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**When the National Parks and Indigenous Territories Overlap.
Topologies Contesting the Property between Politics of Conservation
and Ethnicity in Colombia**

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Introduction

In the field of *common property* at global scale, all nations, countries and peoples have been living processes of integration and conflicts around space-people categories, and its political, economical, social and cultural implications. In diversity matter –defining diversity as a global contemporary common-, both biodiversity and cultural diversity (*sociodiversity*) had shared declaratory process of “protected areas” focused to conservation of species, ecosystems, peoples and local knowledge among other issues.

Topologies defined as categories of physical and symbolic space, had given place to natural reserves, national parks, indigenous reserves and other collective territories. What is happening in the world when the national parks (considered these as a kind of common property based in expertise, scientific State administration) overlap with indigenous territories whom peoples base its identity in sovereignty and autonomy, contesting rights control over land, resources and biodiversity?

To develop this question, in this paper I treat to identify the main historical and sociopolitical situations derived of the overlap between indigenous territories (*Resguardos*) and protected areas (*National Parks*) considered as people-space categories. Methodologically, first I will review a brief historical perspective about changes in space configurations of indigenous territories and national parks in Colombia; and second I will treat identify aspects in which overlapping topologies reflect conflicts around common property governability.

I. Changes in space configurations of indigenous territories and national parks in Colombia: an historical perspective.

The genealogy of *Resguardo* as indigenous land category in Colombia rise from Spanish colonial period and was validated in 1890's Constitution recognizing the indigenous communities rights over occupied lands. Although this aspect support today social groups based in territorial autonomy, common property of land, and management of own resources as strategy to conserve local knowledge and identity; the *Resguardos* origins are part of historical processes between 1532 a 1561 period in which this category was instituted as mean to recognize indigenous rights over lands. Spain esteemed owner of lands really occupied for they and those that had been abandoned by Indians. The faculty conceded to *Cabildos* –non indigenous institutions- to verify land possessed and those abandoned by Indians, permits together with reductions, move out (spoils) native peoples of better lands and appearance of *minifundio-latifundio* complex (Arango y Sánchez 2004: 92).

The *Resguardo* is conformed by four basic elements: delimited territory, collective property title registered, one or more communities self-identified as indigenous, and an internal organization with own rules. Indigenous forms of land tenure in Colombia reflect the acknowledgement of territorial rights to indigenous peoples that had made the State through legal forms: a) Colonial *Resguardos*; b) Republican *Resguardos*; c) *Resguardos* created by the Colombian Institute of Agrarian Reform (Incora) after 1961; d) Indigenous Reserves; e) individual titles to community or *parcialidad*. Today, land tenure forms can be classified in these modes: *resguardos*, *baldíos* (see below) without delimited territory, and communities or *parcialidades* including individual owners.

Table 1: Legal situation of indigenous land tenure in Colombia 2001

Forms of land tenure among Indians peoples	No. of <i>Resguardos</i>	area (has)	% area	Population	% population
Old <i>Resguardos</i> of colonial origin	55	405.743	1,32	171.201	21,80
New <i>Resguardos</i> created by Incora (+1961)	583	30.410.409	98,59	511.303	65,10
Indigenous Reserves	-	5.115	0,02	1.000	0,13
Without legally limited territory	N.D	N.D	29.863	3,80	
Communities or <i>Parcialidades</i>	N.D	23.964	0,08	71.989	9,17
Totales	638	30.845.231	100	785.356	100,00

(Arango y Sánchez 2004: 97)

In 1980 is consolidated a State politics over lands traditionally occupied by indigenous peoples under *Resguardo* category. This politics was confirmed by Political Constitution in 1991 establishing that *Resguardos* lands are collective property, unalienable, imprescriptibly and un-embargable (common aspects with national parks legal characteristics). Law define *Resguardos* as “legal and sociopolitical institution with special character, conformed by one or more indigenous community, with a title of common property enjoy warranties of private property, owning a territory and autonomous organization sheltered by an own indigenous normative system (Artículo 21 del Decreto 2164 de 1995).

One of the traditions conserved by indigenous peoples have been the appropriation of lands in a collective way. Historically and officially, had existed a refuse among Indians at individual property stimulated by governments; but its difficult to know if collective property idea is part of “ancestral culture” or results of re-structuring order (peoples-space) under Colonial regime. A speed review of indigenous land legislation in Colombia, permits get a general perspective of historical background that origins demarcation, deeding of lands and historical origins of individual (private) property. The double condition of the *Resguardo* as institution protecting and legitimate right over land, but reducing and demark territorially had been one of the main contemporary conflicts facing growth of population and overlap with new space categories as national parks and natural reserves.

History of national parks in Colombia as areas administered by institutions to conservation of biodiversity, environmental services and cultures, have been based in applying scientific knowledge, politics and legislations focused to delimit common areas at national scale. At last 1940s decade, the existence of huge *baldias* zones (without owner) in Colombia as other regions of the world, was impacted by global development politics adoption, restructuring national spaces classifying both exclusion zones (peripheries) and inclusion zones (centers) linked to interests of particular social actors.

In Colombia, natural protected areas politics begin with Law 52 in 1948 with the Sierra de la Macarena Reserve. In 1959 the Law 2^a about ‘Forest Economy of the nation and Natural Resources Conservation’ established new juridical categories to protection of natural resources. This law declared seven zones of considerable size as ‘protected forest zones and forests of interest’: Pacífico Región, Central Región, Magdalena river, Sierra Nevada of Santa Marta, Serrania of the Motilones, Cocuy and the

Amazonian. The adjudication of lands and forest exploitation in these zones remained subject under State rules.

In 1960 was declared the first national park Cueva of the Guacharos, but the National Parks System only start with Inderena creation in 1968 as the institution manager of all functions, creation, administration, and management of protected areas. In 1974 through Law 2811 is expedited the Code of Natural Recourses and Environment Protection, calling National Parks Systems at “whole areas with exceptional values to the national patrimony that, in benefice of inhabitants of the nation and owing to its natural, cultural and historical characteristics, reserved and declare as Natural Reserve, National Park, Fauna Sanctuary, Flora Sanctuary, Natural Area Unique, and Via Park”.

The Politic Constitution (1991), confirm the collective nature both Resguardos and national parks in Colombia: “the public use properties, national parks, common lands of ethnic groups, Resguardo lands, archaeological patrimony, and other properties determined by law are unalienable, imprescriptibly and un-embargable” (cap. segundo, art. 63).

II. Overlapping topologies reflect conflicts around common property governability

Since the late 1970's decade, the political actions of the indigenous peoples and the processes of identity construction have been related with ecology, environmentalism and biodiversity conservation, which coincides with the internationalization of the environmental rights. Simultaneously, fast proliferation of NGO's, national bureaucracies and transnational institutions related with the environment management, was linked with the implementation of global environmental governmentality based on the expert, managed and planned knowledge. In both cases, it taken place processes of declaration of “protected areas” as the main strategy to guarantee biological conservation and cultural diversity: on one hand, based on the recognition of the territorial autonomy of the indigenous peoples, and for the other one in the necessity of maintaining wild areas free of the human intervention.

In Colombia exist 80 indigenous peoples officially, 67 languages grouped in 14 linguistic families and 1,75% of population in the country. Some political sectors related with conservation, have recognized the compatibility between the idea of cultural identity and well management of biodiversity in strategic environments. In Colombian case, this fact can be verified observing the coincidence between the location of the 642

indigenous *Resguardos* (occupying the 27,4% of the country, approximately 31,279,205 has) and the hotspots where the biggest biological diversity has been identified: Chocó and the western of Amazonian. The 72% of *Resguardos* (22' 535.037 hectares) coincide with natural forest areas; while only 8.5% of national territory (9,2 millions of hectares) is under any category of protected area (see map below). What happen when indigenous territories and National Parks overlap as topologies contesting land access, group decision and control of resources in the global context of diversity conservation under endemic Colombian variables?

The main problems faced by national parks are related with colonization processes in 86% of protected areas. To treatment of conflicts resulting of human presence in national parks was created Integrated Districts Management through Decreto 1974 of 1989. However, the conflicts result of overlap among national parks with other territorial regimes –specially indigenous *resguardos* and private properties- stay unresolved in particular war context of Colombia (see Ospina 2005).

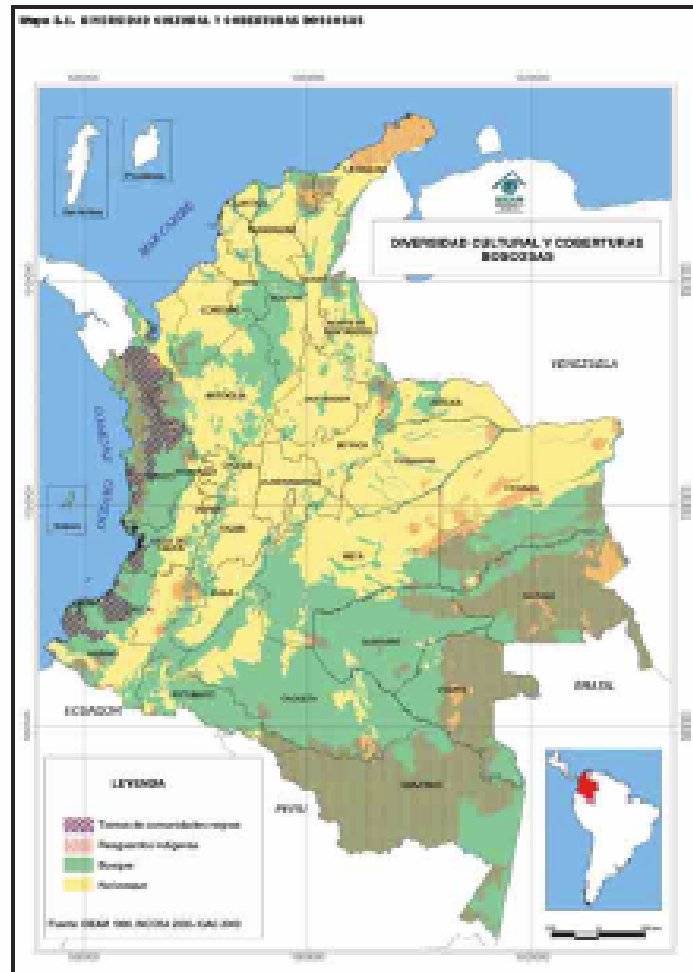
Is important say that the most part of wild areas object of conservation are cultural territories to ethnics groups. Of whole protected areas integrating National Parks System in Colombia, 19 *Resguardos* and one Indigenous Reserve overlapping with they. In some parks exist a complete overlapping with *Resguardos* and Indigenous territories as the case of Macuira and Puinawai. Also exists other *Resguardos* overlapping partially with parks as the case of Paramillo, Catatumbo-Barí, Sierra Nevada de Santa Marta, Cahuinarí, Amacayacu, El Cocuy, Puracé, Nevado del Huila, Ensenada de Utría, La Paya y Nukak (Arango y Sánchez 2004: 137-138).

The cases of enlargement of indigenous territories starting from the appropriation of private lands or claiming control of lands of the nation as National Parks, and the increasing of National Parks covertures by means of new areas declaration, had carried conflicts, negotiations and alliances between ethnicity and conservation of biodiversity politics.

Colombian government had defined the affinity and compatibility between natural areas and indigenous *Resguardos* co-existence (both considered legally as collective properties) in the sense that both legal regimes contribute to protection and conservation of natural patrimony (Ibid: 138). An important aspect to discuss, is linked with the emergent symbiotic relationship among the discourse/practice of well management evidencing problematic aspects such as the naturalization of the ethnicity, strengthening of essentialists ideas based on the image of the community

“living in harmony with the nature”, that legitimate politically social actors like guardian of biodiversity and with right to the property, in opposition to other societies “without identity” defined as enemy of biodiversity that should be controlled by environmental policies of State.

Mapa 1. Diversidad cultural y coberturas boscosas en Colombia



Source: IDEAM 2002.

References

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