquileo Yagarí, this situation was confirmed by a 1978 study by the Instituto Nacional de Reforma Agraria (National Institute of Agrarian Reform, INCORA).[74] Karmata Rúa's land claims were denied by the government until 1975.

Indigenous land conflict in Antioquia occurred in the context of wider struggles over land that galvanised left- and right-wing factions, eventually leading to violent confrontation. The Movimiento Cívico y Campesino del Suroeste (Peasant and Civic Movement of the Southwest) was formed in the 1960s in response to national agrarian reform policies that also stimulated indigenous land claims. These policies sought to modernise labour and property relations in the region, undermining clientelistic relations and the political control of influential family patriarchs connected to the coffee economy and the Liberal party.[75]

Local strongmen generally opposed reform, eventually hardening their position, persecuting peasants and ordering selective assassinations. In response,

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[72] Ángela López, 'El gobierno del *cabildo* indígena de Cristianía: La organización vista desde dos enfoques gerenciales: Integral y social', unpubl. MA thesis, Universidad Pontificia Bolivariana, Medellín, 2011.
[73] Salazar, *Dayi Drua*.
[74] Interview, Karmata Rúa, June 2009.
[75] Gisela Aguirre, *Trayectorias del paramilitarismo tras los acuerdos de paz* (Medellín: Conciudadanía, 2010).

some in the peasant civic movement formed self-defence organisations.[76] The INCORA's slow adjudication of land claims under the prevailing domain expropriation laws divided the peasant movement into one faction that supported land takeovers, and a legalistic one that worked with the government.

In 1980 Karmata Rúa leaders organised land takeovers by planting crops in neighbouring haciendas. The government declared such actions illegal and, soon after, hired gunmen murdered indigenous leaders Mario González and Aníbal Tascón.[77] According to Yagarí, the crimes galvanised support for the takeovers.[78] In 1981 the departmental government expanded the Cristianía reserve by buying 200 hectares of adjacent hacienda land. These events, as well as the incentive to organise after the ONIC's first congress, stimulated the foundation in 1982 of the OIA, which was formed as a department-wide coordinating body.[79]

Ongoing opposition to land redistribution caused the arming of right- and left-wing groups. Although the Ejército de Liberación Nacional (National Liberation Army, ELN) guerrilla group had operated in Antioquia since the 1960s, in the 1980s it increased its use of violence and extortion, and turned the southwest into a stronghold. Landowners organised self-defence groups in response, and the government militarised the region. Following a 1994 government decree creating Asociaciones Comunitarias de Vigilancia Rural (Community Associations of Rural Surveillance, CONVIVIR), civilian security networks were formed in most municipalities in the southwest, including Jardín and Andes. The CONVIVIR often colluded with paramilitaries and rogue members of the government's armed forces. Eventually the southwest became a strategic region for the paramilitary Autodefensas Unidas de Colombia (United Self-defence Forces of Colombia, AUC), which demobilised in 2005 when it entered peace talks with the government.

At the end of the 1990s, this spiral of violence prompted Antioquia's indigenous governors to accuse Colombia's army, guerrillas and paramilitary groups of violating their human rights. Citing international humanitarian laws on the rights of civilians in contexts of armed conflict, they declared indigenous communities 'neutral in armed conflict', demanded the exclusion of indigenous lands from all war strategies,[80] and promised to deny political, economic and social support to all armed groups.[81]

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[76]  *Ibid.*
[77]  Carlos Salazar, *La planeación participativa del desarrollo y de la política territorial en la Organización Indígena de Antioquia – OIA* (Bogotá: Cecoin, 2004).
[78]  Interview, Karmata Rúa, June 2009.
[79]  Salazar, *Dayi Drua.*
[80]  Gerardo Jumí, 'Proceso de consolidación de los sistemas de autoridad y control social de la etnia emberá en Antioquia', in Ministerio de Justicia y del Derecho *et al.* (eds.), *Del olvido surgimos para traer nuevas esperanzas*, pp. 109–24.
[81]  OIA, *Declaración de los cabildos y de la Organización Indígena de Antioquia: Los indígenas de Antioquia somos neutrales frente al conflicto armado, pero no indiferentes ante la muerte* (Medellín: OIA, 1996).

In the early 2000s homicide rates dropped and security improved, but this was the result of violent pacification by paramilitaries who not only persecuted an increasingly assertive guerrilla movement, including their alleged sympathisers, but also carried out 'social cleansing' activities to rid the region of petty criminals.[82] The paramilitary capture of some state institutions and the threat of violence to force socio-political discipline were to a certain extent restrained by lasting plural forms of organisation that allowed ordinary citizens to resist violence and defend democratic institutions. Partly as a result, the region currently has a more robust state presence in the form of social investment, economic development programmes and technical assistance in natural resource management and production.

This larger context limits Karmata Rúa's political strategies. Local indigenous leaders believe that, currently, some lines are not to be crossed – namely, antagonising local landowners – and rather choose to work within the available formal institutions to address the community's socio-economic and land needs.

## *The Evolution of Karmata Rúa's* cabildo

The Embera were traditionally organised around kinship systems, but once colonial policies created indigenous reserves, they were forced to organise in chieftaincies. Though the Embera generally resisted conquest by fighting or fleeing to isolated areas, chieftaincies gained some legitimacy and remained in place well into the twentieth century.[83] As traditional and colonial governance structures collapsed, the territorially dispersed communities became socially and politically fragmented, and this threatened their cultural survival.[84]

In the 1970s, Antioquia's indigenous movement homed in on *cabildos* to defend indigenous lands and cultures, and later to address local governance.[85] Targeting *cabildos* was a strategy devised by Cauca's indigenous movement, the CRIC, which formed in 1971 to recover land, end the exploitation of semi-servile indigenous labour, strengthen *cabildos* and defend indigenous laws and culture. CRIC turned *cabildos* and *resguardos* into instruments to reconstruct indigenous communities. *Cabildos* were covered by Law 89 of 1890, which delimited indigenous lands, recognised the authority of the *cabildos*, and established that reserves could not be divided, seized, or extinguished without court approval. Efraín Jaramillo, anthropologist and indigenous rights activist, and Alonso Tobón, president of the ASI, argue that the

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[82] Aguirre, *Trayectorias del paramilitarismo.*
[83] María del Pilar Valencia, 'Justicia embera, identidad y cambio cultural (Reflexiones en torno a una experiencia)', *El Otro Derecho*, 26–7 (2002), pp. 113–34.
[84] *Ibid.*
[85] *Ibid.*

CRIC's main strategy was to place its sympathisers in *cabildos* to prevent church officials and local politicians from using them as land distribution instruments in favour of non-indigenous peoples.[86]

Karmata Rúa was the first Antioquia village to turn the *cabildo* into an instrument of autonomous organisation. In our group discussion, an elder explained that, before 1976, there was a *cabildo* but it only followed its 'own ideas'. This changed after the social movement, led by the OIA – which was instrumental in the process of indigenous community organising – restructured the *cabildo* to make it serve the community at large.[87] According to Tobón, the OIA replicated the organisational structure of peasant unions that included executive, fiscal, land, and training committees, and added its own ethnic education and cultural teams.[88] When the 1991 constitutional reforms came into effect, indigenous communities that used *cabildos* as a resistance strategy had self-governance experience. The *cabildo* was thus gradually turned into a symbol of autonomy and an instrument to reconstruct indigenous communities in order to survive Colombia's ethnocentric and integrationist society.[89]

### Cabildos *after the 1991 Reforms*

*Cabildos* were restructured by Constitutional Article 246 on indigenous special jurisdictions and customary norms, and were covered by decentralisation laws which turned them into recipients of fiscal transfers and made them accountable for the design and implementation of locally-devised development plans.[90] In 2012, for example, 16 per cent of the national budget[91] was allocated to decentralised territorial entities. About 96 per cent of the decentralised budget is transferred to municipalities, departments and special districts; these are required to spend roughly 59 per cent of their resources on education, 25 per cent on health, 5 per cent on drinking water, and 12 per cent on general-purpose spending.[92] Municipalities overlapping indigenous jurisdictions are required to include them in the planning and execution of this budget. The remaining 4 per cent of the decentralised budget is set aside for special allocations, of which 0.5 per cent goes to indigenous communities.

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[86] Interview, Bogotá, April 2005.
[87] Group discussion, June 2011.
[88] Interview, Bogotá, 2010.
[89] Valencia, 'Justicia embera'; Jumí, 'Proceso de consolidación'.
[90] Law 60/1993 and Organic Law 152/1994.
[91] Roughly US$14 billion or COL$26 trillion.
[92] Departamento Nacional de Planeación, Dirección de Desarrollo Territorial Sostenible, *Orientaciones para la programación, administración y ejecución de los recursos de la asignación especial del sistema general de participaciones para los resguardos indígenas 2012* (Bogotá: DNP, 2012).

This sum probably amounts to less than US$30 per annum for each person living in indigenous lands. To receive all of the benefits of fiscal decentralisation, *cabildos* must therefore coordinate with regular (non-indigenous) authorities not only to access their own fiscal allocations, but also to benefit from wider municipal investments. But since not all administrations were equally prepared, or willing, to comply with the new laws,[93] the implementation of indigenous rights largely depends on the governance capacity of local indigenous authorities.[94]

According to Aquileo Yagarí the new rights and obligations with respect to the role of *cabildo* authorities 'increased our responsibilities and revealed our weaknesses in the areas of administration, budgeting and planning […] so we built a school of government to train our own leaders'.[95] The *cabildo* is elected every three years through consensus by an assembly of adult men and women. Recently, *cabildo* authorities have begun to report on their activities to the assembly every six months, or whenever required. Between 1996 and 1997 they produced the first development plans – which would later be called 'life plans' to reflect holistic conceptions of socio-economic, cultural and ecological welfare. These are similar to Cauca's life plans, which offer 'a long-term strategy for the integral development of the *resguardo*', and are contrasted with the government's externally imposed development plans.[96] By the time of writing Karmata Rúa has over 15 years of accumulated experience, with notable results in health, education and social services, land recuperation, and administration of justice.

### The Dachi Código Embera

Three objectives motivated the Embera Constitution project: (1) the need to translate national multicultural reforms into an understandable format for the Embera; (2) the Emberas' need to establish their own system of indigenous justice; (3) the need to counteract the worst effects of *jaibanismo* (shamanism).

Firstly, as was the case with other indigenous communities, Karmata Rúa was less likely to implement top-down positive or statutory laws – normally general, impersonal and abstract laws that tend to stay in force – than to implement rules based on customary law.[97] Successful norms resolve concrete problems, are not fixed, and can be adapted to specific circumstances as determined by the assembly of *comuneros* (members of the community).

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[93] Libardo Sarmiento, *Municipios y regiones de Colombia: Una mirada desde la sociedad civil* (Bogotá: Fundación Social, 1998).

[94] Gros, 'Indigenismo y etnicidad'.

[95] Interview, Karmata Rúa, June 2009. The 'school of government' to which Aquileo Yagarí refers takes the form of workshops on administration and policy.

[96] Gow, *Countering Development*, pp. 98–9.

[97] Valencia, 'Justicia embera'.

Some rules in the Dachi Código Embera are more flexible than others (particularly those pertaining to inter-institutional relations, in respect of which Embera principles offer little guidance), and the administration of justice is not independent of other communal bodies, specifically the assembly of *comuneros*.[98] The Código translates national multicultural reforms into an understandable format for the Embera.

Secondly, increasing homicide rates (including family quarrels triggered by events that occurred decades before), sexual assault, child abandonment and mismanagement of economic resources seriously challenged social integration. According to Luis Javier Caicedo, a lawyer and indigenous rights activist who works as an advisor for an Embera *resguardo* in Riosucio (Caldas), a fundamental consensus emerged on the need to 'organise their own system of indigenous justice independent of the *cabildo* governor and consisting of a group of individuals elected by an assembly of *comuneros*, who would be authorised to apply the decisions of the Justice and Conciliation Council'.[99]

Thirdly, though landlessness and social exclusion explained many social ills, *jaibanás*, or shamans, were also culpable. According to many people 'negative *jaibanismo*' was to blame for some incidents of violence, including aggravated assaults or even murder. *Jaibanás* connect humans to the world of *jais* or primordial beings[100] that once had speech and skills,[101] and who represent malevolent energetic forces from the world of Truturica. (The Embera universe consists of three worlds: the world of Caragabí, the main force of creation ordering the cosmos and allowing access to water, fire, or food;[102] the world of Truturica, Caragabí's opponent, which is inhabited by *jais*; and the world of humans that is in constant confrontation with *jais*.)[103] *Jaibanás* build up power and prestige by capturing *jais*, and by adding protector *jais* to their staff collections.[104]

Though some people may inherit carved staffs containing captured *jais*, anyone may become a *jaibaná*. *Jais* released by enemy *jaibanás* cause disease and social imbalance, and may be recaptured to stop the harm. *Jaibanás* are normally at the service of their extended families, but great *jaibanás* may attract other followers.[105] *Jaibanás* do not offer knowledge on everyday activities, but as their prestige increases so does their influence over communal affairs. Ethnographic evidence suggests that, under conditions of inequality

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[98] *Ibid.*

[99] Personal communication, April 2015.

[100] Luis Guillermo Vasco, *Jaibanás. Los verdaderos hombres* (Bogotá, Banco Popular, 1985).

[101] Kane, *The Phantom Gringo Boat*, p. 105.

[102] The influence of Catholicism may explain why Caragabí is increasingly seen as a primary god (Pineda and Gutiérrez, *Criaturas de Caragabí*).

[103] Ulloa, 'Grupo indígena los Embera'.

[104] Kane, *The Phantom Gringo Boat*.

[105] *Ibid.*, p. 142.

or social crisis, attribution of evil intent can come closer to the *jaibaná*'s home or family, which may turn competition between *jaibanás* violent.[106]

*Jaibanás* helped resist conquest and persecution by the Catholic Church by retaining a 'rigorous cultural purity'.[107] Because of their ability to 'dispense and manipulate' good and evil, but also because they were easily persecuted for witchcraft by outsiders, *jaibanás* have traditionally lived in constant tension with their own communities and with outside groups.[108] *Jaibanismo*, therefore, has considerable effects on social harmony and conflict, and constitutes a central pillar of Embera beliefs and cultural survival.[109]

An informal conversation with a Karmata Rúa leader helped me understand that *comuneros* can be roughly divided into (1) a few people who believe in nothing other than the supernatural powers of *jaibanás*; (2) a few who follow only Catholic doctrine (and in this respect they are closer to Colombia's majority culture); (3) and the majority, who believe that *jaibanás* may or may not have supernatural powers, but are wise about human nature and social relations, play a role in conflict resolution, and have cultivated ancestral knowledge about natural forces, plants, and animal species, empowering them to cause both good and bad to individuals and the community. I got the clear message that you ignore *jaibanás* at your own peril.

Already threatened by acculturation and colonialism, as well as poverty and exclusion, *jaibanás* in Karmata Rúa now faced additional challenges as leadership dynamics changed and new norms and institutions developed. One such institution, the CJC, in consensus with a council of *jaibanás* (a group selected by the assembly of *comuneros*), obtained authorisation to sanction harmful *jaibanismo*. Understandably, some *jaibanás* felt threatened by *cabildo* authority,[110] but in our conversations many *comuneros* agreed that the adoption of new institutions was a valid strategy to address the worst effects of *jaibanismo*.

At the time of my visit in 2011 there were more than 70 *jaibanás*, arguably a disproportionate number for a community of 1,700 people. In an informal conversation, someone close to the community observed that extended families relied on their *jaibanás* to protect their interests. But he also felt that the '*jaibaná* problem' pointed to deeper rifts, namely lack of land or tensions resulting from the need to adapt to a mix of economic, social and political institutions which blended traditional and new forms of organisation. A minority of *jaibanás* were causing physical and psychological harm to other *comuneros*, apparently in protest against *cabildo* or CJC decisions affecting

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[106] *Ibid.*, p. 175.
[107] Pineda and Gutiérrez, *Criaturas de Caragabí.*
[108] *Ibid.*, p. 225.
[109] *Ibid.*, pp. 224–6.
[110] Jumí, 'Proceso de consolidación', pp. 109–24.

their own interests. During that visit, the *cabildo* and Jaibaná Council were hosting an Amazonian shaman, invited to help reign in rogue *jaibanás*. He disclosed that he had already turned a few of them around.

## The New Embera Institutions

### The Consejo de Justicia y Conciliación

The above challenges called for conflict resolution strategies, including the establishment of the Dachi Código Embera. The Código classifies conflicts affecting family life, and establishes rules for the use of land and natural resources, governance and administration, and law and order. Once the Código had been approved, the CJC took over the administration of justice. In an official ceremony presided over by *cabildo* authorities and justices from the municipalities of Jardín and Andes, the CJC received the legal records over which Karmata Rúa had jurisdiction. The CJC investigates and sanctions misdemeanours including theft, defamation, family conflicts, offences against the community and offences by *jaibanás*, among others, as well as water contamination, unauthorised logging and forest burning. Serious offences such as rape or homicide are investigated by the CJC and handled in collaboration with the municipal justice system, under which the convicted serve jail time. Karmata Rúa has its own jail, normally used for short-term punishment of minor transgressions, including offences by bad *jaibanás*, which fall entirely within the jurisdiction of indigenous traditional authorities.

At the time of my visit in 2011, the team working for the CJC described advances in the implementation of the Código, but believed that more needed to be done to convince everyone of the benefits of the new rules in order to reduce the occasional tensions that surfaced after the application of the laws.[111] As Colombian citizens, *comuneros* enjoy the right of self-defence and can resort to *tutelas* through regular court systems if they disagree with CJC rulings or find fault with the legal process that led to sanctions.

When *comuneros* have appealed *cabildo* decisions, neighbouring courts have tended to agree with CJC and *cabildo* authorities, arguably strengthening ethno-political institutions. For instance, a 2012 Constitutional Court *tutela* ruling (T-523 of 2012) took sides with the *cabildo* and CJC in a conflict over sanctions for bad *jaibanismo*. The *cabildo* had punished *comuneros* perpetrating illicit activities in a liquor business inside the *resguardo*. In retaliation, the *comuneros* sent death threats to the governor and other authorities, and were reprimanded by the *cabildo*. The affected individuals challenged the *cabildo* over due process violations, which the Constitutional Court denied,

[111] Interview, Karmata Rúa, 2011.

arguing that due process had been followed under consuetudinary norms. The justices cited extensive legal and anthropological evidence, and based their decision on a careful analysis of the Dachi Código Embera and other Embera institutions. Another *tutela* ruling validating *cabildo* authority was settled in 1992 (Constitutional Court decision T-428/92). This ruling overturned the decisions of lower tribunals in Andes and Antioquia (case file T-859) that allowed the unauthorised expansion of a main road passing near *resguardo* land. The road would have damaged infrastructure, disturbed a seismic fault line and threatened soil stability in the *resguardo*.

### Karmata Rúa's Guardia Indígena

The Guardia Indígena represents another governance innovation. It comprises communal law-enforcement patrols that provide security and mitigate conflict, and are empowered by the assembly of *comuneros*. The Guardia Indígena have a long tradition in Cauca department, but gained national notoriety in 2001 against the backdrop of the indigenous declaration of 'neutrality in armed conflict' as a peaceful resistance to armed actors such as the FARC and government forces; in so doing, they taught an uninformed public that indigenous communities had their own governments and would defend their own territories.[112]

Karmata Rúa established a Guardia Indígena in 2010 to protect its territory and support the work of the *cabildo*. The Guardia addresses communal conflicts by following and enforcing Embera norms. It comprises a diverse cross-section of people, including women, youths and elders who act as unarmed volunteers, and supports meetings by convoking people, arranging cleaning crews, and offering meals. During my visit in 2011 I participated in an assembly of Afro-Colombian and indigenous leaders from the Pacific coast who came to learn about Karmata Rúa's governance experience. The Guardia offered food and lodging, in coordination with the *cabildo* and the NGO that supported the assembly, and enforced security rules to guarantee safety.

In interviews and informal conversations, many inside and outside Karmata Rúa reported that they felt safer as a result of the Guardia's presence. Although unarmed, the Guardia provides security by monitoring activities, mediating conflicts between *comuneros* and addressing domestic violence. Members of the Guardia arbitrate in social and environmental conflicts and offer protection to *cabildo* officials or other well-known community leaders who are at a higher risk of violence. They also coordinate production and conservation activities

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[112] Leslie Wirpsa, David Rothschild and Catalina Garzón, 'The Power of the Bastón: Indigenous Resistance and Peacebuilding in Colombia', in Virginia Bouvier (ed.), *Colombia: Building Peace in a Time of War* (Washington, DC: United States Institute of Peace Press, 2009), pp. 225–44.

with Jardín's Unidad Municipal de Asistencia Técnica Agropecuaria (Municipal Unit for Technical Assistance in Agriculture, UMATA) and Fedecafé.

The Guardia's authority is recognised by officials in Jardín and Andes, who seem to be pragmatically recognising its collaboration in law enforcement. For example, many people approved of the sense of 'law, order and security' provided by the Guardia Indígena, while the *cabildo* governor was genuinely grateful that local police were committed to the safety of his home during their nightly rounds. The Guardia often requests material support from the Division of the National Army stationed in Andes, such as equipment to help accommodate outside participants in meetings held in Karmata Rúa.

Nonetheless, in June of 2011 police and military authorities in Andes arrested a Karmata Rúa man on charges of terrorism, without consulting with the Guardia. In a public statement, the *cabildo* governor and the head of the Guardia accused these authorities of trumping up charges and disregarding indigenous authorities, who had no indication of misconduct by this individual. In another instance in 2012, the Guardia Indígena arrested a geologist from the Colombian Geological Service who was found gathering geological information without *cabildo* authorisation.[113] The national government considered the detention a kidnapping and sent one of the military's Grupos de Acción Unificada por la Libertad Personal (Unified Action Groups for the Defence of Personal Liberty, GAULA) to intervene. Eyewitnesses claimed that when the GAULA arrived, it was denied entrance by local police and the Guardia Indígena. They both let the GAULA know that the *cabildo* had a legal right to detain and question the geologist, and that his constitutional rights were being guaranteed by both *cabildo* and municipal authorities. The geologist was released on condition that the national authorities explain why they were granting mining concessions in indigenous lands without consultation. In the 2013 national strike by Colombia's coffee producers, the Guardia coordinated local protests uniting the region's peasants and participated in the roadblocks. Its support was valued by participating peasants, as it demonstrated the Guardia's contribution to the indigenous movement.

### The Environmental Mandate

Karmata Rúa has also tackled environmental governance reforms, largely as a strategy to conserve its scarce resources, but also in order to expand its *resguardo* to include lands set aside by Antioquia's government for conservation. In 2011, Karmata Rúa's assembly passed environmental bylaws in a short document written in Spanish and Embera. The Diez Mandamientos

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[113] 'Colombia: Guardia indígena libera a geólogo retenido por levantar planos sin permiso comunal', *Servindi* (28 Sept. 2012), available at https://www.servindi.org/actualidad/73511 (last access 1 Sept. 2017).

Ambientales (Ten Environmental Commandments) describe the environment as a triangle that includes human beings, territory and the indigenous world-view. The Embera believe their territory has been formed out of different yet indivisible sacred, residential, hunting, fishing and agricultural sites. This stands in contrast to the state's neoliberal regulations that fragment land and natural resources into different types of property rights.[114]

The mandate addresses agricultural production, water use, reforestation and waste management as well as respect for *jaibanás*, who play a central role in health and biodiversity conservation. In a meeting, an elder explained that Embera ancestors never talked about the environment, and argued that the environmental mandate is a new type of law. Indeed, the mandate borrows from Christian morality by listing Ten Commandments, refers to social movement ideals of territoriality and human rights, and recasts *jaibanás* as environmental actors.

Undeniably, a source of *jaibaná* power is possession of special knowledge about plant species in mountain and lowland ecosystems. To protect this power, *jaibanás* advocate for the conservation of forests to appease the *jais*, and to search for medicinal plants. The Universidad de Antioquia and Universidad Bolivariana in Medellín are aware of the role *jaibanás* play in biodiversity conservation, and offer programmes on ethno-botany that combine traditional and scientific knowledge on medicine, ecology and botany. The Universidad de Antioquia supported Karmata Rúa's environmental mandate and helped produce a more succinct 'Children's Environmental Mandate'. The Guardia Indígena enforces the environmental mandate in coordination with the CJC, which sanctions environmental transgressions. The Guardia regularly monitors the *resguardo*'s 52 water sources, reforestation projects, drainage ditches, soil quality, logging and geological faults. It also works in coordination with Jardín's UMATA on land and resource management.

### Social and Educational Programmes

The *cabildo* is in charge of social programmes including bilingual education, a health clinic, meals for elders and a communications programme that hosts popular radio shows in Embera and Spanish. From a mainstream policy perspective, Karmata Rúa's governance experience has been described as a 'holistic administrative process' that mixes customary and ordinary norms, and the *cabildo*'s management of socio-economic and administrative projects is regarded as particularly strong.[115] Though the managerial advantages of the process are evident, a stronger indigenous government as well as improved inter-ethnic dynamics are indispensable for Embera cultural survival.

[114] Valencia, 'Legal Pluralism'.
[115] López, 'El gobierno del *cabildo* indígena'.

According to Macario Panchí, a bilingual teacher and expert in Embera language, bilingual education is the community's most important social tool because it has helped it adapt to the unavoidable socio-political reality that Embera culture is overwhelmed by an ingrained Antioqueño identity with which many indigenous people identify.[116] Panchí claims that it has been hard to convince some people to support the *cabildo*, resist acculturation and expand their land holding. As he suggests, inter-ethnic relations in the region, as in the rest of the country, are generally characterised by inequality. Emberas take a lower status with respect to mestizos, who see them as irrational or infantile. Unfortunately, individuals and even entire communities have interiorised such ideas.[117] Panchí believes, however, that as indigenous institutions are seen to resist acculturation and to serve Embera needs and interests, Karmata Rúa's governance project and ethnic identity stand a good chance of survival.

### Relations with Neighbouring Governments and Institutions

In the 1980s, Antioquia's government began to address indigenous demands by creating an ethno-education programme and an indigenous people's section in the Office of the Secretary of Development. In 1983, the latter became the Departmental Committee for Indigenous Development entrusted with managing a Special Fund in coordination with government and indigenous representatives.[118] By 1985, the Departmental Committee was raised to the level of a Departmental Council for Indigenous Affairs and later became the Gerencia Indígena. In 2004 the government consolidated an ethnic affairs policy agenda to develop ethnic autonomy and governance, ethnic rights, health, education, programmes for women, youths and elders, food security, land purchases, and natural resource management.[119] Ordinance No. 32 of 2004 passed by Antioquia's assembly buttressed indigenous autonomy and capacity to interact with neighbouring municipal governments by supporting local planning mechanisms.

### Indigenous Governance in Karmata Rúa: Successes and Challenges

Regional legislative innovation is in part explained by the political willingness on the part of the contemporary Antioqueño elite to moderate ethnic conflict

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[116] Interview, Karmata Rúa, June 2011.
[117] Pineda and Gutiérrez, *Criaturas de Caragabí*.
[118] Salazar, *Dayi Drua*.
[119] Gerencia Indígena, *Política pública departamental de reconocimiento y respeto de los derechos de los pueblos indígenas del departamento de Antioquia. Diagnóstico general* (Medellín: Gobernación de Antioquia, 2004).

through political negotiation,[120] which the indigenous movement also viewed as an opportunity to advance its claims. The efforts of departmental deputy Eulalia Yagarí González, a Karmata Rúa native and social movement activist, helped embed ethnic rights legislation in Antioquia. Yagarí González and her indigenous movement supporters understood that the indigenous rights agenda had to be reinforced through formal, electoral politics. She noted that Antioquia's elites have generally supported International Labor Organisation Convention 169 on the rights of ethnic groups, and that this represented a political opportunity that should not be wasted,[121] given the climate of conflict reduction referred to above. As an ASI deputy elected to Antioquia's departmental assembly, she defended indigenous lands, culture and autonomy in her department and in the country as a whole. Yagarí won five consecutive terms to the Assembly (1991–2011), attracting voters beyond indigenous communities and becoming one of Antioquia's most celebrated politicians. Her leadership and that of the local branch of the ASI thus improved inter-ethnic institutional collaboration. She oversaw the passage of Antioquia's inter-ethnic laws and the strengthening of the Gerencia Indígena.

Karmata Rúa is one of Antioquia's most advanced ethnic governance experiments, compelling neighbouring governments to coordinate with the *cabildo* by approving local legislation. Influenced by these events, Jardín's municipal council passed Accord 12 of 2010, an extensive piece of legislation by which it sanctioned 'a public policy to recognise and guarantee the rights of the Embera Chamí indigenous community in Karmata Rúa'.[122] The accord acknowledges indigenous territorial boundaries as well as indigenous juridical, administrative and political autonomy. It expresses willingness to work with the *cabildo*, secure law and order, promote alternative development, and protect natural resources. It also calls for coordinating mechanisms on issues of jurisdictional overlap. Jardín's 2008–11 Development Plan, for example, includes Karmata Rúa in various social projects, and describes the Embera as an integral part of the region's history. The *cabildo* was recently provided with an office in the city hall, and the municipal authorities created a *veeduría indígena* (indigenous citizen committee) to oversee municipal proceedings and the implementation of the new public policy.

Most non-indigenous people I interviewed regarded indigenous governance as a positive development allowing municipal authorities to achieve more by coordinating with indigenous authorities. Others viewed it as bringing gains

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[120] Salazar, *Dayi Drua*.
[121] Interview, Medellín, July 2009.
[122] Consejo Municipal de Jardín, Antioquia, *Acuerdo 12 (Agosto 29/10): Por medio del cual se adopta la Política Pública para reconocer y garantizar el ejercicio de los derechos de la comunidad indígena Embera Chamí de Karmata Rúa Cristianía, Jardín Antioquia* (Jardín: Consejo Municipal, 2010).

for security and public order, since potential lawbreakers could no longer take advantage of the community's weakness. The current *cabildo* governor, for example, cracked down on individuals using an abandoned peasant community house to commit illegal activities including using and selling drugs.

Despite advances, tensions persist. I came across evidence of bigotry, misrepresentation of indigenous interests, disregard of indigenous history, and disrespect for or ignorance of the community's rights and achievements. One functionary criticised the sinecures granted by the regional and national governments, accusing them of 'paternalism', and stated that indigenous governments misused resources and wasted their electoral potential. An official lamented that indigenous people were unfairly benefiting from affirmative action policies that, for example, allowed a few to attend the more prestigious public universities. This same person believed that ethno-political autonomy laws allowed for too many exceptions whereby indigenous authorities could follow laxer contracting, construction, or natural resource management procedures. Some in the municipal planning department found this frustrating, especially for projects that needed to be carried out in coordination with indigenous authorities.

Two local leaders expressed contempt over the management of what had been 'the region's most beautiful coffee hacienda' which now looked like '450 hectares of well-maintained stubble'. Someone from the office of community relations dismissed indigenous peoples as dirty and lazy recipients of handouts. I also overheard someone who was seeking to market Jardín as an environmental destination regret that Karmata Rúa was not picturesque enough for tourists. One person believed that indigenous people were not interested in progress and had no culture because they 'dress normally' and have no 'folklore'.

Some laboured under the false impression that Karmata Rúa's infrastructure projects had been transacted and financed by Jardín's municipal government, when in reality they were financed by a combination of fiscal transfers, Antioquia's government and Corantioquia (the supraregional environmental management authority).[123] The *cabildo* has procured international cooperation (e.g. from Spain's Chartered Community of Navarra) and saved its own funds to buy more land, modernise health facilities and rebuild the school. In 2010 the *cabildo* governor prepared for Jardín's council a thorough report on Karmata Rúa's governance structure and development projects, including detailed information on sources of funding and how it had been spent. According to the *cabildo* governor, *comuneros* had travelled to Jardín for this 'historic moment', when mestizo council members were to hear from them, but 'we were incensed that by 11pm they had not listened to us, and kept delaying our presentation, so we walked out in protest'.

[123] 'Corantioquia' is an acronym formed from Corporación Regional Autónoma de Antioquia (Autonomous Regional Corporation of Antioquia).

## Representation

Additional tensions revolve around matters of representation. At the time of my visit in 2011, the *cabildo* was limiting open campaigning in an effort to encourage the community to vote unanimously in Jardín's elections for candidates responsive to ethnic interests. Local politicians who believed they had affinities with indigenous voters or who needed their vote to win in elections took issue with this ban. A young politician, for example, questioned the degree to which indigenous authorities were really representative of their constituencies, claiming that indigenous/mestizo divisions were a thing of the past and that as newer generations 'we understand each other; we grew up together and are close friends; they just have a different culture and I respect that'. Another candidate running for mayor on an environmental platform lobbied *cabildo* authorities to win their trust and thus obtain some of the indigenous vote.

Some concerns about indigenous government affairs are warranted. Jardín is a small, well-planned town, with an attractive central plaza. Officials in both the planning and sanitation departments worry about Karmata Rúa's rapid and disorganised urbanisation and the challenges it faces with waste water treatment. Corantioquia built the waste-water infrastructure and the *cabildo* manages a local aqueduct, but the system has quality and service deficiencies, and I heard complaints to the effect that the infrastructure had not been completed. Increased consumption of disposable products has also challenged rubbish collection efforts. Indigenous authorities agree on the need to recycle and dispose of rubbish, but claim that waste management is a municipal responsibility since they cannot afford the cost of delivering waste to the landfill site located four hours away. Municipal officials, in turn, claim that the *cabildo* should contract a private company to deliver this service. When I visited, Jardín's sanitation department was teaching people to compost, and sort rubbish and recyclables. But when nothing got collected, people went back to burning or dumping their waste.

## The Land Problem

Landlessness continues to affect Karmata Rúa's 120 families for whom expanding the *resguardo* is politically untenable. The population is growing and the *cabildo* has little room for manoeuvre to guide sustainable economic activities that improve standards of living. This may lead to natural resource depletion and will require further urbanisation of its main land base. As explained earlier, the region has recently been pacified by paramilitary groups, adjacent lands are too expensive for the *cabildo* to buy, and property owners have committed not to sell land to indigenous people. In our talks, the *cabildo* described current power dynamics as dominated by well-established

property owners with significant political and economic clout who are hostile to indigenous territorial expansion. Given the state of local politics, by which indigenous authorities mean the threat of violence, land takeovers are out of the question.

Karmata Rúa is located in a relatively wealthy region with a diverse economy and is integrated into regional markets and government services. Its economy revolves around coffee, a commodity produced by small landowners organised in Fedecafé, which claims that 96 per cent of the 563,000 growers it represents have less than 5 hectares of land,[124] and supports regional economic and institutional development. Currently, Fedecafé and Karmata Rúa's ASOPICK are working together on socio-economic, environmental and technical projects.

To address land shortages, the *cabildo* has resorted to formal mechanisms including the use of fiscal transfers, as well as funds provided by Antioquia's Gerencia Indígena and Corantioquia, both interested in the community's conservation role in water-rich, forested areas. Regional environmental management institutions such as Corantioquia are in charge of environmental governance at the departmental level in sub-regions, municipalities and ethnic territories.

With Corantioquia's support, the *cabildo* bought 1,000 hectares of land in the remote area of Dojuro in the municipality of Andes. Dojuro is situated at an altitude of 1,800 to 2,000 metres near the boundary of the departments of Chocó and Risaralda. Karmata Rúa and Dojuro are separated by a rough road 25 km long and a steep 5 km footpath. *Campesinos* in the area want to move to cities and are willing to sell their land to Karmata Rúa, but some of them have unclear property rights or no title at all, and know that the process to establish these could cost as much as the value of the land itself. They seem to have accepted the Guardia Indígena, who have seized shotguns, prevented illegal logging, and expelled informal miners. However, according to *cabildo* authorities, indigenous governance would be threatened by the fact that one landowner – allegedly a drug trafficker – was refusing to sell and was looking into the business prospects of deforestation and forest degradation programmes that offer landowners cash for protecting forests. Indigenous governance is also threatened by government plans to dam the Santa Barbara River, which passes through Dojuro, and by increases in mineral prospecting.

Having gained jurisdiction over Dojuro, Karmata Rúa is now tying economic opportunities to conservation and environmental services. The *cabildo* is destining 90 per cent of this land for the conservation of high-altitude natural forests. *Jaibanás* have surveyed these forests and recommend their conservation. The *cabildo* and Guardia Indígena are protecting patches of second-growth forests and reintroducing native wood species. In previous years, parts of these forests were bombed in confrontations between the

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[124] Data available at www.federaciondecafeteros.org (last access 1 Sept. 2017).

Colombian Army and ELN guerrillas. *Cabildo* and government authorities know of the presence of undetonated bombs, an additional reason to leave the forests untouched. Another 200 hectares of soil degraded by intensive agriculture and cattle-raising are being regenerated for agriculture.

To support the 35 families that agreed to settle Dojuro, infrastructure projects including school and health installations began in 2006 with the aid of governmental and non-governmental institutions. Some traditional families or those who believe in Dojuro as a political project seem more motivated to settle there. But people used to Karmata Rúa's proximity to regular government and market services, including jobs and transportation, do not see in Dojuro an alternative. Despite divisions over the settlement of Dojuro, my impression is that the land constitutes an important symbol of Embera resistance and ethno-territorial affirmation. As Karmata Rúa undergoes transformations that will affect local identities, economic practices and community relations, the link to ancestral forests and mountain lands may support their particular project of cultural revival.

## Conclusion: Embedding Ethno-Territoriality

In the 1990s, Colombia introduced special indigenous jurisdictions as part of larger decentralisation efforts to address a perceived crisis of governability. The reforms responded as well to indigenous movement claims and reflected prevailing viewpoints on the benefits of ethnic rights for local governance and conservation. By writing into the Constitution the customary norms of territorially demarcated ethnic groups, the reforms institutionalised legal pluralism. However, Colombia's weak institutions, armed conflict and lack of political will to accommodate ethnic rights explain why such advances in jurisprudence have had little positive effect on indigenous self-government.

The renovation of the Colombian state nonetheless presents a set of opportunities and challenges for indigenous communities. Multiculturalism formally recognised the political agency of indigenous authorities and supplied a comparatively more progressive body of law that enhanced local autonomy and empowered socio-political actors who are now testing the scope and meaning of multiculturalism, more often than not in violent local contexts or in negotiations with hostile local elites. Furthermore, the lack of enabling legislation on indigenous territorial entities has forced *cabildos* to depend on municipalities to gain access to fiscal transfers or to shape the outcome of local development plans. So rather than enhance autonomy, the reforms statalised decision-making processes increasing the power of local state networks and the state's influence in shaping indigenous identities. This was especially true for communities that had lost their own customary traditions.

Despite these problems, some indigenous communities are implementing the reforms in efforts to develop their own systems of indigenous law, resist armed conflict and end inequality. In doing so, they have followed different strategies. The Nasa people's model of institutional co-optation, as seen in Toribío (Cauca), is the most salient example in the literature on Colombia's indigenous government. Karmata Rúa, in contrast, is developing a model of institutional embeddedness characterised by increasing cooperation with overlapping authorities. As a community surrounded by non-indigenous municipalities in a once violent region, indigenous authorities could not realistically ignore the larger power dynamics threatening their cultural survival. More importantly, they found local and regional government allies committed to the peaceful expansion of democratic state institutions in a region once militarised and then pacified by paramilitaries.

Authorities began to work with national and departmental government agencies to develop environmental, judicial and executive local governance capacities. In a pragmatic move, departmental authorities accommodated indigenous autonomy to address their own policy aims of conservation and more peaceful inter-ethnic relations. Indigenous participation in departmental politics and a successful period in the departmental assembly helped cement these objectives in local laws. In response, Karmata Rúa has worked with prevailing institutions, created new institutions, and overhauled pre-existing ones. Indigenous authorities are also working on alliances with economic organisations like the association of coffee producers. The end product is a degree of institutional embeddedness that can accommodate different legal principles in overlapping jurisdictions.

The embedded rules devised by indigenous authorities in consultation with their community reflect traditional worldviews, social movement claims, liberal precepts and Christian doctrine on individual and collective rights. Mestizo authorities are replicating national legislation on ethnic rights, thus committing themselves to the implementation of these policies and giving meaning to abstract laws. Embedded laws, or laws replicated by different levels of government, enjoy local political support and achieve legal plurality in affairs of governance. The process has caused tensions, however, leading local authorities and ordinary citizens to resort to the Constitutional Court, whose rulings help legitimise local authorities and harmonise the different legal principles at stake.

This study proposes that multicultural rights also have the potential to develop in local contexts where indigenous and non-indigenous authorities coordinate strategically to address justice, fiscal, and socio-economic and environmental projects. It also offers initial support to the claim that indigenous governance in shared spaces may occur where local and regional governments embed ethnic rights in their legislations. Institutional embeddedness in this

context is not simply a form of government co-optation. It reflects a pragmatic approach of resistance and cultural survival under political conditions that limit indigenous authority. The embeddedness of consuetudinary and statutory norms in different levels of government is thus the result of negotiation and compromise that aligns political elites and institutions in the development of indigenous self-rule.

## Spanish and Portuguese abstracts

*Spanish abstract.* En los años 1990, Colombia descentralizó la política y aprobó reformas multiculturales como parte de estrategias más amplias para fortalecer al Estado. El multiculturalismo produjo un marco institucional complejo marcado por el traslape jurisdiccional y la pluralidad legal. La literatura sobre el multiculturalismo colombiano confirma que la violencia, los abusos a los derechos indígenas, y la falta de una legislación que apoyara a las entidades territoriales indígenas limitaron la autonomía etno-política y más bien incrementaron la capacidad del Estado de transformar la identidad indígena y burocratizar las prácticas de toma de decisiones locales. Sin embargo, algunas autoridades indígenas utilizaron las nuevas instituciones para tomar control de los asuntos comunales, cambiando gobiernos locales en el proceso. El caso mejor conocido de autogobierno indígena es el del pueblo Nasa del Cauca, caracterizado por la apropiación de instituciones para avanzar derechos étnicos. Este artículo se enfoca en el caso de los Embera Chamí de Karmata Rúa (Antioquia) y argumenta que ellos representan un enfoque alternativo centrado en el enraizamiento institucional, o la repetición de reglas de autonomía étnica por múltiples capas de gobierno.

*Spanish keywords:* multiculturalismo, pluralismo legal, gobernanza local, política indígena, enraizamiento institucional, descentralización

*Portuguese abstract.* Nos anos 90, a Colômbia descentralizou políticas e aprovou reformas multiculturais como parte de uma estratégia maior de fortalecimento do Estado. O multiculturalismo produziu um ambiente institucional complexo, marcado por sobreposição jurisdicional e pluralidade legal. A literatura sobre o multiculturalismo Colombiano confirma que a violência, o abuso de direitos indígenas e a falta de legislação executória com relação a entidades territoriais indígenas limitaram a autonomia etno-política e, pelo contrário, aumentaram a capacidade do Estado de transformar a identidade indígena e burocratizar práticas decisórias locais. No entanto, algumas autoridades indígenas usaram as novas instituições para assumir o controle de assuntos comunitários, mudando governos locais durante o processo. O caso mais conhecido de autogoverno indígena é o do povo Nasa em Cauca, caracterizado pela conquista de instituições locais a fim de avançar direitos étnicos. Este artigo está focalizado em o povo Embera Chamí de Karmata Rúa (Antioquia) e argumenta que eles representam uma abordagem alternativa centrada em inserção institucional, ou a repetição de regras de autonomia étnica por múltiplas camadas de governo.

*Portuguese keywords:* multiculturalismo, pluralismo legal, gestão local, políticas indígenas, inserção institucional, descentralizações