Compensating for Development at the In-between and Edges of Extractive Capitalism: Socionature and Cultural Erasure in the Northeast Caribbean Colombian Coal Mining Region

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I am submitting herewith a dissertation written by Tamra Gilbertson entitled "Compensating for Development at the In-between and Edges of Extractive Capitalism: Socionature and Cultural Erasure in the Northeast Caribbean Colombian Coal Mining Region." I have examined the final electronic copy of this dissertation for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Doctor of Philosophy, with a major in Sociology.

Dr. Paul K Gellert, Major Professor

We have read this dissertation and recommend its acceptance:

Dr. Jon Shefner, Dr. Michelle Christian and Dr. Solange Muñoz

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Vice Provost and Dean of the Graduate School

(Original signatures are on file with official student records.)
Compensating for Development at the In-between and Edges of Extractive Capitalism: Socionature and Cultural Erasure in the Northeast Caribbean Colombian Coal Mining Region

A Dissertation Presented for the

Doctor of Philosophy

Degree

The University of Tennessee, Knoxville

Tamra L. Gilbertson

August 2020
Dedication

The critique offered in this dissertation is not aimed at Colombians, the critique is aimed at the colonizers, the imperialists, the wielders of capital, and all the people with power behind the multinational corporations, the international banking institutions, the conservation NGOs and the elite classes who define and control a globally corrupt and violent system that perpetuates inequality, racism, sexism and injustice. This is a love letter to the creative survivors, thinkers, organizers, fighters, environmental defenders and extenders, Indigenous Wayúu, Afro-Colombians, fishers, campesinos, workers, displaced, activists, scholars, lawyers, families, key contacts, and friends I met in the field and who continue to fight every day. You are the ones who taught and inspired me along the way. In fact, on so many occasions, I could barely keep up! You are the ones who made this work possible. This dissertation is dedicated to all of you.

This work is also dedicated to my mother, Karen Gilbertson, who in 2016, passed away from ovarian cancer in the second year of this work. She taught me how to delight in birds and nature, appreciate Indigenous culture, and a lot about wit and tenacity. And to my exceptional father, Donald Gilbertson, who calls me every week and still gives me pep talks. For as long as I can remember he inspires me to think, debate, hold a line and understand the intersections of the economy, politics, agriculture, trucking, and labor – and the space to agree and disagree. They both taught me about thrift, grit, humility, and tenderhearted care for nonhuman nature. Thank you to the rest of my family, especially my three sisters, Deb, Wendy and Kim.
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Abstract

In northeast Caribbean Colombia, Indigenous Wayúu, Afro-Colombian, campesinos and fishing communities struggle against the socio-environmental impacts of multinational operated legal coal mining operations. This dissertation questions how the multinational coal mining industry has been able to cause direct, structural and cultural violence against human and nonhuman nature over the last thirty-five years. The systemic character of the longer material history of capitalism, war, violence and US military intervention in Colombia is connected to and continues in the 21st century in the name of development. The central argument put forth is that multinational coal mining corporations in Colombia, like extractive industries more broadly, increasingly use compensation programs to address the negative impacts of mining. The evidence for the argument was obtained through 15 months of field research conducted between 2018-2019 in the three Departments of Cesar, La Guajira, and Magdalena, using ethnographic, feminist and empirical research methods from the theoretical perspective of material ecofeminist political economy and a material historical approach. I find that compensation projects obfuscate the direct, structural and cultural violence of coal mining by diverting community-based legal and resistance strategies, dividing impacted communities, and distracting public attention away from the direct and structural violence enacted upon human and nonhuman nature. The programs provide just enough compensation to satisfy legal requirements at the same time they silence opposition, quell resistance and perpetuate environmental racism among Afro-Colombian, Indigenous Wayúu, fisher and campesina communities. The augmenting of compensation projects into carbon pricing platforms and REDD+ projects serves to magnify the power and accumulation of multinational corporations and capitalist governments. The dissertation concludes that multinational corporate and state-backed compensation projects that are offered as measurable and purportedly equitable steps to remedy are incommensurable with the violence caused by development projects such as mining because they undermine community unity and autonomy, and they reinforce a social power imbalance that perpetuates and expands direct, structural and cultural violence against human and nonhuman nature leading to socionature and cultural erasure.

Key Words: Multinational coal mining, Colombia, Indigenous Wayúu, Afro-Colombian, human and nonhuman nature, environmental violence, socionature erasure, material ecofeminism
Table of Contents

Chapter 1: Introduction.................................................................................................................. 1

Chapter 2: Literature Review......................................................................................................... 16

Chapter 3: Methods......................................................................................................................... 42

Chapter 4: “The Coal is Stained with Blood”:  
Historical Roots of Colombian Conflict, Class Struggle and Capitalism......................... 66

Chapter 5: Fifteen Boats to Divide and Conquer:  
Indigenous Wayúu, Cerrejón and the Incommensurability of Compensation................. 94

Chapter 6: Afro-Colombian *Consejo Comunitario* Resistance  
and the Violence of Socio-environmental and Cultural Erasure...................................... 120

Chapter 7: Water Grab for Coal:  
Accumulation by Water Dispossession and Contamination............................................. 149

Chapter 8: “Until the last gram of coal is mined”:  
Biodiversity Loss, Deforestation and Environmental Compensation................................. 184

Chapter Nine: “Fulfilling Our Obligations”:  
Corporate Involvement in Climate Change Mitigation......................................................... 209

Chapter Ten: Compensating for the Violence of Development, the Three Ds,  
and a Warning Against 21st Century Capitalism’s Green Economy .............................. 233

List of References.......................................................................................................................... 250

Vita.................................................................................................................................................. 279
List of Figures

Figure 1. Map of South America showing Colombia in Red…………………………… 44

Figure 2: Map of the Republic of Colombia with the Regions. Source: EnBW 2019….. 46

Figure 3. Map of the Caribbean northeast Colombia depicting coal mines, trainlines and ports in Cesar, Magdalena and La Guajira……………………………… 48

Figure 4: Displacement by Department 1999-2011……………………………………….. 85

Figure 5: Coal Production in Colombia (red) and exports (black), 1970-2012……. 86

Figure 6: Key Government Agencies in the Oversight of the Mining in Colombia…… 98

Figure 7: Map drawn up by Drummond to argue that the communities are farthest away from their concessions………………………………………………….. 127

Figure 8: Map of the Caribbean northeast Colombia depicting coal mines, trainlines and ports in Cesar, Magdalena and La Guajira……………………………… 152
Chapter 1. Introduction

This work is about contemporary development, violence and human and nonhuman nature; that is, it is about the consequence of structural and systemic power that continue to impact Latin America. Further, it is about the roots of capitalism and energy that drives the political economy to expansion, the lies told that allow for it and the violent socionature erasure left in its wake. My interest, however, is not strictly historical. For many years, I and many others, have been guided by questions that seek to foreground the pressing need to address the root causes of environmental and climate injustices – the results and outcomes of four centuries of colonialism and almost two centuries of capitalist industrial expansion. This work arose out of both a desire to seek the teleological roots of these broader questions and a commitment to the most impacted and marginalized communities who persist at the in-between and edges of the industrial sites of globalized fossil fuel extraction.

To do this, I went back to the energetic roots of the industrial machine and examined the coal industry in order to ask how and why coal persists in the 21st century (Gellert and Ciccantell 2020). The predominant analysis in 2015 at the start of this dissertation was that coal was on its way out, bankruptcies were underway and the European market was shutting down its plants (Pearce 2020, Oei and Mendelvitch 2019, Johnstone and Hielscher 2017, Mathews and Hao 2017). However, I found this analysis to be oversimplified. Chapter 11 bankruptcy in the US is a restructuring plan that aids many US corporations and keeps coal coming out of the ground at an alarming rate, while new markets are opening in Turkey and Asia (Cardoso and Turhan 2018). Between 2001 and 2010, world consumption of coal increased by 45 percent and remained mostly steady throughout the last decade, and even as I write, in the past two years, global coal extraction
has only slightly declined. In fact, coal is still the leading contributor of greenhouse gas emissions, responsible for 40 percent of carbon dioxide emissions (Jackson et al 2019).

While academic, policy, and business debates are caught between predictions of coal’s demise and coal’s persistence, I became curious about how the development and extraction of coal – the planet's oldest industrial fossil fuel – and how it is being justified when humanity faces an impending global crisis like climate change. While climate change has rightly received greater attention, the sociological complexities at the edges of sites of extraction have not. Researching the political economies and impacts on socionature at the industrial extraction sites allow for a greater understanding of how “From the perspective of raw material access and transport, we see globalization as simply the most recent manifestation of capitalism’s internal dynamic, which remains deeply rooted in place and involves the active participation of states” (Bunker and Ciccantell 2005, p. xiii; see also Bunker 1984, 1985). Further, bridging local community experiences of resistance and persistence at the in-between and edges of extraction sites has been under-theorized and researched from a political economy perspective (Gellert 2005; Gellert 2018). At the sites of large-scale extraction, communities experience air and water pollution, water scarcity, biodiversity loss, death threats and what I later in the dissertation call socionature and cultural erasure.

I decided to focus on the large-scale coal extraction by multinational coal corporations operating in the global South, which led me to Colombia, Latin America’s highest coal reserves (Cardoso 2015). With its multinational corporate coal sector operating through foreign direct investment, a political economy committed to a neoliberal capitalist export-oriented economy, and a challenging political transition after decades of conflict and civil war, Colombia presents a
complex case in which to examine contestation over development and coal mining. As the fifth largest global exporter of coal, Colombia elucidates social and environmental conflicts at various scales, suggesting that a global energy transition is a deeply complex socioeconomic process.

One of the socioeconomic complexities arises from the 2016 Peace Agreement, a disarmament agreement of the FARC that has led to a profound shift in power felt mostly by rural communities. In fact, environmental defenders and social leaders in rural Colombia are being assassinated at higher rates since the Peace Agreement was signed than anywhere else in the world (INDEPAZ 2020, Front Line Defenders 2020). In 2020, the United Nations reported that 98 percent of the 107 assassinations occurred in rural areas and that murders of women increased 50 percent (UN 2020). Marta Hurtado, the Spokesperson for the UN High Commissioner for Human Rights stated, “The figures reflect the gravity of the problem, but they conceal the structural causes that sustain violence against human rights defenders” (UN 2020).

In 2019, 40 percent of the those killed globally struggled for land, Indigenous Peoples’ and environmental rights (Front Line Defenders 2020). In Colombia, the trend is the same. Data collected by the Institute of Development and Peace Studies (INDEPAZ) between 1 January to the 31st of May, 2020 indicates that 115 environmental and human rights defenders, Indigenous, peasant and social leaders and more than 20 former FARC combatants were killed (INDEPZ 2020). The report also indicates that the COVID-19 pandemic has not reduced assassinations. Many of these assassinations can be traced back to the Peace Agreement of 2016 because the process of disarmament of the FARC guerrillas left a political and security vacuum, the state was unable to address so that now, especially in the rural areas, it is being filled by former paramilitary bands or “gangs”.

3
While President Duque has blamed drug trafficking for the killings, the United Nations and think tanks claim that land disputes and mining are among the main motives for the killings (Thoolen 2020). Further, Camilo Gonzalez of the Institute of Development and Peace Studies (INDEPAZ) stated that social organization’s claim that “there is an omission or even complicity by elements of the public force, by agents of the state” with illegal armed groups accused of many of the killings (Thoolen 2020). Further, Ms. Hurtado claimed that the challenge of implementing peace in Colombia stems from “especially the dismantling of groups with paramilitary links” (UN 2020).

Although the majority of the assassinations are reported from the south of Colombia where the FARC was most active and where illegal mining and logging activities are high, less attention has been paid to environmental defenders in the northeast Caribbean region where a major stronghold of paramilitary activity and foreign direct investment (FDI) coal mining occurs (Le Billon et al 2020, Schiedel et al 2020, Bonilla-Mejia 2019). The environmental defenders in the Caribbean coal mining regions lived through the brutality of paramilitary violence. Throughout the 1990s, the rise of the coal mining industry coincided with the paramilitary, United Self-Defenses of Colombia (Autodefensas Unidas de Colombia, AUC) in the region. The parallel development of the coal mining industry and the rise of paramilitary activity in the northeast have led to the continuation of direct and structural violence against human and nonhuman nature.

Hollywood-style depictions of violence in Colombia tell a story of narcotrafficking and left-wing revolutionary guerrilla groups blamed for disrupting a country for a half of a century. While neither disputing the importance of the conflicts in the coca regions (Hough 2011a, Hough 2011b, Fisher and Meitus 2017) nor accepting the overriding condemnation of the FARC from
Colombian officials and their US supporters (Brittain 2010, Tate 2015), my research stresses the insidious character of long-standing structural violence – backed by the trauma and fear as well as the real threat and tragically frequent direct violence – occurring near the legal spaces of a coal mining boom in the northeast region and how that violence endures in the name of “progress” and development. Environmental defenders continue to experience intimidation, threats, assassinations and high rates of violence from the vestiges of paramilitary groups and under pressure from the same corporate and state institutions that contribute to the root causes of environmental violence and climate change (Le Billon et al. 2020, Bratspies 2020).

Throughout my research on the contemporary situation in the region, coal affected communities pointed out the connections between the historical brutality of living through coal expansion and paramilitarism and the structural violence that continues today. The systemic connection of the longer material history of capitalism, war, violence and US military intervention in Colombia continues in the 21st century in the name of development. Theoretically, I trace the foundations to the Marxian tradition that seeks to understand the current historical ‘moment’ of global capitalist crisis through the ongoing expansion of FDI coal development and the perspective of material ecofeminism political economy that foregrounds the parallel exploitation of subjugated human and nonhuman nature. Therefore, historical violence is bound to current and future violence against human and nonhuman nature. What vexes me and reverberates throughout the work are the 21st century justifications for the continuation and expansion of coal mining violence at the expense of human and nonhuman nature and how they act as barriers to resistance and social change.
Development is one of many justifications for capital accumulation. I found echoes of my frustration in trying to pinpoint the justifications in the introduction to the Colombian anthropologist, Arturo Escobar’s (1987) dissertation:

This work arose out of the need to explain this situation, namely, the story of the “Third World” and a dream of “development”, which have involved much of the reality of all those countries since the end of World War II. This frustrating situation, this astonishment that, even while at times seemed to diminish, never disappeared, originated in part, in my case at least, in the fact that we did not have adequate tools for comprehending its most basic aspects, its core. We could denounce the irrationality of the whole enterprise by pointing to specific irrational results, such as the persistence of hunger; or we could bring to light and discuss at length this or that cause of underdevelopment, but even those causes which were of global character, such as imperialism, still left an unexplained sediment which kept stirring a certain anguish; or, finally, we could expose the most ugly aspects of the supposed model, namely, the United States and Western Europe (their materialism, loss of community [sic], etc.), but that made it even harder to understand why all these countries would pursue the senseless route of development (p. 2-3).

Escobar’s pursuit in trying to answer why countries “pursue the senseless route of development” led me to seek out not the discourse, but both the historic and material how of justifications. Development is often touted with raising the GDP and promises of jobs, security and hopes of greater prosperity (Chomsky 2016). In Colombia, the large-scale open pit coal mines developed by multinationals are hailed as a harbinger of development. When mining is spoken of disparagingly by the press or government officials, it is illegal mining that is most frequently the target. In fact, President Duque touts the legal coal mining industry dominated by foreign investors in the National Development Plan 2018-2022 as one of the primary “locomotives of development” (NDP 2018).

The historical struggles against violence are traced to “Big D” US intervention in Colombia during the Cold War that justified the development of capitalism through the coal industry (Hart 2009). But what of the contemporary justifications? My research finds that compensation programs
are a proliferating 21st century justification for development that attempts to mask the violence perpetuating social and environmental problems associated with coal mining.

Since 1993, compensation programs have been required by Colombian law as part of the environmental license required for mining operations. Law 99 of 1993 states the Ministry of the Environment and Sustainable Development is responsible for issuing the environmental license, and in said law, article 50 explicitly indicates “that the environmental license imposes on the beneficiary the obligation to comply with the requirements that it establishes in relation to the prevention, mitigation, correction, compensation and management of the environmental effects of the authorized work or activity” (Law 99 of 1993). However, compensation is also used as a tool to create favorable public relations materials and for tax breaks (Strambo et al 2018, Rudas and Espitia 2013). Compensation, both legally obligated and through CSR, function as barriers to resistance, which delay or avoid meaningful social change and obfuscate ongoing socioenvironmental violence in the region. While intended as a measurable compensation for purportedly unavoidable damage, compensation is incommensurable with the violent socionature and cultural erasure.

This dissertation is based on multiscalar research connected at the 1) global, 2) state and 3) community levels (Barrett 2012): 1) At the global scale, the emergence of Colombia as a top ten global coal exporter dependent on foreign direct investment; 2) At the state level, the laws and rights that are used to simultaneously support and contain the legal coal sector; and 3) At the community level, the environmental defenders and extenders, and all affected communities that struggle and organize to survive the ongoing direct, structural and cultural violence.
Multinational mining corporations argue that they are agents of 21st century development in Colombia through technology transfer, corporate social responsibility programs, high sustainability standards, sustainable water use, employment and increased economic growth (Strambo et al. 2020). In particular, representatives of the corporations are quick to distract attention away from their mining practices through detailed examples of their social and environmental compensation programs.

Meanwhile, many municipal, sub-national and national state representatives largely support the coal mining industry, but it sometimes proved impossible to discern whether they were influenced by fear of the powerful coal interests or motivated by their sympathies to a pro-development ideology. Some state officials promoted the view that coal mining fosters development which in turn leads to decreased poverty by generating royalties, taxes, foreign exchange and employment. On the other hand, the Colombian Constitution and a multitude of laws protect the rights of Indigenous, Afro-Colombian and ethnic communities.

Communities impacted directly by the coal industry have very different stories to tell. Communities are rarely consulted regarding their needs or visions of affirming life-centered political economies. Their voices are often silenced both by ongoing brutal repression of increasingly brazen ex-paramilitary gangs and by the continuing fear of retaliation from mining corporations. The stories shared by the local communities often link the two. Further, the long list of severe environmental and social impacts from the coal industry includes: fear of assassination, forced displacement, unemployment, labor disputes, loss of nature, river diversion, air and noise pollution, and a long list of health problems and associated illnesses from living near the coal mining industry.
To study the political economies of industrial extraction, the state and impacted communities, I use a multiscalar case study design focused on asymmetric power relations at the in-between and edges of social, spatial political economies of development of the coal mining sector in the northeast Caribbean region of Colombia. The in-between are the unequal power relations between the corporations and state, the corporations and communities, and the communities and the state. The edges are the material and socio-spatial spaces where human and nonhuman nature are impacted negatively and irreparably by the coal mining sector. At these edges, I draw attention to the experiences of Afro-Colombian, Indigenous Wayúu, campesinos and fishers. Through historical material, structural, feminist, and ethnographic field research and archival data, the research presented in this dissertation critically examines the multiscalar nexus of social power relations, repression, rights, and resistance. Environmental violence continues to disrupt human and non-human nature in northeastern Colombia due to a combination of historic hegemonic US power relations with Colombia, and between the multinational mining corporations (two of them US-based) that act with impunity, influence policy and sometimes supersede the role of the state (Gupta 2013). Based on qualitative analysis of the semi-structured field interviews, my research echoes the community experiences and other researcher’s findings, to conclude that coal mining in Colombia is a driver of displacement, deforestation and climate change. Further, my research demonstrates that coal mining causes direct, structural and cultural violence to human and nonhuman nature resulting in socionature and cultural erasure, and is an agent of environmental racism (Huggins et al. 2017, Pellow 2017, Pellow 2016, Goodman 1999, Bullard 1993).

I find that the continuation of coal extraction in the 21st century is present through the multiscalar nexus of direct, structural and cultural violence against human and non-human nature.
The violence is justified through compensation projects used by the multinational mining corporations with state complicity. As a proliferating 21st justification, compensation projects help to explain the guiding question of how and why coal persists in an era of climate change and socionature erasure. Compensation programs are increasingly used by multinational corporations, imposed by legal policy obligations and through corporate social responsibility practices. The scaling up of compensation programs and projects and their incommensurability with violence against human and nonhuman nature are the focus of this dissertation.

**Description of the Study**

The dissertation is organized into nine chapters. Chapter Two provides a literature review to situate development and the emergence of coal in Colombia. I examine literature in three areas: (1) material ecofeminist political economy perspectives on capitalism, nature and development including a multidisciplinary overview of violence and (2) literature on consultation, compensation programs and incommensurability. Research questions for this dissertation emerge to connect and challenge these literatures, focusing primarily on the need for more structural and historical examinations of justification of violence in development and extractive industries. My dissertation seeks to critique the normative presumptions that compensation measures can be commensurable with violence. I argue in particular that 21st century justification of violence lead to socionature and cultural erasure.

In Chapter Three, I summarize my research methods, detailing my research process including the locale and background of the multinational coal mining corporations that are both the focus and the context for the research. I provide details on my field research, including the use
of anonymous data sources and collection. Finally, I describe my transcription, coding, and analysis strategies.

The rest of the chapters each contain two sections. I begin with historical and empirical data to provide context before presenting field data in the section section. Chapter Four traces the underlying dynamics of the history and violence of capitalist imperialism in Colombia back to colonial land struggles and the 20th century La Violencia that later led to the formation of the FARC. The 1973 oil shock served as the crisis moment that catalyzed US oil and coal corporations to develop the coal export industry in Colombia. I draw on material historical, field and empirical research to demonstrate how US military interests and transnational coal corporations aided the paramilitaries in the northeast regions of Colombia. Testimonies from campesinos who were violently displaced on what is now mining concessions illustrates the brutality of the past, but also serves to inform the cultural and structural fear and violence that persists in the region. Indeed, the perpetrators of the violence today used against environmental defenders in the region, although difficult to identify, are thought to be the vestiges of former paramilitaries.

Chapter Five outlines the legal apparatuses crucial to understanding the role of the state, law and policy. This chapter is a crucial pivot that introduces ideas developed more fully through case material in the following chapters. In particular, I introduce the 1991 Colombian Constitution which recognizes the rights of Indigenous and Afro-Colombian peoples and ratifies a legal process of Free Prior and Informed Consent (FPIC). Afro-Colombians and Indigenous Peoples represent 73 percent of forced displacement victims in Colombia (OCHA 2013). I describe the importance of a legal right called tutela through which communities are able to challenge powerful actors like the coal companies. Importantly, I offer a preliminary definition of compensation and distinguish
its meaning from reparations, environmental justice and restorative justice. Using field observation and interviews, I find the compensation programs to be incommensurable with the violence inflicted upon human and nonhuman nature, and describe how the programs silence opposition, quell political mobilizations and build international support for corporate-led development rhetoric.

Chapter Six argues the critical importance of addressing environmental racism and social justice by probing the impacts on Afro-Colombian communities in the Cesar region. Almost 60 percent of Afro-Colombians with land titles are now internally displaced (Sánchez-Garzoli 2012). The displacement is the result of land enclosure, capitalism and coal mining pollution and expansion. The contradiction of the state’s plan to expand coal mining in the National Development Plan (NDP; *Plan Nacional de Desarrollo* – PND, 2014-2018 and 2018-2022) is critiqued. In the coal region of Cesar, the displacement continues today with the case of Boquerón. Particularly, the chapter examines the erasure of Afro-Colombians and their socio-cultural existence in the face of coal mining extraction. Due to this erasure, they come up against multiple obstacles, including being recognized as Afro-Colombian by the courts. The struggles for environmental justice continue even after their rights have been officially recognized. I probe the impacts of cultural and environmental violence that Afro-Colombians continue to endure and demonstrate the systemic connections between racism and the environment. Further, I show how corporations use incommensurable compensation measures as mechanisms of political exploitation and racial discrimination.

Chapter Seven moves from foregrounding the historical, social and racial configurations of direct and structural violence to a focus on the socioenvironmental impacts related to communities’ survival. The chapter focuses on how large-scale open pit coal mining impacts the
water systems and argues through empirical data how water-intensive coal mining is creating a water grab in the region. The research explores how the coal mining industry has permanently damaged the underground aquifers, diverted rivers and streams and continues to cause high levels of pollution in the water basins. These combined actions have caused water scarcity and contamination impacting human and nonhuman nature. The second part of the chapter continues with field data interviews and observations with fishers, Indigenous Wayúu and Afro-Campesinos in the region. I argue that the water grab is a form of structural violence perpetrated against all human and nonhuman nature from the headwaters to the ocean, and the physical movement of the rivers is a distinct type of shift impacting human and nonhuman nature. In order to address the contestation of the local communities, compensation programs are used by coal mining corporations to justify the environmental, social, and cultural violence done to water. Furthermore, the inconsistencies and shortcomings implicit in the compensation programs with the companies, and the state’s role in condoning these shortcomings, highlight the entrenchment of compensation programs in the structural mechanisms used to justify continued extraction.

Chapter Eight continues the socio-environmental theme with a focus on land, forests and biodiversity. This chapter revisits the historical implementation of compensation programs for environmental conservation and link this to the contemporary contradictions in the Peace Agreement, NDP, and environmental compensations policy and how they collectively undermine action on biodiversity protection and community rights. I find that environmental compensations function to distract attention and action away from the root causes of biodiversity loss, deforestation and climate change, which in the eastern Caribbean region is coal mining. There is no comprehensive plan for closing the mines and the untapped mining concessions pits were
recently renewed in Cesar. Drawing on interviews with corporate representatives, I highlight how quickly they shift to justifying their operations with compensation measures when mining concession extensions and continuation is discussed.

Finally, I explore a case of a payments for environmental services (PES) project, and how compensations led to livelihood loss, land dispossession, and ultimately, did not compensate for biodiversity loss. In the PES projects, human and non-human nature are sources of exploitable labor. Water, land and biodiversity are destroyed by mining expansion and the loss cannot be brought back in the same way, especially in such a delicate and deeply damaged ecosystem. I found that the biodiversity, water and forest loss was incommensurable with PES tree projects located several kilometers away in the mountains. In this way compensations were acting to facilitate, justify and mask environmental, social and cultural exploitation and socioenvironmental erasure.

Chapter Nine builds on the previous chapter to investigate how conservation approaches for biodiversity and wetlands have morphed into international markets that claim to offset and reduce pollution. The chapter begins with a brief historical overview to explain how compensation for wetland damage and PES paved the way for buying, selling and trading emissions through carbon trading markets. Then, the chapter outlines Colombia’s new carbon pricing system and how it benefits polluters through a tax break. To address deforestation and biodiversity loss, the Colombian government made domestic and international policy commitments to integrate compensation agreements, increase extraction, and build environmental management strategies based on the further exploitation of natural resources. Further, the chapter argues that using capitalism to fix the first and second contradictions of capitalism will inevitably delay the
necessary changes needed to address climate change, biodiversity loss and environmental and climate justice.

Chapter Ten features a discussion and conclusion to the dissertation. I provide an overview of major findings, avenues for future research, and practical and policy implications of sociological understandings of compensation programs used to justify 21st century development. I conclude that capitalist large-scale open pit multinational coal mines and governments use compensation projects in the interest of diverting legal and resistance strategies, dividing communities, and distracting public attention away from the direct and structural violence enacted upon human and nonhuman nature. Among the most sidelined are the environmental defenders and extenders, the ones who perform unwaged or low-waged work, including the production and reproduction of labor power, particularly Indigenous Wayúu, Afro-Colombian communities, fishers and campesinos. The direct, structural and cultural violence leads to socionature and cultural erasure.
Chapter 2. Literature Review

Introduction

Increasingly, debate and action regarding impacted communities near large mining projects in the global South center around compensation. Capitalist multinational corporations and governments use compensation projects in the interest of diverting legal and resistance strategies, dividing communities, and distracting public attention away from the direct and structural violence enacted upon human and nonhuman nature. Among the most sidelined by the corporations and the state are the environmental defenders and extenders, the ones who perform unwaged or low-waged work, including the production and reproduction of labor power.

This chapter seeks to bring attention to the use of compensation and argues that it is incommensurable with the direct, historical and structural violence in the northeast Caribbean coal mining region of Colombia. The first part of the literature review focuses on development and violence from the perspective of material ecofeminist political economy whose roots are in Marx, which foregrounds the parallel exploitation of subjugated human and nonhuman nature. The second part of the literature review centers on corporate social responsibility, rights to consulta previa (prior consultation), compensation and incommensurability. Compensation is explored as incommensurable with the violence of mining development in the 21st century. With an emphasis on the real world material conditions, in terms of class, race, gender, labor and socioeconomic relations, the literature aims to contribute to discussions on development and violence from a historical materialist ecofeminist political economy with a focus on compensation and incommensurability at the global, state and local scales.
Part 1: An Ecofeminist Critique of Development and Violence in the 21st Century

Ecofeminism was developed in response to an understanding of the violence of capitalist development, imperialism and colonialism enacted on both women and nature. Materialist ecofeminist perspectives recognize that capital accumulation exploits the paid and unpaid labor, as well as knowledge, territories, skills and culture of both human and nonhuman nature (Mies 1986, Salleh 1994). Building on historicized, racialized, and gendered class struggle, I draw from materialist ecofeminists including Merchant (1980), Salleh (1994), Shiva (1988), Gunn Allen (1986) and Mies (1986) who are diligent to include Indigenous and small-scale farmers and laborers of all genders as critically important for the future of the planet. This section begins with a brief overview of mainstream feminist responses to development. I then center on materialist ecofeminist perspectives of capitalism to outline a theoretical perspective of development and violence.

As development was underway in the 1970s, mainstream second wave feminists critiqued development projects for not including women in the global South and argued for a program to acknowledge Women in Development (Boserup 1970, Rahman 1999). Some feminists argued that women should be included and empowered through development, which they called Women and Development (Hamilton 2007), but by the 1990s, feminists began to critique development for having very little focus on race and gender and called for Gender and Development (Moghadam 1998, Connelly et al 2000). However, these perspectives followed a liberal feminist reformist ideology that is compatible with capitalist exploitation of labor, knowledge, skills and culture. The liberal feminist view has been critiqued. For example, Keating, Rasmussen and Richi (2010) posit from a radical feminist perspective that microcredit programs for women’s empowerment are a
form of “accumulation by dispossession, the set of processes by which new subjects are brought into the structure of capitalism in exploitative and often violent ways” (p.153). The proposals developed through international aid agencies subsume women’s unpaid labor into a development paradigm responsible for ongoing inequalities. The “exploitative and violent ways” that unpaid labor is brought into the “structures of capitalism” is explored throughout this dissertation through compensation programs, and as we will see, development agencies are involved.

Materialist ecofeminist scholars critique capitalism and development building from Marx. They have built a canon of work linking the destructive forces of patriarchal development and violence, and the parallel exploitation and marginalization of women and nonhuman nature. Their work was developed in the 1980s and 1990s within feminist struggles in an effort to elaborate how patriarchy exploits both women¹ and nature (Merchant 1980). Following on from Marxist feminism, material ecofeminists argue that human and nonhuman nature are both active agents that are socially and historically constructed and transformed through human praxis. Further, they engage with a critique of capitalist patriarchy by focusing on the dialectical relationship between production and reproduction, and production and nature (Merchant 2005).

Central to the work is a longstanding use of intersectional critiques on race, class, gender and nature (Kings 2017). The term intersectionality is attributed to Kimberlé Crenshaw (1990), who introduced the term to elucidate the specificity of racism, violence and discrimination that Black women face. Bringing this perspective to the global South, Vandana Shiva’s (1988) work is and has been intersectional, notably in her critique of patriarchal colonial development’s view of the commons as “wastelands”. In addition, her critique of colonialist afforestation programs as

¹ Women are identified as those who choose to identify as women.
reducing the complex social and biodiversity of the commons to economic spaces continues to have relevance (see Chapter Eight and Nine).

Mies and Shiva (1993) radically reinterpret development to argue that catching up to Western development is a myth. The dilemma can be traced to how development requires a kind of colony in the form of cheap labor and natural resource extraction (see also Jaquette 1982). Much of their critique was in response to the persistence of modernization theory dating back to the 1950s and 1960s. Modernization theory is based upon the assumption that the economy of the West was a form of progress, and capitalism’s unidirectional constant growth could be reproduced in the global South (Shils 1963, Rostow 1962). Expanding capital accumulation in the South was the goal as former colonies were becoming independent and would address the perceived threat of communism (Nisbet 1969, Coleman 1965, Levy 1967). Policies based on modernization theory aimed at higher production, economic efficiency, and economic growth – both in the agricultural and industrial sectors – were supported by a multitude of agencies and programs. In response to modernization theorists, Mies and Shiva critique the “myth of development” as “Western, male-oriented and patriarchal projection which necessarily entailed the subjugation of both nature and women” (p. 42) and “as a culturally biased process [that] … creates real material poverty, or misery, by denying the means of survival through the diversion of resources to resource-intensive commodity production” (p. 75).

Specifically, regarding Marx's Law of Value (later elaborated by many Marxian thinkers as the Labor Theory of Value or LTV), Mies (1986) and Salleh (1997) reconstruct LTV to include a definition of unpaid labor of women and Indigenous as “reproductive labor”. Marx was clear in several passages in his work that humans and labor are also nature. They both constitute use value.
Notably, in his *Critique of the Gotha Program*, Marx (1875) wrote, “Labour is not the source of all wealth. Nature is just as much the source of use values (and it is surely of such that material wealth consists!) as labour, which itself is only the manifestation of a force of nature, human labour power” (p. 525).

In her pioneering work, *Patriarchy and Accumulation on a World Scale*, Maria Mies (1986) built a generalized concept of housewification, drawing on work of Merchant (1980) and others. Mies argues that housewification and especially women's labor in the global South has provided the primary source of free labor for industrialized countries. Mies traced early capitalist development and its impacts on women in both Europe and in the global South. She posited that housewification was necessary to control women’s labor as colonialism was developing. Importantly, it was not just the free domestic labor that women provided; housewification was an extended process of controlling women’s labor and bodies. Mies dates this control back to witch hunts in Europe when an estimated three million women were tortured and murdered – erased from history. The women were largely economically independent, both coupled and uncoupled, with knowledge of herbs, medicine, birthing and dying, and living by selling their goods and services in the marketplace. As such, Mies argues that as capitalism was on the rise, it was necessary to subordinate and control women that were independent from the emerging global market.

The link between erasure of economically independent women through torture and murder is connected to the exploitation of nature in early capitalism. Both women and nature were required to be exploited for their use value in order to convert the “material” into exchange value. Drawing on Mies’ groundbreaking work, Salleh (1997) sought to situate reproductive labor, as opposed to productive labor, into a Marxist framework. Both reproductive labor and nature represent use value
– the unpaid care, body-focused labor and work with the land that takes place in the home and the fields and is largely and historically (but not only) the labor of women. Salleh calls her overarching theoretical trajectory, embodied materialism. Salleh is diligent to include indigenous and small-scale farming labor of all genders as critically important for the future of the planet.

Salleh (1994) points to an old feminist debate regarding a blindspot in Marx's value theory (LTV). When Marx was referring to laborers' alienation from nature, Salleh contends, Marx was seeing labor as a force of nature which capitalism pitted against itself. She argues that women are also seen as forces of nature in that they are subordinated, overworked, viewed as dirty, and positioned as animals that produce labor as nature does. Salleh points out that much of women's work is mediating nature on behalf of men. Yet, many feminists reject the notion of being seen as nature which Salleh argues places them in a double bind, which men do not experience. This double bind has been theorized by materialist ecofeminists as a contradiction of unpaid work by women, reproductive labor, that assists the capitalist economy.

One additional point from ecofeminists is important to review. Salleh (1997) critiques the Great Chain of Being model, an Aristotelian mythology that sets God at the top of a pyramid, then elite men, then working men, then woman, children, animals, plants and rocks. The impact of the Chain is that within political economy, (unwaged) women are treated as an externality, or what she sees as not-quite-laborers, and often even as a natural resource. Salleh has highlighted the importance of overturning this hierarchical Chain and embracing the idea of humanity being nature in embodied form. Thus, mirroring Marx's ([1844] 1974) statement from the Economic and Philosophic Manuscripts:

The human person lives from nature – i.e. nature of one's body – and one must maintain a continuing dialogue with it if one were not to die. To say that the human physical and
mental life is linked to nature simply means that nature is linked to itself, for the human being is a part of nature (p. 72).

For Salleh, juxtaposing the Chain with an ecosocialist feminist perspective allows her to build on Marx by contesting the hierarchical perspective of man versus woman, and humans over nature which she exclaims is a critical step that the environmental crisis demands.

To capture the dialectically intertwined human and nonhuman nature, ecofeminists build on Marx’s insistence that humans are intrinsically linked and a part of nature. Therefore, I use the couplet “human and nonhuman nature” throughout the dissertation to depict and refer to the social relations between human beings and (from the Western perspective) all of the rest of “nature” including living and “nonliving” things, including rocks and air. This intertwined concept of human and nonhuman nature is illustrated in Indigenous Wayúu beliefs that were shared with me in the field. For example, a river is a living being with a spirit and that humans are in a relationship with the flow and movement of the river. It is also found in their belief that coal are the bones of Mother Earth and a living being in the Wayúu cosmovision. Therefore, to destroy a river to mine coal is a deeply violent act to living beings, as well as the human and nonhuman social relations that exist between the human and river as a cultural, spiritual and material connection (see Chapter Seven).

Similarly, in her ecofeminist critique, Salleh highlights the active and robust voices of those, like the Wayúu, who are often overshadowed. Salleh (2010, 2012) advocates that a clearer way for the global South to stop the submission perpetuated by the global North is to delink from it completely, recalling the work of Shiva and Mies (see also Amin 1980). She points to the idea
of *eco-sufficiency* and calls upon sociologists and alternative globalization activists to further articulate this idea in terms of metabolic value.  

Additional critiques, too numerous to elaborate in this brief overview include, political economy and global distribution of wealth (Merchant 2005) theoretical elaboration of productive and reproductive labor (Salleh 1994, Mies 1986), critiques of racism and sexism underlying white, male-dominated, Western discourses on overpopulation (Warren and Cheney 1991, Mies and Shiva 1993), ecocide, violence and species suicide (Spretnak 1990) and technology (Haraway 1985, 1988; Cohn 1985, Mies and Shiva 1993).

The challenge for materialist ecofeminists today is threefold: 1) Overcoming the complicated and profound backlash against ecofeminism as an essentialist project in the global North, especially in academic institutions, is crucial to bringing ecofeminist thought to the forefront; 2) The work must continue to incorporate intersectionality and settler-colonial analysis, and work much harder at incorporating critical race theory and praxis; 3) Salleh, Mies and Shiva have all worked directly with social movements in the global South and this work continues to be incredibly important, but as Salleh (2010, 2016) points out, translating the impacts and thinking between academics and social movements requires more care, thought and theoretical application.

To address these challenges, one further area of scholarship needs to be addressed regarding violence and nature. This literature is cross disciplinary and draws from several concepts to...

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2 Foster is the most recognized scholar of Marx’s metabolic understanding of capitalism and life in general. See Salleh’s (2010) response to Foster on the metabolic rift.

3 Additional critiques, too numerous to elaborate in this brief overview include, political economy and global distribution of wealth (Merchant 2005) theoretical elaboration of productive and reproductive labor (Salleh 1994, Mies 1986), critiques of racism and sexism underlying white, male-dominated, Western discourses on overpopulation (Warren and Cheney 1991, Mies and Shiva 1993), ecocide, violence and species suicide (Spretnak 1990) and technology (Haraway 1985, 1988; Cohn 1985, Mies and Shiva 1993).
theorize power and violence related to socionature processes. Building on these works, I understand socionature-based violence as historical, site-specific and rooted in social processes “connected to larger processes of material transformation and power relations” (Peluso and Watts 2001, p.6). Almost two decades after Peluso and Watt’s work, violence and social power relations leading to environmental destruction remain under-theorized in environmental disciplines. Peluso and Watts (2001) state:

Violence stands awkwardly in respect to environmental concerns. The environment is increasingly present and yet frequently hidden by both the perpetrators and observers of violence alike. Very little work has explored explicitly the ways that environmental violence reflects or masks other forms of social struggle. In general, the ways different forms of violence systematically figure in environmental struggles remain seriously under-theorized (p. 6).

From the social sciences, Peace and Conflict Studies on violence and conflict view violence through varying types of violence. For the purposes of this work, I draw on Galtung’s (1969) three types of violence: direct violence, structural violence and cultural violence. Galtung (1969) described direct and structural violence as:

We shall refer to the type of violence where there is an actor that commits the violence as personal or direct, and to violence where there is no such actor as structural or indirect. In both cases individuals may be killed or mutilated, hit or hurt in both senses of these words, and manipulated by means of stick or carrot strategies (p.170).

Galtung (1990) later defined the term cultural violence as, “any aspect of a culture that can be used to legitimize violence in its direct or structural form” (p.291).

In an effort to expand the understanding of structural violence, Nixon (2011) built his concept of “slow violence” as a process that includes taking into account changes that are incremental, accumulative and dispersed across time and space. Examples include public health

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4 Socionature is another term that various scholars have adopted to capture the intertwined human and nonhuman nature. See, e.g., Swyngedouw 1999, Gellert 2005.
impacts from coal dust inhalation, pesticides, and climate change. Differing from direct violence, slow violence is difficult for the impacted – often the most impoverished – to prove how illnesses are correlated to the exposure.

The anthropologist, Fernando Coronil (1997) critiqued “the erasure of nature in dominant currents of social theory” and posited the, “amnesia about nature has entailed forgetting as well the role of the ‘periphery’ in the formation of the modern world... that reinscribes the violence of a history made at the expense of the labour and the natural resources of peoples relegated to the margins” (p. 5-6). Further, critical and political geography scholars have linked development to environmental and cultural erasure. Building from foundations of post-colonial theory and race and ethnicity studies, Routledge (2003) posits that the Narmada Bachao Andolan (save the Narmada movement, NBA), struggling against a mega-dam development project in India were subject to “various spaces of economic, cultural, ecological, and political erasure” (p. 243).

Limited Western concepts of nature have led to extractive industries and conservation groups placing the blame on Indigenous and ethnic communities for damage to nature. Pemunta (2013) argues that Pygmy tribes in Cameroon are impacted by development projects that have “accentuated their exclusion because of their presumed cultural isolation” (p. 354). Further, the research demonstrates how the claimed modernizing of the tribes has “led to their deep entrenchment in poverty and resulted in complete erasure” (p. 354). The research critiques the limited Western concepts of nature and conservationist perspectives to be able to grasp the multiplex relationships that hunter-gatherer and farmers live between cultural, historical and economic relationships. As you will see, my research finds this trend everywhere in the field. The same communities struggling to live through the environmental violence of coal extraction are the
ones blamed for conservation concerns. They are also the ones targeted for participation in social and environmental compensation programs.

The ethnographic field research throughout my dissertation foregrounds the epistemic knowledges and cosmologies of the Indigenous and Afro-Colombian communities, as well as the knowledges of campesina and fisher communities, while recognizing these “categories” overlap. The direct, cultural and structural violence and the justifications of development – outlined below – impacts human and nonhuman nature as a form of cultural, historical, racial, ethnic, and environmental erasure. Compensating for the violence done to human and nonhuman nature, pricing nature, and paying for environmental destruction have great potential to divide and undermine communities, resistance strategies and social movements as explored through my field research (Malin and DeMaster 2016).

As Marx has been critiqued for paying inadequate attention to human agency, this multiscalar dissertation foregrounds the experiences of affected communities (Benton 1996). Justifications of development include seductive compensation schemes that are often used as a barrier to resistance of environmental defenders and impacted communities who might otherwise organize against corporate abuses (Bond 2014, Montesinos Coleman 2018). Proposals, such as these can put impacted communities that are already in difficult situations into impossible ones. There is little evidence to show that communities hoping for such payments have benefited much, particularly if they have lost their health, livelihoods, lands and culture from the impacts of coal mining (Gavidia and Kemp 2017, Gilbertson 2017). The following section explores the literature on compensation schemes and explains what it means to consider compensation incommensurable with the violence committed against human and nonhuman nature.
The multiscalar research in this dissertation works from three sets of actors. 1. Capitalist multinational coal mining firms that exploit human and nonhuman nature for profit. 2. State actors (and conservation NGOs) that create the preconditions and policies that support capitalism and the coal mining firms. 3. Communities impacted by the coal mining industry, especially Indigenous, Afro-Colombians, fishers, campesinos, women and their allies who are defending and extending systems that regenerate human and nonhuman nature through sharing power and control of means of life—environmental defenders (Le Billon et al 2020, Schiedel et al 2020, Bonilla-Mejia 2019). I introduce the idea of environmental extenders building from the materialist ecofeminist concept of life-centered, care-focused political economies that not only defend but extend nature through supporting local communities, education, cultural survival, agroecology and other acts of caring for communities and nature.

First, the capitalist multinational coal mining firms exploit human and nonhuman nature in Colombia for profit through enclosure and subsumption of time, energy and power of Afro-Colombians, Indigenous peoples, campesinos, fishers, and nature. The coal mining multinationals exploit the land, water and air by destroying aquifers, diverting streams and transforming and polluting the land and biodiversity (see Chapters Seven and Eight). The air is polluted, and local communities are impacted. Both unpaid and underpaid reproductive labor and nonhuman nature represent use value—the unpaid care, body-focused labor and work with the land that takes place in the home and the fields is largely and historically the labor of women, but not only women (Fraser 2014). As outlined above, material ecofeminists argue that unrecognized and unpaid reproductive labor hold up the system because capitalism relies on it being free (see also Fraser 2014). Applying their argument to coal mining, I argue that a large-scale extractive industry,
conservation NGOs and state-sponsored development projects together increasingly attempt to put a price on unpaid human and nonhuman nature. They do so through compensation programs that ultimately allows capitalism to create exchange value and accumulation from the tax breaks corporations receive (see Chapter Five and Nine), the exploited labor in the voluntary and state-mandated compensation projects (see Chapter Eight), the underpaid labor in the mines, and the state permits granted to extend mining concessions decades into the future, creating more extraction and more accumulation.

Second, the state and the limits of the law are explored throughout the dissertation. The law can act as an important mechanism of resistance for impacted communities, but ultimately, favors hegemonic power and capitalism through the asymmetric, systemic social power relations that are enacted in the consultation and compensation processes. One of the reasons is that the law is promoted and perceived as neutral by NGOs, aid agencies, and foundations. The perception of neutrality justifies corporate acts of power such as hiring corporate lawyers; coercion at the community, state and global levels; and mercantilism. The compensation programs are backed by a dizzying array of legal policies upheld by the state. Compensation transforms human and nonhuman nature from use value into exchange value by creating monetary “units” and an “equivalence” framework. The patriarchal state benefits through its collaboration with capitalist development from the global North by reinforcing a hierarchy of power in race, gender and class division, and also by enacting Galtung’s cultural violence (Giacomini 2020, Galtung 1990). Patriarchy, imperialism, settler-colonialism, violence and militarism are systems of control that capitalism and their collaborators use to extend control over human and nonhuman nature.
Third, the unrecognized value of the labor and nature (human and nonhuman natures) exist at the margins of capital and is exploited by capitalism. Cheap and unpaid work that produce labor is capitalism’s most important commodity (Moore 2015). When labor, land and nature (Polanyi’s fictitious capital) is priced, it is subsumed into a “unit” and exchanged through a pricing system that is set up for capitalist accumulation by creating exchange value (Polanyi [1944] 2001). Even if it was possible to put a price on everything – including unpaid women’s labor, emotional labor, birth, a river, the flow of a river, cultural connection to the river, collective care, love and on and on – those human and nonhuman natures have intrinsic value outside of what can be measured in a monetary and accounting system (Fraser 2014). However, the threat to capitalism in withholding human and nonhuman nature’s labor incites capitalist elites to measures of violence. The unrecognized and unpaid labors (river, flow, culture, love) are themselves a form of resistance by staying out of the monetary system and market capital, and at the same time creates a space for resistance (Salleh 1997). They hold a line on value that would otherwise be subsumed and garner accumulation and justification for their “units”.

When unwaged women and communities take action to deny capitalists their labor power, by using their time instead to engage in community-centered practices, it undermines capitalism (Giacomini 2020). The unrecognized and unpaid labors (river, flow, culture, love) are themselves a form of resistance by instead focusing on life extending practices, long-established political economies and cultures, strengthening collective ownership including control over energy, land, water, knowledges and education (Haraway 2016, Coulthard 2014, Shiva 1988). In the chapters that follow examples of care and resistance include: traditional fishing practices, fighting for multiethnic education rights, tutelas, road strikes and walk outs. All of these acts of resistance
begin with community cohesion and the practices described above. They are critically important for the future of the planet because the labor exists outside of the “never ending accumulation of dead money” (Bennholdt-Thomsen and Mies, 1999, p. 5). The communities hold a line by resisting and organizing outside of a system that would subsume and garner accumulation and justification for their “units” of labor and nature.

Capitalism, militarism, development and globalization have scaled up the accumulation to a point that the limits of the Earth and (the most marginalized) people are being reached. Thus, while ecofeminists recognize the crucial acts of reproductive labor and care as both supporting and undermining capitalism, it is equally crucial to recognize that human and nonhuman nature is also experiencing a type of erasure in a timescale never experienced before. In a moment of climate change threat, materialist ecofeminism is gaining attention again for its analysis and praxis against patriarchal capitalism’s violent socio-environmental erasure, as well as the defense of life, commons-centered regenerative systems and just transition (Giacomini 2020, Brownhill and Turner, 2020, Federici 2004, 2019, Giacomini et al 2018, Turner and Brownhill 2004,).

Part 2: CSR, FPIC and the Incommensurability of Compensation

Studies in political ecology, political economy and critical geography studies show how Corporate Social Responsibility (CSR) programs, Free, Prior and Informed Consent (FPIC) and resulting compensation often work to distract criticism of corporate mining practices in order to “close down public debate” (Bebbington 2010, p. 107), “divide and rule” (Kirsch 2014, Schilling-Vacaflor and Eichler 2017) and ultimately legalize harm and safeguard extractive projects. Studies in environmental justice and political ecology highlight the notion of incommensurability between
monetary value and the violence of extractive industries. For these scholars, negotiations regarding compensation often make visible the ontological clash of valuation metrics and language between mining companies and impacted communities. Based on the literature, I build analytically on the concept of compensation, indicating the various ways the corporations pacify dissent and divide opposition, and the concept of incommensurability to underline the impossible task of socio-environmental compensation. As such this section contributes to the literature with its specific focus on corporate social responsibility and compensation programs.

**Corporate Social Responsibility (CSR)**

In 2005, the UN High Commissioner for Human Rights adopted a resolution that requested Kofi Anon, the Secretary-General of the UN, to appoint a “special representative on the issue of human rights and transnational corporations and other business enterprises” (UN 2005). John Ruggie acted as a Special Representative of the Secretary-General to the UN to develop a set of human rights principles for transnational corporations and other business enterprises. The current use of CSR principles is the product of John Ruggie’s “Protect, Respect and Remedy” framework for the UN Working Group on Business and Human Rights (UN 2005).

Prior to Ruggie, Bowen (1953) is seen as the first to outline CSR in his early work titled *Social Responsibilities*. While there is no clear definition of CSR, it generally refers to a “range of voluntary initiatives that aim to minimize corporate bad practice” (Utting 2008, p. 969). CSR instruments typically include codes of conduct, guidelines for responsible business conduct, improvements in environmental management systems, compensation, occupational health and safety, company sustainability reporting, internal and external auditing and stakeholder dialogues.
Building on foundations of modernization theory, the CSR agenda was originally elaborated through the idea of benefit-sharing as outlined by the World Bank (Wall and Pelon 2011). It is widely accepted that the emergence of voluntary corporate responsibility in the 1990s assisted in avoiding litigation, whitewash and continuing business-as-usual (Doane and Abasta-Vilaplana 2005, Madeley 1999). Frederiksen and Himley (2020) highlight the need for scholars to further explore the quieter registers of corporate power through social interventions and CSR programs. Contrary to the focus of most literature on corporate power as well as the extractive industry’s particular reputation for violence and overt coercion to achieve “socio-economic order” in their operations, they argue that we need to concentrate on how mining companies often deploy quieter forms of power such as manipulation, seduction and negotiation (p. 5).

However, Montesinos Coleman (2018) claims that voluntary corporate responsibility should not only be understood as “whitewash” but that it “actively bolsters the impunity enjoyed by corporations complicit in human rights abuses” and how CSR “for human rights renders the violence of development illegible, normalises [sic] plunder and equates resistance with irrationality or subversion. Rather than mitigating against human rights abuse, it serves to justify the repression of Others who oppose “development” and “progress” (p. 4). Based on a case study of a mining company in El Pangui, Ecuador, Warnaars (2012) argues that CSR programs contribute to disarticulation of criticism of companies by local communities, deflect censure as a way of diverting responsibility, and diffuse local opposition by creating internal divisions inside communities.

In this way, CSR often acts as to divide and rule. Bebbington (2010) argues similarly that CSR “disarticulates conflict” and points to some of the reasons being some cases receiving targeted
benefits from CSR programs leading to “calculations to shift” turning persons into being more “favorably disposed towards mining” (p. 107). He also mentions the possibility that leaders are effectively “bought off” or that different actors “begin to discuss and disagree among themselves rather than with the company” (ibid.). Bebbington concludes by arguing that one of the most important effects of social responsibility programs “is to close down public debate” (ibid.).

**Free, Prior and Informed Consent (FPIC)**

Although CSR is ultimately used as a voluntary framework, it has influenced the legally required license to operate in several Latin American countries. In order to operate, corporations must obtain an environmental license from the state licensing body, which often outlines social obligations and compensation. One of the social obligations is the ILO 169 rights to Free, Prior and Informed Consent (FPIC) that grants rights to prior consultation to state-recognized Indigenous and ethnic communities. However, even when FPIC and state social and environmental licensing are followed, power asymmetries emerge because FPIC works under a pluralist assumption that states operate as neutral arbiters of societal groups. Flemmer and Schilling-Vacaflor (2016) show, for example, through case studies from Bolivia and Peru, that power asymmetries between the different actors involved in legal licensing processes and prior consent were the main cause for communities not benefiting from such processes. As the processes were largely controlled and “captured” by the state, they were reduced to being a bargaining tool for communities to “get a share of the pie” and to be compensated, rather than for securing the overall rights and livelihoods of local populations that the mechanisms are, in their legal design, deemed to assure. Almut Schilling-Vacaflor and Jessika Eicher (2017) shed light on the exclusionary participatory processes and the use of “carrot-and-stick techniques” in consultation processes and
negotiations over compensation (p. 1457). Their study demonstrates how divide-and-rule tactics were used by the state and extraction corporations alike exacerbating local conflicts and dividing communities (see also Bebbington 2012, Pellegrini and Arismedi 2012).

Emerging research based on long-term fieldwork in Latin-American describe how certification, consultations and Free, Prior and Informed Consent (FPIC) processes “are not neutral instruments” (Fontana and Grugel 2016, p. 22). As I will elaborate later in this dissertation, power asymmetries are found in the unequal social relations between legally recognized ethnic communities in Colombia, the power of the state and corporations. In Colombia, recognized Afro-Colombian communities have legal rights to consulta previa (prior consultation). Machado et al (2017) builds on a post-colonial foundational framework and critical race and ethnicity to identify several problems with the consultation processes, particularly “the seeming impossibility of crafting conditions for genuine interculturality” (p. 1075).

Under the 1991 Colombian Constitution, Colombia is officially recognized as a multiethnic and multicultural society. However, the state’s lack of political will to uphold consent and the lack of space for “exchanging worldviews” often supersede the existence of multiple legal ontologies spanning from Indigenous and Afro-Colombian law to western “hard” law (p. 1087). The authors refer to the concept of “social minefields” developed by Rodríguez-Garavito (2011) in order to understand consultation processes both “in terms of the limited presence of the state and the unequal relations between companies and communities” and a more literal meaning indicating how “any misstep can have lethal consequences” (Machado et al 2017, p.1078).

Consultation processes can fail to comply with their legal intentions and work as mechanisms that legitimize land acquisition and ultimately, further capitalist extraction. Alexander
Dunlap (2018) demonstrates this point based on a wind energy case study in Juchitán, Mexico. Dunlap finds that the Free Prior and Informed Consent (FPIC) procedure related to the wind farm project was “an attempt to channel rebellious tensions into “constructive” negotiations and “appropriate channels”, which was “mediated by a bureaucratic procedure” in order to affirm corporate industrial progress intensifying its social and ecological consequences” (p. 91). Dunlap argues that the FPIC process served to entrench state power and reinforce existing political and economic asymmetries, while representing a “soft” technique to combat insurgency “that harnesses democratic techniques of incorporation, self-identification and participatory decision making for the purpose of inclusionary control” (p. 105).

My research finds that the acronym FPIC is misleading and rarely enacted in the field in a free process with all community members involved, who are free to express their cosmovisions, In addition, the consultation process does not always happen prior to a projects’ implementation as I demonstrate in this dissertation. Further, the ‘C’ for ‘consent’ is increasingly being redefined as ‘consultation’, as the principle of ‘consent’ implies the right to veto a project (see Franco 2014, Machado et al 2017).

The strategies that help corporations engineer and manufacture consent, withstand censure and endure crises (Frederiksen and Himley 2019, Allen 2011, Burawoy 1979), including persuasion and manipulation as well as “divide-and-rule” techniques (Schilling-Vacaflor and Eichler 2017). They are made possible through the current legal mechanisms of consultations and certainly when monetary compensation is involved. The following section explores literature on compensation.
Compensation and Incommensurability

Compensation may be the result of projects that aim to legitimate corporate practices, legal agreements between the state and corporations, or a response to grievances organized by impacted communities. Compensations can take the form of payments, resettlement and various types of environmental, social and educational projects both within the voluntary CSR framework and through state mandated legal requirements outlined in a corporation’s environmental license.

The foundational argument regarding why compensation does not address socioenvironmental impacts is that all forms of compensation, voluntary or regulated, require a monetization of nature, culture and place. Within the framework of Marx’s MCM’, money (M) is commodified (C) into money + excess or surplus value. Corporations claim, while of course not accepting a Marxist frame of analysis, that they “share” some profit back to the community through compensation. Were that to be the case, then part of the surplus value would be cycled or shared with the community. In order for this to hold, however, an equivalence has to be created between the small portion of the M’ (money + excess) returned to a community as a compensation and the value that they provide the corporation. Moreover, ignoring the question of whether this conjuring of equivalents is accepted by the community, the result is a fully monetized cycle for capitalists in which these externalities (community claims) have been resolved. Having included communities in their calculation of equivalents, the corporation can simply pass on the compensation cost to the consumer, seek tax breaks or lower wages so that the compensation never impacts capital accumulation. Further, the compensation is money transformed through commodification and is not the lost material nature, human or nonhuman, nor is it the socio-cultural damage created during the process of MCM’. The lost material nature and socio-cultural damages still exist and build-up
as extraction and accumulation continue. In this way, compensation, regardless of the scale of violence committed against human and nonhuman nature, is incommensurable with the environmental, cultural and social erasure.

Importantly, compensation will never impact the corporations’ capitalist accumulation strategy because, just like taxes and royalties, the monetary (or unidimensional) terms of compensation is not designed to impact capital accumulation (Venkatachalam 2007). Compensations by corporations use a strict utilitarian accounting system based on classical economics as a way to justify how economic rationality dominates natural resource policy above other values (Smith [1776] 2003, Peet and Hartwick 1999). The belief in monetary compensation is based in classical economics and in the discipline of environmental economics, which assumes that environmental losses form part of overall economic equivalences and, therefore, that these issues can be well analyzed by extending the existing classical economic tools and principles without altering the fundamental structure of them. From this perspective, there exists the possibility to reach optimal solutions based on monetary or through a unidimensional calculation.

Fabiana Li (2011) calls the justification the “logic of equivalence,” meaning that it makes the consequences of a mining project commensurate with the mining companies’ mitigation plans, within the same value system, or “metrics”. Guzmán-Gallegos (2017) argues:

As when defining and establishing contamination, the act of compensation, either as reparation or as indemnification, entails establishing equivalences and commensurabilities, which means making a ‘sameness’ of different things…. Destroyed forests or sick bodies are for instance made equivalent to monetary payments. Such equivalences and commensurabilities also introduce the logic of balancing out, of calculating costs, and of losses and benefits (p. 32-33).

In the context of mining, commensuration means that air pollution, as an example, can be compensated for with a monetary payment or a resettlement plan. As I demonstrate in the research
below, what is being calculated is not the fictional objective measure of damage in the form of a payment by the corporation to the loss shouldered by the communities and nonhuman nature via the logic of equivalence, but the fictional economic measure of the losses tallied up by those with asymmetrical power and the measure of its mitigation used to divert resistance strategies, divide communities and distract public attention away from the damage.

Globally, communities of color experience higher levels of environmental impacts through racial capitalism, global development and environmental racism (Pulido 2017, Bullard 1993, Taylor 2014). Taylor (2014) has worked since the 1980s pointing to the glaring fact that people of color communities are more highly impacted by pollution and related health impacts due to racial inequalities. Bullard (1993) has also worked since the 1980s linking high rates of environmental pollution to communities of color and explaining how global development and environmental racism are intertwined. Moving to a more generalized global level, Pulido (2017) argues that environmental racism is a component of racial capitalism and goes on to state that “If, in fact, environmental racism is constituent of racial capitalism, then this suggests that activists and researchers should view the state as a site of contestation, rather than as an ally or neutral force” (p.524). The link between racial capitalism and increased accumulation and power of the coal mining corporations pressures the state to outline laws for consultation and compensation, and ultimately promote them as commensurable with ongoing environmental racism.

As a foundational scholar on valuation language in the discipline of ecological economics, Martinez-Alier (2001) points out how the clash of valuation language goes beyond the ability of a cost-benefit analysis to take into account environmental racism, justice, indigenous territorial rights, and environmental security. Communities often legitimately use language that goes beyond
the simplifying monetary weights espoused by conventional economics. Trainor (2006) argues that it is important to acknowledge the varying realms of value, including cultural, geographic and spiritual expressions of value.

Many economists and business academics seek ways to formulate compensation programs. Proponents of compensations argue that they function to reduce conflict when using the correct monetary formula (McLeod 2000, Hilson 2002). McLeod (2000), for example, cautions against strict monetary compensations, but ultimately outlines an economic accounting framework that includes cultural and other social losses, thereby arguing for compensations as a method of reducing conflict. Hilson (2002) outlines conflicts with mining corporations, specifically in the case of Ok Tedi in Papua New Guinea. Although Hilson admits that mining corporations could never fully compensate for environmental and cultural losses, he outlines generalized guidelines for compensation programs. The guidelines, written almost two decades ago, have been incorporated into a wide range of compensation frameworks.

Overall, research on compensation programs demonstrate that compensation is often inadequate, illuminate power asymmetries and that communities are rarely satisfied (Ballet, Lompo, and Randrianalijaona 2019; Schilling-Vacaflor and Eichler 2017; Spash and Aslaksen 2015). Power imbalance impacts the process and outcome of compensation. Adonteng-Kissi (2017) finds the power imbalance between mining corporations and local farmers a key reason why compensation packages fail. The one-time payment does not compensate for the finances lost from long-term farming, nor does it generate sufficient wealth to secure communities against poverty or food insecurity. In addition, the weight of the support from the state creates a power imbalance
that favors the large-scale mining corporations' compensation measures and marginalizes the indigenous farming communities in Prestea, Ghana.

Further, voluntary CSR and regulated compensation can fall into blurred areas impacting the legal rights of communities and exacerbate existing conflicts. As Kidido et al (2015) argues in the case of Ghana, without clearly defined state guidelines in place, compensation measures fall short because land holders may have varying legal claims to land use. Therefore, power imbalance, land acquisition for capitalist expansion, and compensation is asymmetrically rewarded, leading to additional conflicts within and between communities.

Compensation often acts as a silencing mechanism and a barrier to resistance, both points are explored throughout my dissertation. María Guzmán-Gallegos (2017) is one of the few scholars who has looked specifically at the compensation demands and the following corporate payments. Based on her study of oil in the Peruvian Amazon she shows how compensation becomes a dominant tool for both appeasing uprisings and counteracting a perceived state abandonment. She advocates for a shift in focus from consultation meetings (the process) to the actual outcomes of these activities in daily life, as it allows us “to see what practices of (...) establishing equivalences and commensurabilities, actually do” (p.111). Fabiana Li (2011) argues that agreements on compensation can function to “buy compliance, with little regard as to whether it would actually compensate for the mine’s potential damages.” (p.68). Li focuses on how law comes to work as a common standard that facilitates commensuration in the context of mining but reminds us also how law leaves room for contestation. Moreover, commensuration has been implemented via participatory processes of environmental impact assessment evaluation that are framed as (part of)
commensuration because they are (purportedly) viewing all actors as having similar power and voice (Li 2011, Espeland 1998).

Addressing the reductionist notion of economic valorization over all other values can lead to increased inequalities, this research asks how compensation is used as a mechanism that has created more discord and inequalities than benefit for communities impacted by coal mining in Colombia. To summarize, CSR guidelines and legal socio-environmental consultation and compensation programs support corporate business-as-usual, and when community grievances are taken up by corporations and states, the outcome can result in community division, diversion from dissent and distracting the public and communities from the direct and structural violence enacted on human and nonhuman nature. Compensation is explored throughout this dissertation both within the legal framework of the environmental license required by coal mining corporations in Colombia, and the voluntary CSR programs arising from the coal corporations’ non-profit foundations. As we shall see, social programs such as bread making and microcredit programs, water security, air pollution, biodiversity loss and climate change are all embedded in compensation programs. Yet, as an example, water across cultures in Colombia holds cultural significance and life-affirming power and can therefore be argued to escape the logic of equivalence and commensurability. In addition, air pollution and climate change are given equivalences in a financialized market. Finally, I question how compensation acts as a barrier to resistance.
Chapter 3. Methods

Introduction

Colombia is the fourth largest economy in Latin America, and despite the half-century civil war, foreign direct investment has expanded rapidly since the 1990s and especially since joining the OECD in 2013. Large-scale coal mining began in the 1980s in Colombia with state ventures and multinational investment. Extractivist mining was a pillar of the neoliberal economic development strategy under President Álvaro Uribe Vélez (2002–2010) and continued through President Juan Manuel Santos Calderón. Since 2000, the government has maintained a neoliberal economic trajectory and conservative politics.

This stance began when the state-owned company, Carbocol, sold its stake in the Cerrejón mining operation in 2000. Colombia's Mining Code (Law 685) liberalized the sector in 2001, by promoting coal as a path to development based on exports, job creation, and state royalties, while limiting government power to a regulatory role (UPME, 2015). Colombia is the fifth largest net exporter of steam coal after Indonesia, Australia, Russia, and the US, exporting an estimated 82 Mt, over 95 percent of its extracted coal (IEA 2019). Mining and oil extraction account for eight percent of Colombia's GDP (IEA 2015). The most recent presidential election in June of 2018 placed Iván Duque into power over Gustavo Petro, who campaigned against the lack of local and regional benefits from hydrocarbons.

Design

Seeking to probe social power relations, including direct, structural and cultural violence against human and nonhuman nature at global, state and local levels, I research the large-scale open pit coal industry in the northeast Caribbean region of Colombia (see Figure 1 and 2). Historical context, place and temporal indicators are vital to the study of the coal sector at the
global scale. Generalizing data from case study research is challenging. The research acknowledges the interdependence between the research location and the temporal and global contexts in which it is embedded. I use a multiscalar case study design focused on the asymmetric power relations at the in-between and edges of social, spatial political economies of development in the form of the coal mining sector in the northeast Caribbean region of Colombia (Figure 1). The in-between are the socioeconomic political economy relations between the corporations and state, the corporations and communities, and the communities and the state. The edges are the material and spatial spaces and relations where human and nonhuman nature are impacted by the coal mining sector, drawing attention to the experiences of Afro-Colombian, Indigenous Wayúu, campesinos and fishers.

At every stage of the research I address how the global, state and local scales interact. At the global level, multinational corporations operate coal mining enterprises in Colombia. US militarization in Colombia continues to be a contributing factor regarding territorial control and industrial development. Importantly, neoliberal capitalism in the late 20th century impacted the entire large-scale coal mining sector. The sector is operated by multinational corporations located in the global North and over 95 percent of the coal is exported into the global market, which plays a major role in the shaping the demand for the commodity. Therefore, the global level represents a complex interplay between capitalism and imperialism enacted through the social power relations among multinational corporations, the global coal market, international policymaking and development.
The Colombian state is represented by institutional actors involved in policymaking at the local, regional and national level. These actors include elected and appointed officials. How legal approaches are enforced and enacted in relation to the coal industry, human rights and environment demonstrate the power and limits of the state to uphold the law. Although Colombia has several laws in place that address human rights and the environment, these laws are not always designed or enforced to protect the people or nature. In addition, NGOs and academics represent actors in institutions that may influence policy decisions. The state is situated between the multinational corporations and the people it is supposed to govern. However, fraud, fear and ideology often overshadow the power of the role of the state. Therefore, the state level represents a complex
interplay between capitalism and law enacted through the social power relations among state officials, multinational corporations, and citizens' demands.

The local level is represented by impacted communities that include Indigenous Wayúu, Afro-Colombians, social leaders, environmental defenders and extenders, fishers, workers, campesinas and others that find themselves resisting the impacts of large-scale coal mining. Within these groups, women were foregrounded following a feminist epistemological approach (Haraway 1991, England 1994, Katz 1994). Resistance to the industry is situated in a history of violence complicated by the presence of guerrillas and paramilitaries. Colombian social leaders live in constant fear and repression. Therefore, the local level represents a complex interplay between survival, relationships with nature, rights, resistance and direct and structural violence enacted through the social power relations among local communities, state officials, and multinational corporations.

**Locale**

This research concentrates on the region of coal mining in northern Colombia (Figure 2). Colombian coal is extracted, transported and controlled by multinational corporations. According to Carlos Cante, the Vice-Minister of Mining and Energy, Colombia has almost 6 billion tons of proven reserves and an estimated potential of 16 billion tons (Reuters 2017). The large-scale, open pit mining regions are located in the Departments of Cesar and La Guajira in the northeastern region of the country where 95-98 percent of it is exported (IEA 2019, Drummond 2018).5

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5 Department depicts a political region similar to a state in the US.
In Cesar, the mines occupy an estimated area of 24,800 hectares (248 km²) but total concessions are much higher (El Pilon 2016). There are seven large-scale open pits in La Guajira operated by Cerrejón, and Cerrejón has exploited about 13,000 hectares (130 km²) of the 69,000 hectares (690 km²) the company holds in concession (Cerrejón 2017). MNCs operating in Cesar are: Drummond Company subsidiary Drummond Ltd Colombia (owned 80% by Drummond Co.)
US and 20% Itochu, Japan); Glencore Plc's subsidiary Prodeco, Switzerland; and Colombia Natural Resources (CNR), a subsidiary of Murray Energy Corp, US.

Drummond was founded in 1935 and is based in Birmingham, Alabama (USA). The corporation operates coal mines, processing and sale of coal and coal derivatives. The company began production in Colombia in 1995 and exports all of its output as thermal coal to 24 countries around the world. Drummond has reserves of approximately 1.9 billion tons. Over the last years, Drummond has exported the largest quantity of coal from Colombia. Production in 2019, was approximately 36 million tons (Drummond 2018). The largest quantity of coal production in Colombia comes from Drummond’s Pribbenow surface mine. Drummond’s second mine is the adjacent Descanso mine both in the Cesar Coal Basin near La Loma. It also operates Puerto Drummond, a deep-water ocean port, coal transportation and handling facilities on the Caribbean Sea near Santa Marta, Magdalena (Figure 3). Drummond also operates 40.96% of the concessions of the railway, Ferrocarriles del Norte de Colombia S.A (Fenoco) used to transport the coal to the seaport (bnAmerica 2019).

Grupo Prodeco, headquartered in Barranquilla, Colombia, is a subsidiary and wholly owned by Glencore plc. The subsidiary conducts exploration, production, transportation and shipping of thermal and coking coal, and related infrastructure. The coal is exported to Europe, America and Asia. Grupo Prodeco is made up of C.I. Prodeco S.A., owner of the Calenturitas mine and a railway operation; Carbones de la Jagua S.A., Consorcio Minero Unido S.A. and Carbones El Tesoro S.A., owners of La Jagua mine; and Sociedad Portuaria Puerto Nuevo S.A., which owns the coal export terminal Puerto Nuevo. Glencore acquired Prodeco in 1995. In 2004, the company began operations in the Calenturitas open pit mine. In 2007, the company bought the Consorcio Minero Unido mine, and one year later, it acquired El Tesoro, thus completing a full acquisition of
the La Jagua mining operation. Grupo Prodeco also operates 39.76\% of concessions with Ferrocarriles del Norte de Colombia S.A (Fenoco), which Prodeco uses to transport coal to Puerto Nuevo, located next to Drummond’s Port (Prodeco 2019, BNaericas 2019).

Figure 3. Map of the Caribbean northeast Colombia depicting coal mines, trainlines and ports in Cesar, Magdalena and La Guajira.

(Source: www.upload.wikimedia.org/wikimedia/commons/3/3e/Mapa_de_Colombia_(relieve).svg with author’s interpretation).

The active CNR coal mines include La Francia and El Hatillo. In addition, Murray’s CNR acquisition in 2015 from Goldman Sachs of the La Francia and El Hatillo mines include three undeveloped mining sites with coal reserves totaling over 184 million tons (Murray 2015). CNR
exports the majority of its mined coal through the Prodeco Puerto Nuevo and Santa Marta’s city port. CNR (approximately 9-10 percent) and smaller coal mining companies own the remaining railway concessions.

In total, the Department of Cesar exports approximately 56 million metric tons by train to the ports. Fenoco S.A., is the Colombian company responsible for the administration of the railway concession in northern Colombia. In 2000, Fenoco received the concession from the state for a period of 30 years. The contract includes the reconstruction, maintenance, operation and exploitation, through the service of rail freight; the operating contract are shared concessions with Drummond, Prodeco and CNR for 240 km of the Atlantic Network from Chiriguana to La Loma and ending at the ports near Santa Marta at Ciénaga (Logistics Capacity Assessment 2020).

Each day, approximately 31 trains transport coal from the mines to the port and back. Every 20 minutes, a new train starts its route to the ports and passes through 10 municipalities through Cesar and Magdalena (Cardoso 2015). The noise and dust impact local communities along the route. Between 2008 and 2011, 25 deaths and 280 injuries were reported (Cardoso 2015). In 2015, the Colombian Constitutional Court upheld a complaint from 139 residents of Bosconia, a town on the train line and ordered Fenoco to suspend nighttime train operations (Global Energy Monitor 2019). There are very few lights, barriers and warnings before a train passes, and the trains pass through the center of many small towns (personal observation 2018).

The Department of La Guajira is located between Magdalena to the West and Venezuela to the East. Consisting of six open-pit mines, the largest open-pit mines by reserve in Latin America, Carbones Del Cerrejón Limited (referred to as Cerrejón throughout this dissertation) is jointly owned by BHP Billiton (UK), Anglo American (Australian) and Glencore (Switzerland). In 2018, Cerrejón produced 30.7 million tonnes and exported 30.5 million tonnes from coal concessions
covering 690 square kilometers that are leased from the government through 2032 (Reuters 2019, Cerrejón 2019). The total proven reserves are reported to be around 3000 million tons of surface mineable reserves (World Coal 2015). Over 95 percent of the coal is transported by a fully implemented rail system owned by Cerrejón 150 km to the Puerto Bolívar port on the Caribbean Sea for export. According to an anthropologist working in the region, approximately, two human deaths are reported per year on the train line, and an unaccounted number of goats and other livestock are killed, an ongoing point of contention between Indigenous Wayúu and Cerrejón (personal communication 2019). When I was on a tour at the Cerrejón mine, the tour operator claimed that the deaths on the train line occur because the Wayúu are drunk, a settler-colonial trope about Indigenous peoples long used to blame the victim and distract responsibility away from the multinational mining corporation (personal communication 2018).

Coal, in the regions of Cesar and La Guajira, accounts for close to half of the regional GDP of each Department. Yet, only 7.5 percent of the electricity generated in Colombia comes from coal (UPME 2015). Almost 70 percent of the electricity in Colombia is generated through large-scale hydroelectricity, the remainder is mostly oil and gas (UPME 2017). Although coal mining is often promoted as development with promises of jobs and development, the Caribbean coal mining regions remain among the most impoverished in the country.

The region of La Guajira, where Cerrejón operates, has the third highest poverty rate in Colombia and 65 percent of the population lack basic needs (PNUD, 2013). Further, coal mining in Cesar and La Guajira is linked to environmental injustice due to the displacement of the Indigenous Wayúu, Afro-Colombian and campesina communities. While some communities were evicted and resettled due to mining expansion, others are living with ongoing environmental pollution and health impacts.
In Cesar and La Guajira, mining operators rarely employ the local population. Increasingly, workers are hired through third party contracts and do not receive benefits or full-time worker status through the contracts and can be fired at any time for any reason (personal communication 2019). Socioenvironmental problems occur when rivers are diverted, which has a serious impact on local communities and fishers; houses are damaged by the explosives used for mining; and health problems are widespread and attributable to coal dust, water contamination and overburden. Trains passing through small communities cause damage to houses and health impacts. Communities living near the ports are deeply impacted by contamination, lack of water resources and ongoing violent repression.

**Methods, the Field and Reflexivity**

I used ethnographic field methods to conduct research at towns and villages near the mines, trainlines and ports in Cesar, Magdalena and La Guajira. I was introduced to participants through contacts with researchers from Colombia, Denmark, Spain and the US. I lived in Santa Marta and traveled to the field sites in Zona Bananera (Cesar-Magdalena train line community; two visits), Cesar (five visits) and La Guajira (eight visits), staying between three to seven days per visit. The community near the ports in Magdalena, I visited seven times over three months, with three follow-up visits afterward (See Table 1).

I have previously conducted ethnographic field research in Brazil, Thailand, Spain, the UK, and Indonesia. I love being in the field, meeting people and listening to people talk about their lives. I have been hooked since 2003. My parents grew up on poor rural farms in North Dakota, and although I grew up in town, as a child we visited every weekend to help out, so I feel at home, and a sense of nostalgia (for better and worse) in rural and impoverished spaces. I am a white, middle-aged woman from the US. I lived in Spain for twelve years, but I speak Iberian *Castellano,*
which meant I needed some time to adjust and learn rural Colombian expressions and accents. I usually present slightly younger than I am. These were mostly privileging factors.

In Cesar near the mines, I spent week-long visits. Four of the five visits I traveled alone to meet up with local key contacts, one of whom I met through a contact at a university. My second key contact in another town was someone I interviewed, and he offered to help me interview others in his region when I returned on the second visit. Cesar has not been researched as much as La Guajira. In my experience, participants were more open and curious about the process in Cesar. Traveling alone in the region was a risk, but it also allowed me to work closely with my local key contacts, and since it was just the two of us, we were mobile and could get a lot of work done in one day. We always began early in the morning, as Colombians in the Caribbean region are usually up by 5am to get things done before the heat sets in. I stayed in motels in the local towns.

I worked with two key contacts in Cesar, both men. Because I traveled as a woman alone to Cesar, the contacts made an effort to accompany me everywhere due to safety concerns and cultural norms (because I was a woman), as if they were my brothers. I appreciated their care in keeping me safe, and I did what I could to ensure theirs, which meant always staying alert and being very quiet and low-key when necessary and more present and visible when appropriate. One of the contacts is a well-known social leader in the community and he wanted people to see that he had a gringa riding around town with him on his motorcycle because, he told me that, my presence provided him safety. In other words, it was less likely that he was at risk of assassination if a US national was with him at the time. Being white and blonde, I stuck out in Colombia, which occasionally made me feel unsafe. It also meant that people assumed I was from the global North. Either they were curious about speaking to me, or other times, I seemed to arouse suspicion, and I got the feeling people did not want to speak to me. In these moments, my key contacts were
important to clarify what was happening. I did not pay the key contacts or any participants, but I did pay for the use of the key contact’s motorcycles, and I paid for their food, provisions, gas, and most anything they wanted throughout the days we worked together.

By the second visit to Cesar, we developed bonds and trust, as well as a general routine that worked around their schedules. The trust was based on various things. I brought copies of photos back of them and the participants. These photos were really special to people and they saw that I made an effort to return. By the second visit to Cesar, the key contacts and I had accomplished a lot of work and this took pressure off of me. In addition, they became motivated by the work and our ongoing conversations. They trusted my instincts and because I communicated a lot of feedback, they knew that I trusted theirs. It wasn’t that I was subservient as I am quite assertive when necessary, it was that we communicated and reflected on the field together and in those conversations, we found a working flow. The work was physically and emotionally exhausting, so we also had fun, and took breaks. These informal moments are extremely important to relationship building. I made sure not to add pressure if they had obligations to their family or work life. One of my contacts was a social leader living on a pension and the other was a fisher who also picked up seasonal jobs, so both of their schedules were relatively flexible. Sexism in the field was frequent, so my key contacts were absolutely crucial to my wellbeing. We established mutual trust and much of the quality, quantity and depth of the research is owed to our working relationships.

A typical interview went like this. When we arrived at a place, usually a person’s house, they would introduce me and we would all chat informally. I stayed quiet, listened, and waited until I was introduced. When there was a natural lull, the key contact or I would ask the person if I could interview them. I then showed them the Spanish language IRB and took time to make sure they understood it. I asked permission to record and they usually said yes. I started with a general
question based on the previous informal chat using a very informal and easygoing tone, and then I listened. I was careful to avoid interrupting because I find that people will answer your questions if you listen and they find a flow. In this way, I had semi-structured interview questions in mind, but I kept them to myself and waited until the end to bring them up or ask for clarification. Sometimes the interview questions I had in mind seemed absurd in the actual moment, so I changed them and used flexibility to follow up with what made sense in the moment. I was also careful to maintain eye contact and avoid taking notes because I wanted the focus to remain on the person speaking. There were a few times when note taking seemed to put people at ease, so I took more notes, but I would make sure to frequently look up at them so they knew I was still engaged.

Importantly, I never made promises I could not keep – never. Empty promises and false hope might be the best way to destroy field relationships. Even when I wanted to support a community or a person in a difficult situation, I found it best to be clear about my capabilities and limitations. Sometimes, I was able to support communities by connecting them with local networks or Colombian organizations, follow up interviews, conducting workshops and returning with information.

Men were more forthcoming and would talk a lot, so I let them, and saved any specific questions until the end. In general, women were clearly not used to people being interested in what they had to say, and sometimes that was a barrier. Because I was working from a feminist epistemology and praxis, I worked hard to foreground women’s experiences in the field. I had to pivot a lot to first, get any interviews with women and second, to encourage them to speak. I politely insisted to my key contacts, both very masculine men, that I speak to more women because at that point most of the participants were men, but as we developed trust and mutual respect, the key contacts made an effort to seek out women.
Two methods worked well with women. One, I would take photos of them or family portraits, with their permission of course, and bring them back as gifts on the return visits. Second, I found that small group interviews with women brought out their perspectives and personalities. These moments were less like interviews and more embodied field research. Sometimes they would happen during a walk and other times in sit-down group interviews. Sometimes women would ask me to come back the next day for food or to go with them somewhere, and I always made an effort to show up. In fact, I extended several visits in the field because women asked me to come to a meeting or stop by for breakfast the next day. It was a great honor to be invited back, and I was grateful to accept every invitation. As reflected in Table 1, the majority of women that I interviewed (in all of the groups) were Afro-Colombian women in Cesar who were confident, enthusiastic, and open to participating with me – several who were strong social leaders.

Many contacts in the field would maintain communication with me via Whatsapp when I was back in Santa Marta. This correspondence was a great way to stay in touch with people. I did, however, learn not to respond to text messages from men after 7 pm because several times they would be drinking and text inappropriately if I responded. I followed up first thing in the morning instead.

Cesar was the hottest location and I nearly passed out twice in the field, which has never happened before in my life. In La Loma we often took a break after lunch because the heat was unbearable. I found that eating as much as possible in the morning helped. The third out of five visits, I traveled with a group of four Colombian researchers.

In La Guajira, I worked with a local Colombian university student on my first visit. On my second visit, I worked with a group of Colombian researchers. The majority of the field work was conducted with two other women researchers, another Fulbright recipient from the US, and a
researcher from Denmark. They already had established relationships with key contacts in the region, so I followed their lead. To me, they were very good and respectful anthropologists, and they built strong bonds with key contacts. I was grateful to be invited to work with them. There are many NGOs who have conducted research in the region because Cerrejón is a multinational with headquarters in Europe and Australia. Because of this, it was tougher in many ways to establish trust with the Indigenous Wayúu because they told us a lot of promises and trust had been broken over the years with researchers and NGOs. We stayed in both motels and on rancherias (Indigenous lands) when out in the field overnight. We were typically in the field for about three to four days. Traveling together with the two women researchers and their key contacts provided safety and also allowed us to share field expenses, make decisions together, share theoretical ideas and collaborate. In addition, we provided intellectual and emotional support to each other, which was really nice and quite a relief.

My general ethos in the field is to practice patience and remember that every moment and every encounter is important, including breakfast with the motel owner in the morning. I do not insist or push or ask too much of anyone. I did not worry if things got off to a slow start in the field. In addition, I practiced and prioritized self-care and worked to accept my limits. Honestly, I did not know what my needs or limits would be before I arrived to rural Colombia, so reflexivity was crucial to establishing self-care, and doing so, allowed me to be clearer-headed and present with participants in the field, and respect their limits as well. It does not work the other way around because it would put pressure on them and they are already living in difficult situations. Billo and Hiemstra (2013) write that while in the field in Ecuador, they had the “realization that our conceptualization of embodiment focused on the people and groups with whom we planned to conduct research, and largely failed to include ourselves. In other words, we did not adequately consider
the flesh and blood, everyday needs and realities of our own bodies in the field” (p.321). These flesh and blood needs are incredibly important, especially working in potentially dangerous situations when, as a researcher, clarity, patience, presence, and a sense of humor are crucial. Although I had moments of frustration and exhaustion, working to maintain a balanced state of well-being allowed me to be spontaneous and respond when serendipity arrived.

There were a few setbacks to the research early on, but I was managing to adjust. Like many, I had several moments of the typical PhD student anxiety worrying that the research would not be enough or good enough. In these moments, I tried to shift my focus on improving and working on my relationships, rather than the quantity of field data. I chose to think of it as, if my field relationships are healthy and ethical, the work will build up from there. If the relationships do not work, for whatever reason, then I should reflect or shift focus. Sometimes one can reflect for too long and new action and direction is needed instead.

I had to process the fear of working in unsafe and threatening conditions. This was not the first time I have been in dangerous field conditions. The familiarity of my thoughts and feelings related to fear made them easier to navigate in Colombia. Having a solid network of friends to reach out to kept these fears and anxieties in perspective. My subjectivity with fear and danger was reworked through connections in the field and this influenced the research, my relationships to people and, in turn, the data. Good communication with key contacts and other researchers in the field was absolutely crucial to navigating risk, as well as trusting everyone’s, and my own, instincts, practicing observation, having a sense of humor, and genuinely making time for reflexivity. Over time, I noticed that I became surprisingly accustomed to being close to violence and threats, and the fear began to wane, or I stopped noticing it as much, which scared me in a different way. A way that was based more on curiosity, disappointment, surprise and a deeper sense of
compassion for humanity. I often reflected on this point in terms of my positionality and interactions with Colombians and the history of violence many have endured – the edges of social phenomena that become normalized, absurd, sacred, overstated, understated, humorous, magical, and overlooked.

For me, things move fast in urban and rural Colombia – faster than Spain or the US – and I had a hard time keeping up with the pace at first. I adjusted and I learned through reflexivity to try to read the room, know my limits, move quickly and adjust when needed. From mere suggestion or if someone wants something done, texts or calls happen immediately, and things move quickly from there. Colombia is a very polite and formal society, so I learned how to text, speak, send emails and address people in a formal way, which was different from Spain, but similar to US academia. However, my experience was that once you get to know someone, there is a lot of fun, enjoyment and humor. Data collection began in February 2018 and continued through June 2019. I conducted 150 semi-structured interviews with 162 people in Spanish. I observed eight community meetings with corporate and state representatives. I participated in University activities including as a teaching assistant, teaching an academic publishing course and speaking engagements. I gave a photography workshop to girls in a village using popular education methods. I taught English in two villages. I attended informal organizing meetings with social leaders in mining regions. I attended several museums, including the Museo Casa de la Memoria in Medellín to learn about the history of violence and war in Colombia, and found resources in their excellent library. I have 100s of pages of field notes.

To investigate how coal is shifting at the global level, I examined in-country and international energy statistics and reports, financial trading platforms, websites and news articles over the past 40 years. In addition, I conducted five semi-structured interviews with representatives
from the transnational coal corporations in Spanish. The contacts were made at planning meetings and conferences as well as through my contacts at the University of Magdalena. I conducted the interviews with corporate representatives towards the end of the field research period in order to ensure security for the local communities. I specifically investigated the coal industry’s responses to sustainability, climate change, changing technology, and their relationships with local communities.

The state level research includes observations at community round table and consultation meetings and semi-structured interviews with elected officials, NGOs and academics in order to probe the power relations among various actors. Data was collected from international and national databases, official documents, and archival sources. In order to understand the various state policy, regulatory, and legal milieu, I researched historical data including official regional and state documents including the Colombian Constitution, laws, environmental policy, permitting, national infrastructure plans and other national and region level legislation already implemented or in planning stages. I conducted semi-structured interviews with 22 public officials, scholars, and NGO representatives.

Local level data was collected through field research using field observations and semi-structured interviews in and among impacted communities. I conducted 123 in person interviews in situ (at peoples’ homes, while fishing, at farms, etc) using open-ended questions in Spanish. I prioritized women as they are often excluded from research and because coal mining is a male-dominated sector, women’s experiences are not researched as much as male coal mining laborers (Bell 2013). I worked with local key contacts in the three research sites in Cesar in towns near the mines, one site near the train line in Zona Bananera and a fishing village site near the ports in Santa Marta. I worked with various people in La Guajira, but most of my research was conducted, with
the exception of three visits, with two other international researchers and their key contacts in multiple sites throughout La Guajira.

I interviewed participants at the regional and local levels impacted by coal mining activities including the following (recognizing that these categories often overlap): Afro-Colombian communities, Indigenous Wayúu Peoples, sex workers, former and current trade union organizers, former injured workers, fishers, campesinos, mining displaced communities, social leaders, one ex-paramilitary, a police officer who worked drug-trafficking at the ports, and two state-appointed body guards, and other affected communities in the Cesar, La Guajira and Magdalena regions.

When possible and given permission, I recorded the interviews with an audio app on my phone. Not all of the interviews are included in this dissertation. Some of them were short interviews with little information. Others were outside of the scope of the main themes of the dissertation, which I hope to analyze in future publications.

I recognize that identity, race, ethnicity, and occupation overlaps. Afro-Colombian communities are self-identified Afro-descendants that have rights under the 1991 Colombian Constitution (see Chapter Six). Indigenous Wayúu peoples are from the northeast peninsula in La Guajira and the northwest of Venezuela and have rights under the Colombian Constitution (see Chapter Five). Sex workers were interviewed in Cesar in bordellos. Former and current trade union mine workers were interviewed in Cesar and Magdalena (see Chapter Four and Eight). I interviewed fishers from many different backgrounds both in Cesar and Magdalena. Social leaders are locally elected neighborhood officials who sit on municipal council boards. I interviewed an Indigenous Wayúu former paramilitary youth; a police officer who worked controlling narcotics at the ports in Santa Marta; and two state-appointed bodyguards who were working to protect an Indigenous Wayúu leader.
Additional qualitative data was generated through direct and participatory observation. I consider my observations in the field both direct and participatory observation. I consider direct observation as observing a phenomenon and not reacting, speaking or taking part. An example is attending a large meeting, sitting in the back and observing the interaction that provides insight into social relations, power dynamics and gathering additional information. I consider participatory observation as actively participating in a meeting through conducting an interview, asking questions, going fishing, and being a part of the social interaction. While in the field conducting interviews, multiple general observations generated insights into the impacts of coal mining. In the field I kept a notebook to keep track of key points, and I linked audio file numbers to IRB forms and notebook observations. I sometimes recorded myself to remember key points when I was too tired to write at the end of the day. After returning home from the field I usually wrote field notes within 48 hours. I constructed narrative accounts based on generating thick description, but in truth, this felt a lot like writing a love letter or like writing in my journal. It was therapeutic and I found it easy to recount the details of the past days because the experience was incredibly stimulating every time.

**Data Analysis**

Of the audio recordings, 112 were first transcribed using AI Transcribe software, after which I corrected and translated. The other interviews did not fit the themes in the dissertation, the audio was distorted, or the interviews were short and repetitious. Two interviews were directly transcribed and translated by me. The field researchers that I worked with in La Guajira transcribed three joint interviews.

Analysis involved the disaggregation of data and the identification of a wide range of concerns, beliefs and concepts that were related to the competing paradigms and scales. Selected
data was then coded and synthesized into a coherent conceptual description drawing on initial themes. Interviews were analyzed to seek and compile data based on themes across interview data.

In April of 2019, after over a year in the field, I had the first thoughts of shifting my focus to compensation as an overarching theme of this dissertation. The idea came from writing field notes and noticing that compensation was continually coming up in the work. I initially organized all of the interviews in an Excel spreadsheet with: Audio number, organization, date, sex, location, three main themes from the interview, transcription, translation, individual or group interview, follow-up or initial. I kept field notes in paper notebooks, and I typed up detailed field notes that I kept in a folder on my computer and backed up in two other places. Audio files were saved in two places on a separate computer than the Excel sheet.

After I decided to focus on compensation, I organized the transcribed data into themes that corresponded to my field note observations including themes related to: violence and history, displacement, race and ethnicity, housing damage, water, land, forests and viveros, trainline impacts, climate change, labor and sex workers, and coal ports. Themes were then sorted and limited to six major themes including: Violence and history, mining impacts and compensation programs with Indigenous Wayúu, mining impacts and compensation programs with Afro-Colombian communities, water and compensation, biodiversity (forests), and compensations related to climate change mitigation. I went back to the data and color-coded specific quotations in the two columned word documents. I updated the Excel file with themes. The left column was the original and the right column was the English translation of the quotations I chose. For example, I copied all of the water quotations in Spanish and English, their Audio number, participant name and data into a separate word doc titled Water Quotes. When I wrote the water chapter, I could open the Water Quotes document and build the chapter from there.
The historical and empirical data was folded into the research and used to triangulate information provided in the interview data, as well as complement the data, give context and provide specific details. During the writing process, I frequently returned to the original interviews to seek more quotes and information. Integrated memos were written based on the analyzed themes from the interview data and complemented with thick description from field notes (Fetterman 2010). The integrated memos form the architecture of the dissertation chapters.

Throughout the research, my primary concern was keeping people safe and causing no harm. As stated earlier, social leaders are currently under great threat and fear is palpable in the field. My main concern was, and is, to ensure that this research did not put any of the participants in danger. The use of the qualitative multimethods approach is not necessarily epistemologically compatible with either rationalist notions of validity, reliability and objectivity (Edge and Richard 1998) or some post-modern alternatives including concepts of transferability, confirmability or dependability (Lincoln and Guba 1985). Further, although no science is completely objective, field research requires constant self-reflection (Fetterman 2010).

Yet, I still acknowledge limitations of the study linked to epistemological concerns. Maxwell (2002) defines validity as a product of several overlapping factors including factual accuracy, generalizability, and soundness of evaluation claims. The factual accuracy of the data (descriptive validity) was evaluated using multiple data generating methods (historical and empirical data) and respondent validation, which I pursued to ensure the congruence between the account and the participants' understanding of the phenomenon (interpretive validity). This is not to say that I questioned a participant's understanding or claim (Mignolo 2000). However, for items such as timelines, dates and legal policy, historical and empirical data was used to triangulate accounts in order to enhance participant's accounts in a matter.
When participants agreed, I recorded the interviews with a Moto S5 mobile telephone, which I found very useful in the field. The mobile phone is less invasive than a hand-held recording device or a video camera; it is more convenient as it requires less equipment and does not draw a lot of attention. People of all social classes in Colombia are quite accustomed to mobile phones, so it is a useful tool in the field, even in the most impoverished areas. Interviews generally lasted no longer than 90 minutes unless the participant showed desire to speak longer. I use an app on my phone called EasyVoice Recorder that records audio and is highly portable. I frequently copied the data off of my phone onto my computer and then backed it up in two places.

Finally, I have changed participants’ names to protect their security, except when they explicitly requested to be identified in the dissertation. In some cases, I change the names of the villages and towns. I also try to ensure safety throughout for participants by not revealing too much information about time, place and other details when I feel it is necessary. The following multiscalar chapters are divided into two sections. The first sections are material historical and/or empirical data to provide context to the theme of the chapter. The second sections are based on the ethnographic field research.
Table 1. Participants Based on Self-Defined Identity from Audio Recorded Individual and Group Semi-Structured Interviews in Caribbean Colombia

<table>
<thead>
<tr>
<th>Identity Category</th>
<th>Gender (Women)</th>
<th>Gender (Man)</th>
<th>Community Impacted</th>
<th>State (Elected Official)</th>
<th>State (Technician)</th>
<th>Academic</th>
<th>Drummond</th>
<th>Prodeco</th>
<th>Other</th>
<th>Total</th>
<th>Follow-up Interviews (3)</th>
</tr>
</thead>
<tbody>
<tr>
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<td>14</td>
<td>29</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>29</td>
<td>2</td>
</tr>
<tr>
<td>Afro-Colombian (Cesar)</td>
<td>24</td>
<td>6</td>
<td>30</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>7</td>
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<tr>
<td>Afro-Colombian (La Guajira)</td>
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<td></td>
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<td></td>
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<td></td>
<td></td>
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<td>7</td>
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</tr>
<tr>
<td>Fisher (Cesar)</td>
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<td>7</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>12</td>
<td>5</td>
</tr>
<tr>
<td>Fisher (Port)</td>
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<td>7</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>2</td>
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<tr>
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<td>Port Workers (current or former)</td>
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<td></td>
<td></td>
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<tr>
<td>Mine workers (Current and former) (2)</td>
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<td></td>
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<tr>
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<td>4</td>
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<tr>
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<td></td>
<td></td>
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<td></td>
<td></td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Corporate Representative</td>
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<td></td>
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<td></td>
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</tr>
<tr>
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<td></td>
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<td>4</td>
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</tr>
<tr>
<td>World Bank Rep</td>
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<td></td>
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<td></td>
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<tr>
<td>Total (5)</td>
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<td>109</td>
<td>159</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>192</td>
<td>33</td>
</tr>
</tbody>
</table>

1. Social leaders have multiple identities and are added in addition to their other identities as Afro-Colombians, Indigenous Wayúu, workers, displaced or fishers.
2. All but one of the port and mine workers were trade union members. Two of the port workers were also Fishers (port).
3. Follow-up interviews were audio recorded with a participant who had been previously interviewed with a recording as well.
4. Interviews include state appointed bodyguards, an agriculture technician and a narcotics police officer.
5. Totals are based on recorded audio interviews. In addition, I conducted numerous un-recorded interviews, so there are more interviews than what is depicted in this Table. Community meetings with state and corporate representatives are also not reflected in this table.
Chapter 4. “The Coal is Stained with Blood”: Historical Roots of Colombian Conflict, Class Struggle and Capitalism

The history of violence in Colombia is well documented but the extent of the violence in the northeastern Caribbean region is often overlooked. The underlying dynamics of Colombia’s economic, political and armed conflicts led to the parallel rise of paramilitary violence and the coal industry in the region. As environmental defenders in the coal mining regions continue to live through direct and structural violence, coal mining expands. In this chapter, I analyze the historical conditions that brought about neoliberal capitalism in order to grasp the expansion of the coal industry and US-Colombia relations. In addition, I draw on field research to show a correlation between the increased violence of paramilitarism and coal mining in the region and how the violence continues today.

The period between 1964-2002 is characterized as the Civil War in Colombia. However, the country’s build up to war can be traced back to the build-up to La Violencia (1948-1958), a violent class struggle based on land reform that brought about the Civil War. The years of Civil War paralleled the early period of development followed by neoliberal structural adjustment in the 1990s. The political history of land reform, guerrilla groups, paramilitaries and US Plan Colombia all play a role in the on-going crisis of violence that continues to impact the country.

Over the last two decades, linked to the political history, the economy has remained export-oriented and reliant on foreign direct investment from large multinational corporations. Although the economy continues to develop agricultural exports including coffee, flowers, and palm oil, since the oil crisis of the 1970s, a great effort has gone into developing the fossil fuels sector, which now represents 48.9 percent of total exports; oil 32.94 percent and coal 17.77 percent (DANE 2019a), and attracting USD 3.941 million FDI, mostly in oil and gas (Banco Central de Colombia
By 2018, Colombia ranks the third largest oil producer after Venezuela and Brazil in Latin America and is the fifth largest coal exporter in the world (Dane 2019, Mining 2019).

Since colonization, Colombia has been a key region for colonizers and imperialists to exert control, partially due to its geographic location. Situated between two economically significant oceans, three high mountain chains and part of the Amazon, Colombia is diverse geographically, biologically and culturally.

Gold was the key export throughout the colonial period and into the nineteenth century. Mining products were important export products in Latin America throughout most of the twentieth century. In the first two decades of the twentieth century gold and platinum made up 20 percent of total exports (Villar and Esguerra 2006). Oil was discovered in the late 1920s and quickly began to be exported. Between 1935 and 1945 oil and mining products grew to 25 percent of total exports (Villar and Esguerra 2006). After World War II, oil and mining exports decreased to almost zero due to the boom in coffee exports that transformed the Colombian economy. Coal development began in the neoliberal era as a response to the oil crisis.

In what follows, the historical conditions that led to the political and economic development of coal mining are explored in three parts: first, how the land struggle built up to La Violencia and the beginning of the FARC; second, how economic conditions led to US military intervention in Colombia and later foreign direct investment (FDI); and third, how the transnational capitalists supported the building up of the paramilitaries and expanded coal operations. This final section draws on field research to illustrate the direct and structural violence against human and non-human nature, from legal multinational coal mining corporations who claim they are “good neighbors” and “responsible” through their corporate social responsibility programs. The goal of the chapter is to provide a history of Colombia’s economy and polity that
captures the inter-relations between the history and the present at the global, state and local levels to provide context to the research presented later in the dissertation. Finally, I use field and empirical data to draw links between the violence enacted during the years that coal was being implemented and the structural and direct violence that persists today.

**Political History: Power and Violence**

Land struggles and agrarian reform in Latin America formed a set of important socioeconomic and political transformations throughout the twentieth century (Teubal 2012). In the 1930s, the land struggle was the impetus of the built up to *La Violencia*, and later the FARC. The Colombian Communist Party (*Partido Comunista Colombiano* or PCC) was established in 1930 with the purpose of creating “social transformation, unionism, and the education of the working class” and established programs for the “improvement of both urban and rural workers' rights and labour conditions” (Osterling 1989, pp. 184, 185). Although many scholars claim that the PCC was a foreign born ideology inspired by the Russian Revolution of 1917, Brittain (2010) points out that the roots of the PCC can be traced back to 1910 Marxist worker's collectives. The PCC worked to ensure programs that addressed material needs and varied between the rural and urban members. In the rural areas, people were struggling against state-supported landholder violence. At the time, an increase in mass self-defense programs were built by the rural collectives to address the inequalities of land ownership (Gómez 1972). By 1958, over 40 percent of the PCC was made up of rural members (Wickham-Crowley 1992).

Between 1948 and 1958, a period of state violence against the PCC and other rural opposition groups, *La Violencia* impacted most regions of Colombia. In response to increasing rural opposition to state-sanctioned violence, the Liberal and Conservative parties implemented a plan called the National Front that aimed to squelch opposition in the countryside from the growing
rural factions of the PCC. The Liberal and Conservative bourgeois elites shifted Colombia’s long-held democracy into a two party system that structurally eliminated the participation of the short-lived PCC at that time and “the legitimacy of a multiparty system and electoral competition” (Ferreyra and Segura 2000, p. 24). In addition to the political restructuring, the National Front implemented an economic plan called the Accelerated Economic Development (AED). AED included a large-scale agro-industrialization project that had lasting impacts on rural Colombia. Under policies led by economist Lauchlin Currie, small-scale campesino production was treated as a misuse of lands and resources (Brittain 2010).

These views represented a neo-colonialist modernization logic viewing rural farmers, peasants, and Indigenous peoples as lacking agency or knowledge about the land and environment. The expansion of agroindustry coupled with market expansion, export-based production, and the monopolization of rural lands by urban-based capitalists was implemented through state supported violence, expulsion and legislation. In an effort to resist the increasing violence and land reform policies of the National Front, rural populations set up independent republics in the 1950s and 1960s.

As violence continued in Colombia, the US, under Lyndon B. Johnson, became increasingly resolute to combat communist Cold War threats in Latin America. In 1964, the US backed a bloody military operation called Operation Marquetalia in the southern regions of Tolima, Huila and Cauca. The operation included Colombian Iroquois helicopters, 20,000 ground troops and the use of US-supplied napalm, before its use in Vietnam (Hylton 2006). Together, Operation Marquetalia and the long decade of La Violencia led to the establishment of Las Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (FARC-EP) which declared itself a goal-based,
self-defensive collective on May 27, 1964. Two years later the government officially declared it a guerrilla movement (Brittain 2010).

Operation *Marquetalia* marked a critical conjuncture that led to increased support for rural guerrillas against US-Colombia repression and violence. Stories of the guerrilla leader, Manuel Marulanda Vélez, and how he survived the attack became legendary. Throughout the 1960s and the 1970s, the FARC-EP continued to grow in terms of numbers and geography. By the 1980s, Riachani (2002) estimated that the FARC-EP was operating in roughly one fifth of the country.

Governmental policy, as in most Latin American countries, continued to favor large commercial farms over small-scale farming and backed the policies with pro-development rhetoric. The AED ushered in policy that would assist land grabbing resulting in an assault on the peasant class. Between 1960 and 1970, commercial farms ranging from 200-500 hectares increased their lands by 21 percent, and by 1970, larger (*latifundio*) farms of over 50 hectares were operating on just over 75 percent of arable land (Fernandez 1979). By 1973, there were an estimated 190,000 landless people, and the numbers were growing (Fernandez 1979).

By the 1980s and 1990s, neoliberal economic policies (explored in the following section) coupled with state repression increased the presence and membership of the FARC-EP. By the end of the 1990s, the FARC-EP was present in 1,000 of the country’s 1,050 municipalities (Petras and Veltmeyer 2003).

The US military response to both narcotrafficking and the armed FARC-EP was more severe than in other Latin American countries. As the War on Drugs in the US continued through to the end of the Cold War, narcotics traffickers, such as the infamous Pablo Escobar and others, took power in Colombia. At the same time, the FARC-EP grew their ranks in a response to neoliberal policy changes and US-backed state repression. In fact, the FARC-EP grew more in the

Although popular media and mainstream research has argued that the FARC-EP was heavily involved in narcotrafficking, murders, and forced recruitment, other scholars have demonstrated that US and Colombian rural paramilitary forces were responsible for the dispossession of over 3 million peasants and should be seen as the ultimate driving force that led to the growth of the FARC-EP, not the “narcoguerrillas” or “narcoterrorists” (Brittain 2010). Roldán (2002) posits that the terms create confusion and was a convenient discursive tactic used to decrease support for the FARC-EP. She states, “Narcotics trafficking, political dissidence, leftist insurgency, criminality, and civil disobedience are indiscriminately lumped together under the convenient denomination of … the “narcoguerrilla”” (pp. 283-4).

Reagan’s Ambassador to Colombia coined the term “narcoguerrilla” (Kirk 2003, p. 227). During the Cold War, the word was used to justify the continued US presence in Central America, and it continues to be used by US representatives when speaking about the FARC-EP (Tate 2015). The FARC-EP has frequently been depicted as benefiting from illegal coca profits. Extensive field research with the FARC-EP conducted by Brittain (2010) explains how the guerrillas offered protection for peasant coca farmers in Colombia and have been active in class struggle by supporting small-scale farmers that grow coca to survive, while not involved directly with international cocaine and narcotics trafficking (p. 92). Although the FARC-EP did take money through taxation on coca and safe passage for growers, the guerrillas were not directly involved in international drug trafficking in the 1990s and 2000s, according to Tate (2007).
The conflation of the FARC-EP with narcotics trafficking was a tactic that allowed the US to fund military operations in Colombia. Plan Colombia had originally been conceived by President Andrés Pastrana in 1999 as an aid plan to support social programs that aimed to steer production away from drug crops. In the late 1990s, Pastrana gave the FARC-EP a Switzerland-sized demilitarized zone to encourage peace negotiations. Pastrana (2005) admitted that, “[Drug crops are] a social problem.” He added, “Developed countries should help us to implement some sort of “Marshall Plan” for Colombia, which will allow us to develop great investments in the social field, in order to offer our peasants different alternatives to the illicit crops” (pp. 48 – 51).

Former US Ambassador to Colombia, Robert White also noted:

If you read the original Plan Colombia, not the one that was written in Washington but the original Plan Colombia, there's no mention of military drives against the FARC rebels. Quite the contrary. [President Pastrana] says the FARC is part of the history of Colombia and a historical phenomenon, he says, and they must be treated as Colombians.... [Colombians] come and ask for bread and you (America) give them stones (in Villar and Cottle 2014, p.108).

When the US Plan Colombia (a continuation of the War on Drugs initiated by Nixon in 1971) was signed into action by the Clinton administration in 2000, almost 80 percent of the funding was earmarked for military and police operations. Only 20 percent was for other social welfare programs, but these funds were used for “economic” programs befitting the neoliberal economic policies at the time. The social development funding proposed by Pastrana had to be found elsewhere. The Colombian government appealed to Europe, Canada, Japan and other Latin American countries to fill the gap that the US was so keen to ignore. Paramilitary groups, often supported by the US to fight the drug cartels and the FARC-EP, have historically been more deeply involved in narcotrafficking (Brittain 2010, Tate 2015).
Tate (2015) points out that it was not just the military, governments or public that were duped by the term “narcoguerrillas” or the continued depiction of the FARC-EP as deeply involved with narcotics trafficking and the violence connected with it. Many civil society organizations and NGOs in the 1990s were quick to take positions against the guerrillas, which “serve[d] the government’s interest in presenting a confusing panorama of violence in which it appears as simply another victim” (Tate 2007, p. 154).

By the early 2000s, more violence ensued. The combustible mix of the FARC-EP, drug cartels, paramilitaries and corrupt security forces created a level of concentrated violence unprecedented in Latin America. By 2001, Colombia had the highest murder rate in the world. Organized bombings, cartel related murder and kidnapping, and heavy military tactics became a daily occurrence. An estimated 3,000 people were kidnapped in one year. Professors, human rights activists and journalists suspected of being FARC-EP sympathizers routinely turned up dead. Trade union members and organizers were automatically considered to be working with the FARC-EP. The FARC-EP, once an armed movement based on an ideology, began to shift its tactics and plans.

The George W. Bush administration increased funding for Plan Colombia in the 2000s. After 9/11, the Bush administration officially designated the FARC-EP a “terrorist” group which enabled funding of covert operations by the CIA and black budget funding (Priest 2013). By 2003, the US was operating through 40 different agencies in Colombia, including private contractors, with 4,500 people on the ground. The US Embassy in Bogotá had the largest staff of any US embassy in the world until 2004 when it became second to Afghanistan (Priest 2013).

**Economic History: Development and Colombia's Neoliberal Turn**

Colombia’s turn towards neoliberalism in the last four decades is best understood through the economic policies that shaped development in the US and the rest of the global North. In brief,
the US embarked on Keynesian policies after World War II and turned to neoliberalism from the early 1970s (Harvey 2005). In Colombia, the US dominated geopolitics and imperialism, fostered export-oriented mining and agroindustry, especially coffee. After a period of developmentalist import-substitution policies, neoliberalism spread to Colombia, tariff reductions, and the economy expanded its emphasis on coal and petroleum exports. This section reviews the historic interplay between economic policies and development in the US and Colombia to account for and specify the neoliberal turn towards an international coal export market.

Following World War II, the fiscal stimuli of Keynesian economics were implemented to facilitate a growth cycle for the US and their allies. The US implemented a focus on employment and the growth of a welfare state. Keynesian economics was not without its contradictions within capitalism, however. The 1970s ushered in a unique moment that required addressing the oil crisis, a failing war in Vietnam, and a continued focus on the Cold War. The US experienced falling real interest rates, stagnant profits, accelerating inflation and record-breaking unemployment.

Neoliberal capitalism developed in the 1970s in response to, among other things, declining profit rates, weakening of colonial empires, stagnation and inflation. State-led developmentalist programs simultaneously had worked to boost the economies of the global North and limit resistance to capitalism in the global South. At the advent of neoliberalism, development, the northern welfare state, and conventional environmental regulation all came under assault. By the late 1970s, the World Bank and the International Monetary Fund (IMF) began to implement a wide range of fiscal, monetary, industrial and commercial policies that led to nation-states opening their national economies to the world market by liberalizing trade and financial policy, deregulating businesses, reducing or eliminating nation-state subsidies and social programs and privatizing key domains of the public sphere including state-owned enterprises (Petras and Veltmeyer 2011).
The policies had a dramatic impact on increasing poverty in the global South, and squelching resistances to capitalism. Flagship changes such as: privatization of public assets, deregulating environmental legislation for increased natural resource exploitation, tax reform to benefit the wealthy, trade union busting, greater austerity projects, land reform policies, agroindustrial expansion, international debt seeking and facilitating foreign direct investment to name a few (Shefner and Blad 2019, Petras and Veltmeyer 2011, Harvey 2005).

Neoliberalism can be seen itself as a process of state intervention towards expanding capital while setting up regulatory frameworks that create built-in mechanisms to deal with the crisis of overaccumulation – directly contradicting neoliberal theoretical assertions that less state interventions are necessary under a neoliberal regime. Indeed, neoliberalism requires certain legal and judicial power structures that attempt to protect sectors when they inevitably reach their crisis cycles. The contradiction between the limit and the role of the state is explored in depth in the following chapters. Policies coupled with state repression were common throughout Latin America.

The Economic Commission for Latin America and the Caribbean (ECLAC) estimates that during the lost decade (1982 – 1993) of neoliberalism in Latin America the number of people living in poverty rose from 78 to 150 million (ECLAC 2007). This period marked the beginning of structural adjustment and austerity under the assumption that these programs would reduce poverty in the region. The World Bank and the IMF promoted a modernization and neoliberal development model that aimed to increase productive forces. However, the development model that aimed to shore up the interests of the capitalist classes and their imperialist supporters was legitimated as supporting the masses of the working class and peasantry who, in theory, were meant to benefit through poverty alleviating aid and increased large-scale industrial projects.
After the fall of the Berlin Wall and the eventual decline of the Cold War, neoliberalism rapidly expanded through free trade agreements and global finance. During the 1990s, facilitated by the US Clinton administration and enacted by Bretton Woods institutions, some of the largest free trade agreements ever negotiated were implemented. Between 1978 and 1992, more than 70 countries underwent 566 stabilization and structural adjustment programs imposed by the World Bank and the IMF (Robinson 2001). Arguably, these projects have not brought about the prosperity promised in Latin America, but have instead ushered in more debt, wide-spread impoverishment and social protest (Walton and Ragin 1990, Shefner & Blad 2019).

By the 1990s, many factory operations were moved from the global North to the South, new Special Economic Zones (SEZ) were created and large-scale extractivism was expanded. Southern countries were strong-armed into accepting one-sided debt arrangements by the IMF and the World Bank, the North American Free Trade Agreement (NAFTA) was implemented, and financial markets spread in a way that consolidated power in the global North.

In Colombia, like other Latin American countries, land reform, increased agroindustrialism, and expanded profits through export-based production was favored by the imperialist powers that had taken hold of the Colombian political and economic sphere. Like other countries in Latin America, the policies were enacted to assist multinational interests that led to market expansion through export-based policies to bring about large-scale, massive projects to secure raw materials for export (Bunker and Ciccantell 2005). Like other large-scale global extraction, not only in minerals but also large-scale primary materials such as plantations for palm oil, tree plantations, cattle, soy and sugarcane the extractive industries sectors were particularly destructive and produced significant displacement (Gellert 2010, Gellert and Lynch 2003).
After WWII and up until the 1980s, unlike other Latin American countries, the Colombian government avoided populist macro-economic policies. The economy was relatively stable as indicated by being one of the only Latin American countries that did not default or restructure its public debt. Although foreign finance decreased up until the 1980s, the economy managed to withstand international shocks including the debt crisis of the 1970s and wide economic swings of its Latin American allies.

The modest but stable economic performance through the 1970s can largely be explained by the international coffee and oil crises. Up until the 1970s, Brazil was the leader in coffee exports. Due to a period of bad weather and low yield in Brazil international coffee prices soared, Colombia moved in to develop the sector at a rapid rate (Talbot 2004). Territories were expanded and many families became involved in small-scale coffee production. In just one decade, coffee production doubled in Colombia and the GDP increased at an annual average rate of five percent (Steiner and Vallejo 2010). Rather than the coffee boom redirecting finance from fossil fuels, it reinforced investment into various other export sectors, particularly fossil fuels.

After the oil shock of the late 1970s, Colombia was criticized for not performing well in the global economy. As a result, international financial institutions, especially the World Bank, deduced the under-performance of the country to its lack of foreign competition, although it had navigated a coffee boom and avoided an international debt crisis. In the early eighties the Colombian economy began a significant neoliberal shift to develop the large-scale coal and oil sectors with state ventures and multinational investment.

In the 1980s, the government acted in a central role to control legal operations, regulation and the expanding business sector. Oil and coal were central to the plan to diversify export policy tools including tariffs and quotas, import substitution – all of which supplemented the earlier 1967
plan to develop an export-based economy and build diversification. The initial legislation did not include import liberalization, but the changes included a competitive exchange rate, export subsidies, tax exemptions and subsidized credit. To address the exchange rate, a strategy to vary the fixed but adjustable rate allowed compensation for domestic inflation by the centralized Bank of the Republic in order to maintain the competitiveness of domestic producers. The exchange rate was indexed to the inflation rate, which eventually cycled back causing wider economic inequality as income-distribution became linked to inflation (Steiner and Vallejo 2010).

Credit was subsidized by the Central bank, while the Bank of the Republic set prices and controlled foreign exchange. The Andean Community of Nations set regulations that blocked foreign investment in the financial sector. The regulated finance sector pulled in export revenue from transnational corporations and importers were subject to strong requirements through the Central Bank. An underground market in foreign exchange developed and was largely exploited through the increase in drug exports.

At a result, Colombia increased its export revenues. Tariffs were increased by 16 percent in 1985 and paved the way for substituting import controls for market-based instruments up until the beginning of the 1990s (Ocampo and Villar 1992). Then, as the Barco Vargas presidency was ending in 1989, the Colombian economy was set to open gradually under a timetable to eliminate non-tariff barriers in a four-year span. Certain quotas remained for consumer goods and the quotas were to be allocated through an auction system to build in transparency. When the Gaviria Trujillo administration came to power in 1990, trade policy liberalization was implemented, the timetable was eliminated by the end of that year, and tariffs were reduced to an average of 11 percent (Ocampo and Villar 1992). In tandem with other Latin American countries, by 1990 financial, foreign-exchange and labor reforms began.
Amidst the ongoing violence, Colombia was determined to position itself in the international world of capitalism and growth, but to do that, Colombia needed a new image regarding human rights and a new legal foundation. In 1991, Colombia implemented a new constitution (see Chapter 5). At the same time Colombia was expanding into neoliberal frontiers of capitalism, the new constitution included rights to Indigenous and ethnic communities, and collective land rights. Colombia was the first Latin American country to sign onto international agreements including, the ILO 169, an international agreement that recognizes Indigenous and ethnic rights to Free Prior and Informed Consent (FPIC). Throughout the 1990s, several international conservation and climate change agreements and human rights agreements were signed (see Chapters Eight and Nine)

*La Aperatura*, the opening in Spanish, is the name given to the acute trade policy liberalization that took place in the 1990s. Villar and Esguerra (2006) explain the upward trends of the Colombian GDP at the end of the 1980s and again after 1999 were due to the increase in oil and coal exports. Foreign direct investment hovered around US$2 to 3 billion per year in the 1990s, increasing to more than US$10 billion by 2005, and upwards of five percent in 2017 to reach US$14.5 billion (Rudas and Espitia 2013, Priest 2013, Alsema 2018). By the end of the twentieth century, coal and oil became the two most important export industries, representing almost 40 percent of total Colombian exports. In the first five years of the twenty-first century GDP exports increased rapidly to 5.6 percent.

Despite the half-century Civil War, FDI has expanded rapidly over the past decade and especially since joining the OECD in 2013. The coal and oil sectors were pillars of the neoliberal economic development strategy under President Álvaro Uribe Vélez (2002–2010) and continued through President Juan Manuel Santos Calderón. Since 2000, the government has maintained a
neoliberal economic trajectory and conservative politics, and President Iván Duque has continued this trend.

**Implementation of Coal in Colombia: Forced Displacement and Paramilitarism**

The expansion of coal in Colombia was heavily shaped by US foreign investment, which was also shaped by mergers of coal and oil companies. The first investment agreements were signed in the early 1970s just as oil prices began to spike due to OPEC’s efforts. By 1979, US coal production and trade volumes remained level (Rogers 1986). That same year, *Business week* stated that the coal industry was “bleak” (quoted in Rogers, p. 52) with around 100 million tons extracted and about 40 million tons exported from the US, but only 2.5 million of that was steam coal (Rogers 1986). Rogers (1986) states: “By the end of the year there were predication that in response to the oil crisis, U.S. steam coal exports might begin their awaited expansion, but this was not evident in trade volumes during 1979” (p. 52). Following on the pessimistic outlook of the coal market at the end of 1979, Donald C. Farnsworth, president of the Coal Exporters Association of the US and the CEO of Drummond Coal, stated that it was unrealistic to expect US coal to build a long-term market with Europe and Japan because they had “priced themselves out of the market” (*Business Week* quote in Rogers 1986. p. 53).

Colombian coal was an interest of US corporations since the early 1970s. Peabody Coal signed an agreement with the Colombian government in 1973 to develop the coal industry in La Guajira, but the agreement was rescinded, “at least in part because of the changed circumstances of the [oil] crisis” (Kline 1987, p. 2). It is likely that the contract was rescinded because Peabody was bought in 1974 by a consortium put together by Bechtel Oil and Gas (Nies 2014, p. 202). As oil prices increased during the energy crisis of the 1970s (1973-1982), coal obtained new importance. In 1980, around 25 percent of US coal production was owned by oil and gas
corporations. Two years later in 1982, almost 60 percent of US coal output was from coal companies owned by, or in part by, energy, oil and gas firms whose primary business was not coal production (Rogers 1986). The majority of US coal corporations’ parent companies were oil corporations: Atlantic Richfield was the parent company to Arco Coal; Shell Coal International was the parent company to Massey Coal; Conoco Incorporated was the parent company of Consolidation Coal; British Petroleum was the parent company to Old Ben Coal, and Exxon had its own coal division (Rogers 1986).

The oil shock and the ensuing economic stagflation brought about an increased interest in steam coal. Some of the very large oil corporations began to engage in aggressive international expansion projects of foreign sales in order to diversify and expand global operations. Exxon held large coal reserves in the US West and Midwest, and was the first to sign a contract to develop coal in La Guajira, Colombia. At the end of 1979, Exxon signed the deal with the Colombian government to build the first large-scale coal mining operation including a port and the railway system – on Indigenous Wayúu lands. A long-term contract was signed with Denmark to import 27 million tons over 14 years to begin in 1986 (Rogers 1986).

Between 1980-1982, oil and coal expansion in Colombia was assisted by the Reagan administration. Both the rise of armed groups in Latin America and foreign direct investment motivated the Reagan administration’s visit in 1982 where he met with Colombian President Betancur who criticized the US for isolating and excluding nations from peace efforts. Betancur argued for Cuba to be reinstated in the Organization of American States (Weisman 1982). Reagan was met on this visit with protesters in Bogotá yelling “fuera” and “go home” (Weisman 1982). President Betancur also argued for more “nondiscriminatory aid” through the International Monetary Fund and Inter-American Development Bank (Weisman 1982).
In 1984, Garry N. Drummond (heir to the Drummond Coal Corporation) was appointed to the National Coal Council by US Secretary of Energy, Donald P. Hodel. In 1988, Drummond signed the second FDI contract for coal extraction with the Colombian government to develop the coal fields in Cesar, transform the railway and build a port near Santa Marta, Magdalena. By 1989, as the Cold War officially ended, US military interventions in Colombia were underway. With neoliberal policies being set up, Drummond began construction in 1993. FARC operated in the region and by the early 1990s blockades and bombings of sections of the US-based Drummond coal rail line being transformed for coal export were not uncommon.

“The Displacement was Barbaric”: Mining and Paramilitary Violence

Initially, communities living near the mining development were told they would have jobs and the mines would bring wealth. One of my key contacts in Cesar told me how he remembered how a man named Dr. Hernan began testing for minerals in 1977. His father worked at the testing site where they found copper, oil and coal. “Once my father transported him when he came here to La Loma, my dad transported him with a donkey... and one day, he told my dad and other workers who came with him that this town was going to have a great wealth” (personal communication 2018).

In Cesar, land-based class conflict between large latifundio cattle ranchers, and Afro-Colombian and peasant classes dates back to the early colonial period. However, by the 1990s communities living next to the mine expansions were impacted by both the ongoing violence of the Civil War and the increasing presence of paramilitary activity. The northeast Caribbean was greatly impacted by paramilitary activity in the 1990s and 2000s, more so than the southern regions of Colombia. The paramilitary groups were formed by large latifundo landowners, Spanish settler-colonial descendants who claimed they were armed to protect lands when the state was too
powerless to do so. Notorious paramilitary leaders, including Gorge 40, operated armed groups in the region ostensibly to protect against them.

In 1997, the United Self-Defense Forces of Colombia (AUC), a right-wing umbrella group formed. The AUC began with paramilitary armies built up by drug lords in the 1980s. Mostly made up of drug-traffickers and landowners to fight against guerrilla kidnappings and extortion, the AUC’s influence stemmed from its links with the army and local political elites. In the 2000s, it gained power from business financing and large landowners. The AUC was brutal and carried out massacres and murders throughout the late 1990s and 2000s. In 2003, the Colombian government made a peace deal with the AUC, whereby paramilitary leaders could surrender in exchange for reduced jail terms and protection from extradition. Since 2008, more than a dozen former paramilitary leaders have been extradited to the US, including Jorge 40, to face drug trafficking charges. In September 2010, a local think-tank, Indepaz, said a dozen or so new narco-paramilitary groups had quickly replaced the AUC in much of Colombia and were now responsible for more violence than left-wing rebels.

My research verifies that the AUC operated past the 2003 peace deal, and continues today, although not officially considered paramilitaries by the state, former paramilitaries continue to operate in the region. The gangs, or criminal bands, often include former paramilitary members and drug-traffickers. In Cesar and La Guarija, death threats made against social leaders and environmental defenders were often from the Aguila Negra (Black Eagles).

In La Guajira, Indigenous Wayúu and Afro-Colombian communities were targeted by paramilitary groups during the mining expansion, while the FARC and ELN were targeting the rail lines and coal corporations. In both regions land displacement was growing. Between 1985 and 2012, 26 people were forcibly displaced every hour in Colombia (Centro Nacional de Memoria
Between 2000-2010, it is estimated that 87 percent of all forced displacement happened in regions engaged in mining and mineral extraction (Oidhaco 2013). Open-pit coal mining in Cesar increased by 74 percent between 2000 and 2012 (Cardoso 2015). In Cesar, between 1997 and 2004, 123 massacres, totaling at least 607 deaths were reported, with 200 of those killings occurring in the town of La Jagua de Ibirico, one of my key field sites, resulting in the displacement of an estimated 58 percent of the total population (Schmitz 2013).

The terror and brutality experienced by local people at the hands of the AUC in northeastern Colombia occurred at a time when the multinational coal mining operations were expanding (Figure 4 and 5). In many conversations with locals, it was the paramilitaries that people feared the most. A prominent activist-lawyer put it like this:

If you go to the south of the country to Cauca, Los Llanos, the Amazon, the movements are much stronger. Paradoxically, these are the places where the guerrillas were most present. The south of the country, Chocó and Santander, has other dynamics, so it is very diverse. However, on the Caribbean coast it is very specific because it was where paramilitarism was most focused in Colombia. The paramilitary blocks were concentrated in this area of the country and that is the link that many organizations are trying to make. [They ask] why was there so much concentration of these groups in the north? Well, if one looks historically, the north of the country are the places where the implementation of these types of macroeconomic projects occurred most rapidly. So when there was the wave of paramilitary violence, there is also all the investment in the northern part of the country, so it is an area where social movements have been persecuted and murdered and that has caused unity to be lost. In fact, people tell often how afraid they are to speak out. [They say] “we are afraid to speak about certain things, we don't feel safe. I don't want the same thing that happened to my partner to happen to me.” So people are still afraid, and also, the fear is re-surging. Fear is growing in this new political context (personal communication 2018).
Figure 4: Displacement by Department 1999-2011.
Figure 5: Coal Production in Colombia (red) and exports (black), 1970-2012.

For many people in both Cesar and La Guajira, the paramilitarism of the 1990s and 2000s is difficult to talk about. There are many traumatized people who were forced to leave their lands because of the very real threat to their lives and livelihoods. In the field, it was not something that I could easily bring up without risking re-traumatization or triggering. The times that a local opened up to me were either because the participant found the situation to be comfortable and they brought it up or the participants agreed in advance with a key contact that the conversation would be about that topic.

In La Guajira one late night spent on an Indigenous Wayúu reservation, almost everyone was asleep when a woman recounted the detailed and emotional story of her father’s death. He owned five farms and had five wives. He was kidnapped at least four times by the FARC for
ransom. It was the final kidnapping by the paramilitaries when he was murdered, and the family was terrorized. She told us that the FARC would rarely kill but the paramilitaries would kill often (personal communication 2019).

In an interview with an ex-paramilitary man, I learned how they recruited Indigenous Wayúu youth. Raúl⁶ is an Indigenous Wayúu man who was recruited when he was 17 years old by a paramilitary gang in the early 2000s during sweeping violence. The paramilitary groups would come to the Indigenous reservation where his family lived and force the fathers to agree to hand over their sons. His father refused but Raúl recounted that because they were so poor and had nothing, he felt like it would help the family because the paramilitary leaders promised him a salary and money for his family. Raúl lasted for five years through a horrific experience. Raúl stated:

My dad felt very bad because he did not want that life for us and I thought they would give my father things to make him feel better, but what he had, the, the, the sadness to see his son there and he was adapting to that and now... how it was becoming normal [for me]. Thank God he is fine. When I decided to try to get out, I said to him: Dad, I’m going to get out of this and he supported me and helped me to get out, so they would not look for me because they were going to kill me (personal communication 2019).

When I asked him whether the paramilitary group was financed by the coal corporation, he said he did not know. However, a Wayúu elder who was helping Raúl to adjust from his experience stated:

Everyone is looking for their sources of finance through extortion and payments of vacunas [collections or fees], collected monthly or annually or biweekly to finance their wars for the private companies, even national ones. We are aware that the same government financed the paramilitary groups, which was one of the most gigantic elephants that maintained the war during the armed confrontation between the paramilitaries and the guerrillas. It is no secret to anyone, United Nations, the whole world has had knowledge about it. So then why not a company that exploits a mineral as precious as coal? They say “no, we do not pay the vacunas, we do not finance armed groups.” And I say yes, because now if you protest against them, this is why the leaders are the first to appear on their [death threat] list?

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⁶ All names are changed to protect participants.
In Cesar, many landless people had nowhere to go when they were forcibly removed by paramilitaries for mining expansion. Many fled to the nearby towns or left for the coast. I sat down to speak with Janilda, a woman who was forced to leave her land at gunpoint on a June morning in 1999. She was bringing the animals back from the fields around 8:30 am when 50 armed paramilitaries arrived. They murdered a boy by the river and gave her and her husband a few minutes to grab some clothes before forcing her to leave. Her farm was located next to a section of the now diverted Calenturitas river on what is Prodeco’s Calenturitas mine. Janilda told me that, “In 1999, the Calenturita [river] was still there, but they were not extracting yet. They were enclosing and surrounding, but they did not have the environmental license” (personal communication 2019).

I asked her if she thought the paramilitaries were working under orders from the mining company and she responded:

Yes, because on this occasion they [paramilitaries] were helping the company and helping the government. They had help from the army, the police, the company, all of them here were operating freely. They were free to move... So was it the undertaking of the mine? They are the same, the paramilitaries and the mine are the same (personal communication 2019).

Janilda lived for many traumatized years in a coastal city. Throughout the years of armed conflict, the unequal distribution of land increased. Today, Colombia has one of the most unequal land distributions in Latin America with one percent of large-scale farms making up 81 percent of the productive land (Guereña 2017).

Eril is a former mine worker, trade unionist and campesino who was forced to leave his land during the war due to the violence, and returned to his land about six years ago. The land is located in between three mining areas (Prodeco, Drummond, and CNR) and a gas well. They live surrounded on all sides by mines, with machinery noise all night and dangerous levels of air
pollution. The most pressing problem today for the community is water (see Chapters 7). We spoke at length about when they were forced to leave. He told me that the FARC was active between 1997 – 2000, but the paramilitaries came after and the worst violence peaked around 2005.

We suffered and suffered with the guerrillas and then I just could not take it anymore when the paramilitaries rose up because they no longer came to beat me, they came to kill. The paramilitaries came to kill. With that fighting over there [he points to the river], from there to over here, that is what Prodeco bought. We paid the paras [paramilitaries] with some animals and we fled. Oh, the killing [gasp]. And it got worse and worse. And there we were, running away because we could no longer be here (personal communication 2018).

Eril worked for Drummond and was a trade union member of Sintramienergica. He recounted the story of the trade union leaders who were murdered by paramilitaries paid by Drummond. He said, “When I was working at the Drummond mine, four died, five union officials left the mine. They stopped the buses... and they killed four comrades from the same group, one of us and then later they killed two more” (personal communication 2018).

I interviewed, Guillem, a local activist and former trade union worker of Sintramienergica who worked for both Drummond and Prodeco at different times. He was close to the union leaders who were assassinated by the paramilitaries hired by Drummond:

Tamra: Now the government is opening this again, the case against Drummond to see if they were working with paramilitaries. Do you know this is open again?

Guillem: Yes!

Tamra: Can you talk about this?

Guillem: Well, if you want to know, regarding this issue of paramilitarism in relation to these cases, the case of Drummond, my compañeros, Locarno Balmore, and comrade Orcasita were murdered by paramilitaries at the service of the multinational.

Tamra: I'm so sorry.

Guillem: Mr. Blanco who was one of Drummond's chief security officers, including
Glencore as well, Glencore, who I also worked for.

Tamra: Nowadays, do you think that companies are still working with security of this type or paramilitary or this type of violence?

Guillem: Today they have changed, but no, they do not stop repressing through their private security. They make threats. I was threatened many times. I can tell you the names, José Thomson, the supervisor of the Glencore security company, and for him... they were intimidating workers many times including workers who were already pensioned. I receive threats too.

Guillem is not the only pensioned worker to continue to receive threats. Miguel, a key contact in La Jagua de Ibirico, was also a former trade unionist. He is now a pensioned social leader and environmental defender who continues to receive death threats. Three months after my arrival Miguel was put in jail for three days for acting as a liaison between the police and a trade unionist strike outside the entrance of one of the mines. He stated:

I was imprisoned... My head has a price for the multinationals. They want to see me imprisoned. That is, they restrict my freedom of expression, freedom of struggle... We carry around this persecution by the multinationals, in all areas. They see me as their enemy, because I have been denouncing all the abuses that they do to the environment and to the workers. They see me as someone who causes problems for them. So right now I feel persecuted. They say they want to see me in prison for three years... but I haven't backed down. I fight. Three months back I practically threw in the towel, but when you are a leader, you carry it in your blood and when the communities come, they encourage me to go on, because you are with the people, you carry that in your blood (personal communication 2018).

In most of the conversations that I had with people about historical violence, the topic of the current violence was always included. The violence is structurally embedded into the economy and politics of the regions because the coal mining operations continue to expand. The current threats and assassinations against social leaders, and especially marginalized leaders including Indigenous Wayúu and Afro-Colombian leaders, continue. Social leaders in Colombia are organizers of their neighborhoods and are elected to sit on round tables and community organizing committees. All, but one, of the key contacts I worked with in the three regions received death
threats, were put in prison or had state sanctioned protection through the *Unidad Nacional de Protección*, UNP (Colombia's National Protection Unit). The one key contact that did not receive threats was not a social leader.

One night I visited a hydrologist who had some new and interesting data from a recent water collection and analysis. We talked and I looked over the data that showed very elevated levels of mercury and uranium in nearby streams. About 20 minutes after I left, the hydrologist received a death threat by text message on Whatsapp. We spoke again briefly and by the hydrologist’s request, I deleted the recording, the data and all of the photos. My key contact told me to stay inside until the next morning.

In another region, a local community member I knew lost his son in a shootout in a parking lot a block from my house in Santa Marta. It was a horrific tragedy and I did not return to that village for several months while the families mourned. In the same village, around the same time a contact’s dogs were poisoned and his house was robbed. He fled and we only spoke on the phone after that in one very veiled conversation.

In La Guajira, many Indigenous Wayúu leaders are under tremendous pressure from the power vacuum that was left after the FARC agreement was signed (Klein 2017). I traveled with Carlos, a threatened Indigenous Wayúu leader who had state appointed UNP protection and a group of three other researchers. His office had been burned down by gangs or criminal bands. The Wayúu leader and six others received a pamphlet with their names on it and a warning from *Aguila Negra* (Black Eagle). He was issued two armed guards through the UNP protection and a bullet proof vehicle.

We traveled with them for three days in the field. I had the chance to interview the UNP guards while riding in the armed vehicle. For them, they saw their job as doing something
important to keep social leaders alive. They both told me they loved what they were doing and were committed to supporting Indigenous leaders and working with “noble people” (personal communication 2019). Jose told me that he was happy with the UNP bodyguards, but just a few weeks earlier, he was very worried that a former bodyguard was being paid by the paramilitary gangs.

Many of the forced displaced came from lands that are now mines, and in Cesar and La Guajira, those once productive lands are now a large hole in the ground.

Raúl: The multinationals have all the provisions. Here, they displaced the community if the multinational needed the land, even now if there is a place where there is a community. They have done this here and they have done it in various ways. The coal of La Jagua is stained with blood because the displacement was barbaric here, and the multinationals will always find a way to make everything in service to them.

Tamra: How do you see the different roles of the state and the multinationals?

Raúl: The state has the constitutional obligation but they do nothing, the multinationals even less. Here the multinationals will paint a school... and they put the logo of the multinational on the school and that shows the presence of the multinationals before the communities.

Tamra: And what do the communities think?

Raúl: They do not allow them to really know what their rights are as a community and whoever begins to investigate their rights, [the corporation] represses them... understanding such things in Colombia often means putting a headstone on your chest.

The history of violence in the Caribbean region is linked to the large-scale extractive operations implemented through militarism and neoliberal capitalism. As violence continues against social leaders in Colombia so does the expansion of the coal mines. The threats and assassinations of social leaders, many of them who are environmental defenders, silences opposition that continues today. However, the multinational corporations use sophisticated ways to mask the violence and deflect public opposition. One of the ways the mining corporations
obfuscates the violence used against human and nonhuman nature is through the use of compensation programs. The social and environmental compensation programs and the direct and structural violence will be the focus of the rest of the chapters.
Chapter 5. Fifteen boats to Divide and Conquer: Indigenous Wayúu, Cerrejón and the Incommensurability of Compensation

Extractive industries increasingly use compensation measures to divert opposition, divide communities and distract from the violence. In the northeastern Colombian region of La Guajira, Indigenous Wayúu communities struggle against the social and environmental impacts of coal mining. Cerrejón operates in La Guajira and is Colombia's largest transnational coal mining corporation with a long history of committing harm against local communities' livelihoods. Consultations with Indigenous communities did not occur before implementing the mining activities. However, even after an official Free Prior and Informed Consent (FPIC) process was adopted in Colombia, communities turned to a specific legal tool available to them, a tutela in order to demand their rights to a consultation process. Finally, when consultations do occur, the corporation uses incommensurable compensation to undermine community unity and reinforce a power imbalance that perpetuates and expands harmful coal mining practices in Colombia.

Compensation is not only grossly inadequate compared to the structural and direct violence inflicted on the communities and the environment upon which they are dependent, but the process and outcomes divert, divide and distract. Offering a critique of corporate compensation, I argue that compensation acts as silencing mechanisms masking the wider and more structural socio-environmental impacts shouldered by communities living near mining operations.

The use of compensatory mechanisms fall into the ‘soft’ and more ‘quiet’ category of corporate techniques, but still happen in a context of ‘hard’ and violent land grabs (Le Billon et al 2017, McNeish 2017). The strategies that help corporations engineer consent, withstand censure

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7 This chapter is the result of joint research with Jackie Gilbert and Line Jakobsen.
and endure crises are “quiet forms of power” (Frederiksen and Himley 2019), including persuasion and manipulation as well as “divide-and-rule” techniques. These forms are made possible through the current legal mechanisms of consultations and compensation processes (Schilling-Vacafilor and Eichler 2017).

In the first section I explain the international origins and Colombian adoption of Free Prior and Informed Consent (FPIC) and Corporate Social Responsibility (CSR). In addition, I add a short explanation of what is considered a compensation mechanism in Colombia and how compensation is incommensurable with the damage caused by the mining operations and therefore different from reparations or restorative justice. Next, I outline the legal consultation and compensation parameters in Colombia and the legal basis of the tutela system. Third, I define what I mean by compensation and how it is understood in the Colombian context. I then introduce two case studies from Indigenous Wayúu communities. The first is a community impacted by a compensation program where land was given to the community but divided the community in the process. The second is a discussion of the T-704 Constitutional Court ruling of 2016 that ruled in favor of the Indigenous Wayúu community Media Luna Dos requiring Cerrejón to consult the community before expanding the coal port operation. These two cases show that corporate and state-backed consultation and compensation undermines community cohesion and autonomy, and reinforces a power imbalance that perpetuates and expands harmful coal mining practices in Colombia. Compensation provides a false appearance that nature-processes can be paid for and that damages can be easily erased, while silencing opposition, quelling political mobilizations and building international support for corporate-led development rhetoric.
FPIC and CSR

Indigenous struggles from the 1970s onward paved the way for the Indigenous and Tribal peoples Convention 169 of the ILO in 1989 (ILO 1989), which established the principles of the FPIC. FPIC consists of *free*, non-coercive, negotiation *prior* to any development intervention, in which full and accurate *information* about the proposed project and its implications is provided, in order to ultimately establish *consent* from the affected communities. The rights of Indigenous Peoples were further cemented in a 2007 United Nations Declaration (UNDRIP 2008). Around this time the corporate social responsibility (CSR) agenda was also on the rise.

The current use of CSR principles is the product of John Ruggie’s work for the UN working group on business and human rights (Ruggie 2007). Prior to Ruggie, Bowen (1953) was the first to outline CSR in his work titled *Social Responsibilities*. While there is no clear definition of CSR, it generally refers to a “range of voluntary initiatives that aim to minimize corporate bad practice” (Utting 2008, p. 959). CSR instruments typically include codes of conduct, guidelines for responsible business conduct, improvements in environmental management systems, compensation measures, occupational health and safety, company sustainability reporting, internal and external auditing and stakeholder dialogues. The principles of compensation, as part of the broader CSR agenda, were originally elaborated through the idea of benefit-sharing as outlined by the World Bank (Wall and Pelon 2011).

Today, CSR is used by business actors to establish on-going social acceptance of their activities, or what they often term the Social License to Operate (SLO). The SLO or just social license encapsulates the ability of corporations to ensure local acceptance to the extractive projects through building broad community support with employees, stakeholders and the general public (IFC 2014). Gaining and maintaining a SLO mitigates project costs and risks, helping to ensure
project completion, security and ultimately a steady revenue stream (Owen and Kemp 2017, Prno and Slocombe 2012). SLO and CSR as well as FPIC often fail to address the concerns and demands of impacted communities and illustrate underlying power imbalances (Costanza 2016; Shilling-Vacaflor and Eichler 2017),

**Law and Corporate Compensation**

The 1991 Constitution, Colombia’s current constitution, has been praised for its broad acknowledgment of rights for Indigenous and ethnic peoples and has been called ‘the ecological Constitution’ as it contains 34 articles related to the protection of the environment (Macías Gómez 2020). Law 99, issued in 1993, defines the institutional framework for environmental protection and management of natural resources. In addition to requiring that mining companies obtain an environmental license, this law created the Ministry of Environment, Housing and Territorial Development renamed in 2011 as the Ministry of Environment and Sustainable Development *(Ministerio de Ambiente y Desarrollo Sostenible)* (MADS), oversees environmental policies at the national level. Below that are the Regional Authorities called Corpos, including CorpoGuajira in La Guajira and CorpoCesar in Cesar, the Sustainable Development Authorities and other local authorities that enforce environmental laws within their jurisdictions (see Figure 6).
Table 1: Key Government Agencies in the Oversight of the Mining in Colombia

<table>
<thead>
<tr>
<th>National</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Mining and Energy (MME) National mineral policy &amp; its implementation</td>
</tr>
<tr>
<td>Other ministries, e.g., Ministry of Health, Ministry of Finance</td>
</tr>
<tr>
<td>Ministry of Environment and Sustainable Development (since 2012) Ministry of Environment, Housing and Territorial Development (MADS – before 2012) National environment and development policies and their implementation</td>
</tr>
<tr>
<td>Defensoría del Pueblo (Ombudsman) Part of the Public Ministry Defending and Promoting Human Rights Divided into Delegates and Directions (National level) and Regional Defensorías (presence in each Department of Colombia)</td>
</tr>
<tr>
<td>Presidential Adviser for Human Rights Responsible for the NAP for business and human rights</td>
</tr>
</tbody>
</table>

| Geographical Service Identifies mineral deposits |
| National Mining Agency (ANM) Issues, royalties & compensation |
| Mining Energetic Planning Unit (UFNE) Plans the sector |
| Environmental Licensing Authority (ANLA) Permits/concessions to environmental legislations |
| Victims Unit Registering and repair of victims of the conflict |
| Land Restriction Unit Pursues restitution or compensation for dispossessed people |
| Agency for Demobilization and Reintegration Link companies to reintegration projects |

| Departmental |
| Governor [Department of Cesar] Regional governance and development |
| CORPESCAR, Regional Autonomous Corporation (CARS) Implements national economic development policy Responsible for monitoring air quality |
| Regional Defensoría Defending and promoting human rights Articulated with national level for their actions in the department |

| Local |
| Municipalities Local governance and development |
| Perseverantes |
- Has a presence in each municipality |
- Local entity for the monitoring of the state |
- Local promotion of human rights |
- Part of the Public Ministry |

Source: twentyfifth and Centro Regional de Empresas y Emprendimientos Responsables – CREER

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Figure 6: Key Government Agencies in the Oversight of the Mining in Colombia

The *Agencia Nacional de Licencias Ambientales* (ANLA) (National Environmental Licensing Agency), created in 2011 with the passing of Law 3573, is the administrative entity issuing and evaluating environmental licenses (MADS 2014). For each mining project in Colombia, an environmental management plan is a prerequisite for obtaining a mandatory environmental license before beginning operations. The environmental management plan, which includes an impact assessment, defines the overall measures of compensation. These plans are (loosely) defined in official manuals on social and environmental damages and the loss of biodiversity (MADS 2012, 2018)\(^8\).

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\(^8\) Measured according to the 1517 resolution, from August 31 2012, entitled “manual for assigning compensation for the loss of biodiversity” and “Manual de compensaciones del componente biótico”
From 2018, through resolution 318, a Social Management Plan as part of the environmental license is required in order to operate. This social plan is to define the project’s measures to prevent, mitigate and compensate social impacts (ANM 2018). A weakness of the licensing system is that it is based on information provided by the companies themselves (Cabrera Leal and Fierro Morales 2013). Economist and expert in mining law, Alvaro Pardo (2018) has documented how national environmental authorities are largely coopted by companies. He points to factors such as lobbying and a tax policy heavily geared towards reducing the tax burden to companies, maintaining a long list of deductions that allow extractive companies to reduce their tax base. Further, reductions in the budget for the two key regulatory agencies, MADS and ANLA, has resulted in a lack of human resources to monitor the environmental licenses (see Chapter Nine). Most importantly, the flexibility of compensation design leaves room for maneuverability, interpretation and political negotiation between the company and ANLA about the degree and manner of compensation.

The original mining concession was a joint venture between Carbocol, a Colombian state-owned company, and Intercor, a subsidiary of the US-based company Exxon Mobile. The Environmental Impact Statement-Social Impact Statement (EIS-SIS) for the coal mining project in La Guajira, was prepared in 1982 as the basis for the operation’s environmental license. Therefore, it was not evaluated based on the current legal and regulatory frameworks described above, but on the legislation in the environmental protection law from 1974, valid until 1993. The law was generally considered weak, as it did not include preventative measures to avoid negative impacts from mining (Calderón et al 2013). Cerrejón's original impact assessment was a very large publication with six volumes, but the Indigenous population was barely considered in the study,
and no socio-cultural impacts were considered (Guerra 1991 in Chomsky et al. 2007). Furthermore, the study was completed in February 1982, after the road from the mine to the port was well underway and many indigenous families were being displaced (Guerra 1991 in Chomsky et al. 2007).

Over the span of 37 years, there have been more than 60 modifications and additions to Cerrejón’s environmental license building on the original license. Cerrejón was never legally obligated to revise the 1982 impact assessment, which led to the Constitutional Court questioning the license (CAJAR 2019). After studying the license and its modifications, the Bogotá-based lawyer’s collective, CAJAR, found significant omitted information and falsehoods that were used to improperly authorize the administrative act of approving the license. Based on that assessment, in February 2019, CAJAR and other NGOs and communities affected by the mine filed a legal action of nullification (acción de nulidad). This measure aimed to declare the authorization of the operation invalid (CAJAR 2019). As of this writing, the case is being processed by the courts and a ruling is pending. At the same time, the process of complying with the aforementioned T-704 ruling, which will be described in more detail later in this chapter, includes the evaluation and adjustment of, or renewal, of the impact assessment based on inputs from affected communities.

**The 1991 Constitution, the tutela, and consulta previa**

While this case drags on, citizens do have recourse to tutela in Colombia. The tutela is one of the special rights granted in the Constitution of 1991. The action of the tutela, which can best be translated as a plaintiff or protection measure, is part of the state’s ordinary judicial channels to process remedial actions. A tutela enables any person or group of individuals whose fundamental

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9 In impact assessments from that time managing these issues were not legally binding, however, the mere fact that it was noted in that time by both anthropologists and the contracted company is noteworthy.

10 The license, ‘LAM 1094 of Carbones del Cerrejón,’ was originally issued by INDERENA in Resolution 797 of 1983.
rights are being threatened or violated to request a judge with territorial jurisdiction to protect that person’s rights under Colombian Constitutional law. Fundamental rights guaranteed by the 1991 Colombian Constitution under Article 86 include the right to education and health, among other socio-economic and political rights. The Colombian Constitutional Court reviews all *tutelas*, in terms of their constitutionality. The judge is legally bound to give priority attention to the plaintiff. If the Constitutional court rules that another High Court has not upheld a *tutela*, and violated a human or basic right, it can overturn the ruling in the review process and issue a corresponding judgment (Eslava 2009).

Another important part of the 1991 Constitution is the law on prior consultation. Law 21 of 1991 established the Colombian ratification of the ILO convention 169 on Free, Prior and Informed Consent (FPIC) for Indigenous peoples. Reviewing academic literature on indigenous participation in FPIC, such processes are seldom prior and rarely are communities informed, let alone allowed the possibility for giving free consent, without coercion or force. As a result, often, but not always, Indigenous – and other groups – file a *tutela* in response to violations of their right to FPIC. The authority in charge of the prior consultation process is the Ministry of the Interior, which is also the legal body that defines who will participate in the process of prior consultations and resulting compensation.

In the case of Cerrejón, the practice of FPIC did not occur when mining construction initiated, as this happened in the early 1980’s, before the legislation protecting indigenous and ethnic communities. Therefore, the damage that has been done, and will be done, is often dealt with through the legal process of *ex post facto*\(^1\) compensation to communities. As described in

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\(^1\) a law that retroactively changes the legal consequences (or status) of actions that were committed, or relationships that existed, before the enactment of the law
more detail below, when the Constitutional Court ruled in favor of the *tutela*, T-704/2016, Cerrejón was ordered to consult and compensate all affected communities for the project as a whole, including more than 30 years of construction and operation. As such, it should rather be understood as a *post-consulta previa*, instead of *consulta previa*. The basic structure of the prior consultation, as it is articulated in the ILO convention 169, should, however, still be applied (Corte Constitutional 2016).

Since compensation for the negative impacts of mining is open to interpretation depending on the evaluation of each impact assessment, compensation is, therefore, subject to political negotiation. Theoretically, the consultation process gives rights to the Indigenous communities to the C in consent to the mining operation. However, the consultation process, as in many other communities, has resulted in an asymmetric process having negative social consequences.

**Compensation**

To say that the damage to Wayúu communities from coal mining is severe is an understatement. Compensations are a way to mask the damage in the form of a payment by the corporation to the loss shouldered by the communities and nonhuman nature via the logic of equivalence. The fictional economic measure of the losses tallied up by those with power distracts attention away from the damages, diverts resistance and divides communities.

Compensation take many forms, pathways and mean various things. First, it can be a payment made to a community after a grievance. If a grievance is recognized, compensation is generally made after a consultation process in a round table or board has decided the corporation must give a payment of some type to the community. Second, it can be the result of forced displacement or what the state and corporations call resettlement (see Chapter Six). Third, compensation is mandated through the environmental license issued by ANLA. The environmental
license requires various types of environmental, social and educational projects to be carried out by the company. When a coal corporation files to amend their environmental license – to divert a part of a river for example – ANLA can require additional compensation measures. Fourth, compensation can be a conservation project and/or used in an offsets market (see Chapter Eight and Nine). Fifth, compensation, or community projects, can be made through a corporation’s foundation within the voluntary CSR framework and these projects are tax deductible.

Although compensation obligated through the environmental license agreed upon with ANLA cannot “officially” be deducted from corporate taxes, the mining corporations have found ways to work around this. In Colombia, the *Estatuto Tributario Nacional* (National Tax Statute) authorizes companies that make donations to deduct them from their taxes. Through Article 125-4 (*Requisitos de las deducciones por donaciones*) and Article 257 (*Descuento por donaciones a entidades sin animo de lucro partencientes al regimen especial*), the mining or oil companies create foundations to handle their CSR issues. When companies transfer resources to their own foundations, they do so in the form of donations and can use this mechanism to deduct those resources from their taxes. Foundations conduct the corporate social responsibility work and companies reduce their taxes by as much as what they use in their social programs.

Compensation in the form explored in this dissertation should not be confused with organizing that demands reparations, environmental justice, restorative justice, reconciliation or abolitionist frameworks. Reparations, environmental justice, restorative justice, reconciliation and/or abolitionist movements generally aim to move beyond capitalist notions of material debt like economic inequality, finite financial payments or closing a wealth gap that often end up functioning like charity. Unlike compensation, they address the material debt and include moral and ethical concerns including healing – spiritual, mental and emotional – and memorializing,
shifting and importantly foreground racial, ethnic and gender disparities in a society on systemic levels.

In the mining regions of Colombia, compensation can take the form of one-time monetary payment, resettlement and various types of environmental, social and educational projects. A “productive project” is a type of compensation where the individual or community is given something – for example, a tree, an oven or microcredit – and expected to earn money from the training and materials. Compensation is a tool that is compatible within the capitalist-imperial framework all the way up to building entire multibillion-dollar international compensation markets (see Chapter Nine).

CSR guidelines support a corporation's SLO, and when community grievances are taken up by corporations and states, the outcome can result in one-time compensation to the communities (Li 2011, Trainor 2006). Importantly, compensation function as a colonialist legal tool that serves and protects the multinational extractive industries against being held accountable for the harm done to the human and non-human nature.

Compensation acts as a barrier to the communities from seeking any long-term resistance or sustained action. The one time and localized payment of compensation fails to address the long-term impacts of mining’s past and future in the region (Allen 2003). Although Indigenous communities gained rights under the Colombian law of Free and Prior Informed Consent (FPIC), the practice of FPIC did not occur in La Guajira before the mines were implemented. Therefore, the damage that has been done, and will be done, is often enacted through the legal process of ex post facto compensation to communities. I suggest that compensation can be understood as a mechanism to quell community dissent, while simultaneously benefiting extractive industries through a perceived image of adhering to their Social License to Operate (SLO) and promoting
corporate integrity to their shareholders. In particular, corporate compensation is a proliferating 21st century tool that is incommensurable with the cultural and socionature damage inflicted on communities living near extractive industries, as demonstrated in this dissertation.

In addition to the role of corporations, compensation raises questions about the role of the state. On one hand, the rights of Indigenous peoples are upheld through the Constitution, but at the local level, Indigenous Wayúu communities are denied their rights in favor of Cerrejón (personal observation 2019). CSR guidelines and compensatory mechanisms act to pacify and neutralize opposition to coal mining in Colombia. Although communities are greatly impacted by mining operations and require social support – and may eventually receive the long-awaited and incommensurable one-time compensation – compensation acts to further extractive industry operations. Therefore, compensatory measures can be understood as a manipulative device that benefits the extractive corporate project more than it benefits the impacted people.

**Indigenous Wayúu**

The Indigenous Wayúu People are the largest Indigenous group in Colombia, accounting for approximately 46 percent of the population of La Guajira according to the 2018 census (DANE, 2019). The Wayúu presence in the region dates back more than 3000 years (Fajardo Gómez 2007). According to an anthropological study published in 1984, when the construction of the Cerrejón mining infrastructure began the Wayúu resisted European and national settler-colonialism, and therefore maintained a distinctive way of life and a large degree of autonomy (Pacini Hernandez 1984). Weildler Guerra Curvelo (1997) wrote about how the company had already caused severe impacts to both Wayúu and Afro-Colombian communities by the 1990s, and he highlights how the occasional one-time contributions given by the company to the communities to fulfill specific
immediate needs were often not acknowledged by the Wayúu people, who had very different interpretations and perceptions of compensation (Guerra Curvelo 1997).

Traditionally, a Palabrero is one who acts as a mediator for any community grievances. The Palabrero is highly revered in the community and will both work through grievances within the community and outside the community. However, communities shared with me that Cerrejón did not respect the role of the Palabrero when it came to discussing grievances or changes that might impact the community. It is also the Palabrero and the Cabildo (Chief) who would be called upon to discuss matters with Cerrejón. One Indigenous leader explained that the Wayúu tradition of the palabrero is a critical cultural aspect of peace keeping. He argued that after almost 500 years of being caught between violence from outside cultures from Spanish colonialism to paramilitary violence to the foreign coal corporations, that the Wayúu should be exempt from violence.

We want to be declared exempt from any form of violence, call it armed confrontation or groups, call it what you want. We seek peace through our palabreros and that is a tradition that we have used for thousands of years, for thousands of years, and with them [gangs and Cerrejón] we cannot achieve that, we cannot achieve peace because they do not belong to our culture, they do not belong to our ethnic group. That is why I said before that we should be exentos a la guerra (exempt from war). We have to reject all kinds of war (personal communication 2019).

Traditionally, Indigenous Wayúu communities in the south of the department settled along rivers or springs. In addition to being pastoralists, rural communities cultivated yucca, corn, beans, sugar cane and other vegetables and fruits. The Wayúu also collected medicinal plants and wild food, such as mamón (Spanish limes) and guaimaro, drought resistant tree that bears a highly nutritious fruit that was an important food source among many Wayúu communities. However, as many locals attest, rural people who once lived from the land now have to buy food and consume other goods because the land and access to clean water has been dramatically altered by decades of mining and the environmental degradation associated with it.
While some Indigenous communities were forcibly displaced and some resettled in the past four decades of continuous mining expansions, others live with ongoing environmental pollution, water scarcity, health impacts and threats of displacement. The 34 Indigenous tribes of northeastern Colombia faced cultural and physical extinction during the armed conflict (Cepeda Espinosa 2009). The ONIC (Autoridad nacional de Gobierno Indígena de la Organización Nacional Indígena de Colombia) stated that all of the 102 indigenous peoples within Colombia's borders face extinction partially because of the armed conflict but also “poverty, discrimination, institutional neglect, and the imposition of a foreign development model that devastates their communities” (ONIC 2010, p. 10). Amid three decades of coal expansion, the mining impacted communities struggle against contamination of land and water, as well as violations of the fundamental right to land, food, water and a healthy environment.

La Guajira is divided into the Upper, Middle, and Southern Guajira. The Upper Guajira is a semi-desertic region with an isolated, low-altitude mountain range, the Serranía de Macuira. Cerrejón port, Puerto Bolivar, is located in upper Guajira, towards the end of a 150 kilometers railway that runs through Middle Guajira. While much of the Middle Guajira region is semi-arid and lacking ground water, much of its southern portion is comprised of dry tropical forest, one of the most endangered ecosystems in Colombia (see Chapter Eight). This area is also home to several important rivers and streams, including the Arroyo Bruno, which has been modified by Cerrejón in order to expand the La Puente pit further into the Media Guajira, which is elaborated later on.

in this chapter. The mining pits are located in (or bordering) the Southern Guajira, which has more arable land, green vegetation, wildlife, and rivers.

**Provincial’s “Bad Deal”**

In 2016, Provincial, a Wayúu resguardo\(^7\) located on the Ranchería River just two kilometers from Cerrejón’s Patilla coal pit in Southern Guajira, entered into a negotiation with Cerrejón over a compensation package. By some in the community who are critical of Cerrejón, the result of this process is referred to as “*el mal acuerdo*” or “the bad deal.” Compensation divided the Wayúu community of Provincial, thereby making them more vulnerable in future interactions with the powerful multinational corporation and the state that back it.

Provincial’s 470-hectare territory is home to over 700 people who are distributed across six sections and represented by an elected *Cabildo* (chief). Traditionally, Wayúu families in Provincial subsisted from pastoralism, agriculture, fishing, hunting and gathering. Now, few families are able to farm because there is inconsistent water access, very little rain, temperatures have risen substantially, and coal particles interfere with crop production (personal communication 2019). Hunting and fishing are no longer major sources of food, locals say, because the mine has impacted wildlife and continues to compromise the health of the river. Furthermore, Cerrejón now owns much of the land surrounding Provincial, thereby reducing the area from which residents can gather medicinal plants and wild food.

Residents of Provincial shared that two of the most detrimental impacts caused by Cerrejón were the constant noise and air pollution. The *polvillo* (coal dust) carried by the wind from the Patilla pit can be seen on roof tops and fence posts. The scheduled afternoon explosions and the

\(^7\)An indigenous reservation recognized by the state. *Resolución 085* officially recognized Provincial in 1988.
continuous work of giant machinery all day and night replace sounds of nature and serve as constant reminders that the mine is encroaching on their ancestral lands (personal observation 2019). Many children suffer from respiratory and skin conditions caused by coal dust, which has led to some Wayúu women to bring legal cases against Cerrejón (Rojas-Páez 2017). Residents frequently noted the encroachment on their land. Cerrejón now has land concessions to the north, west, and south of Provincial. Forests that the Wayúu once used for hunting and foraging are now off limits and Cerrejón's private security guards prevent people from accessing the land on the other side of the Ranchería River.

Cerrejón is required to amend their environmental license before major work or pit expansion. The corporation first approached Provincial for a prior consultation in 2011 when it was planning an expansion named the Iwoya project that would entail a 26.5 km diversion of the Ranchería River in order to exploit 500,000,000 tons of coal from underneath the riverbed. Provincial was one of the communities that led the opposition to the diversion of the Ranchería with the help of numerous national and international organizations and journalists. At this time, Provincial was united – almost everyone agreed that the river should not be diverted. A leading figure in the community explained how the community had almost no contact with Cerrejón and initially remained united against the river diversion plans (personal communication, March 2018). The company did not go forward with the diversion, claiming to have made this decision based on a drop in the price of coal that made expansion unfeasible, rather than the international, national and local mobilization in support of the community and the river (BNAmericas 2012).

In 2016, Provincial launched a *tutela* claim against Cerrejón with legal assistance from CAJAR in order to get compensation for all of the damages that had occurred since the 1980’s. Provincial was united in the decision to use the courts to force the company to compensate, but
Cerrejón was eager to settle the deal outside of court. The company offered to sit down with community leaders, insisting that a claim could take a long time to be resolved and that they could get what they were asking for much more easily by negotiating directly with the company. A leading figure, who is by some considered to be on the side of Cerrejón, explained:

In 2016 we established a mesa de diálogo (negotiation roundtable) with Cerrejón, consisting of six people from here. We asked for an area for our animal rearing and Cerrejón was willing to give us this… [However, even he admitted] “ten families benefit from this as compensation. We are 170 families. […]”

After the demanda (claim), an agreement was signed based on the negotiation of the land. We also got nine university seats, there has been some kind of project, and they got thirty pigs for the farm, meaning that when for example someone from the community dies, they can use one of the pigs for the funeral. That has been a support for the community… The road was [fixed] a year ago. It was completely inaccessible before. Also, the aqueduct system is going to be fixed, before we had no water in the houses. We got new [water] pumps. (Personal communication March 2019).

According to another community member who was opposed to the conditions of the agreement made with Cerrejón, only three leaders closed the deal near the end of 2016 in private meetings held in Bogotá, leaving legal representatives from CAJAR out of the negotiation. In 2017, the agreement was that Cerrejón purchased farmland in the Cerranía del Perija, for the community to farm; provided nine scholarships; and installed coal dust protectors for 100 households that are made of barro (adobe) (personal communication, April 2019).

Cerrejón purchased 640 hectares, significantly less than the 5,000 hectares the community asked for (personal communication March 2019). Each family in the resguardo was entitled to a parcel of land and could manage it as they wish or sell it. However, because the land is located an hour and a half from Provincial by car, the majority of families have not been able to use their parcel. “Ten families benefit from this as compensation, we are 170 families,” the community leader stated. Most people in Provincial do not have a vehicle and there is no transportation to the area.
Many are unhappy with the outcome of this negotiation, particularly women with young children, because the compensation did not address the consequences of coal mining on the health of villagers in a meaningful way. The coal dust protectors installed on the houses by Cerrejón, they say, do not actually prevent dust from entering the home. Additionally, the Wayúu spend most of their time outside and many sleep in hammocks under open air structures, thereby exposing them to particulates on a constant basis.

In addition to not addressing health impacts, the deal created irreparable social divisions in Provincial and resulted in a compensation that only benefited a small, relatively privileged group of people. Three years after receiving compensation, some of Provincial’s residents report being no better off than they were before they decided to open a direct channel of communication with the company. The educational grants and the compensated land have only benefited a privileged few. The resguardo remains without a consistent water source and many inhabitants struggle daily with food insecurity. Children continue to suffer from respiratory illnesses, skin rashes and hunger; adults remain unemployed and unable to farm, fish, or gather food; the river continues to be polluted with industrial waste; and the community is more divided than ever. These social divisions have impacted the cultural and social ties within this indigenous community. As one Wayúu women stated Provincial’s “cultural process has been broken by the mine” (personal communication April 2019).

It is important to note that it is tough to get a “complete” story in the field. The purpose here is to share the community members’ experiences. Some community members stated that the leaders who negotiated on behalf of the community were given a special deal, and that they were “bought” in some way because of how their attitude towards the company changed from one day to the next. One resident stated, “Unfortunately, the company started to divide [the
community]…They signed a bad agreement…The magical art of Cerrejón is to divide” (personal communication April 2019). The divisions that the “bad deal” created represent, by some accounts, the worst impact of Cerrejón.

**Media Luna Dos & the T-704/2016 Sentence**

At the other end of its operations, Cerrejón exports around 30 million tons of coal each year, leaving behind fine coal dust particles covering the surfaces and structures in the surrounding communities (Cerrejón 2019). In the Guajira Peninsula of northeastern Colombia, a once pristine coastline sustained numerous Indigenous Wayúu fishing villages. In 1983, Exxon broke ground on an immense port, *Puerto Bolivar*, to export coal from Colombia’s first large-scale coal mining operation. Today, the multinational coal mining company

In 2016, Cerrejón requested approval from Colombia’s National Environmental Licensing Agency (ANLA) to expand the Bolivar coal port.⁸ At this time, Cerrejón had not consulted with surrounding communities. In fact, in November 2013, the Ministry of the Interior certified that “ethnic communities” *did not exist* within the zone of influence after a verification visit (T-704 2016). When locals petitioned ANLA to confirm the presence of Wayúu families living next to the port, ANLA responded saying that this was within the purview of the Ministry of the Interior, which had already claimed there were no ethnic communities residing in the immediate area in which these expansions would occur. The Ministry of the Interior also denied the existence of the Wayúu communities adjacent to the mine as well as communities affected by the diversion of the Arroyo Bruno River (see Chapter Seven).

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⁸ Cerrejón proposed to 1) enlarge the dredged channel that allows boats to access the port, 2) to construct a new pier, and 3) expand the desalination plant.
In 2016, plans to expand the port were temporarily stopped by Media Luna Dos, a nearby Wayúu village. In response to the state’s and the company’s denial of the existence of Wayúu communities in close vicinity to Puerto Bolivar (and, subsequently, their constitutional right to a prior consultation), a Wayúu leader from the community Media Luna Dos brought a *tutela* to the Constitutional Court in an attempt to safeguard the constitutional rights of the Wayúu living near the port. His fishing community contested the expansion arguing that it would have devastating impacts on their livelihoods. Much to everyone’s surprise, and to the company’s dismay, the case, which lost two appeals, was reconsidered and revised by the court. The Constitutional Court of Colombia ruled in favor of the Wayúu community and legally obligated Cerrejón to carry out prior consultations (FPIC) with all ethnic communities in the zone of influence (T-704/2016).

The ruling, known as the T-704/2016, expanded the scope of the case to protect the right of not just this one fishing community but *all* communities in the mining zone of influence, from the port to the mine, to a prior consultation and compensation for harms done. In other words, what started as one *tutela* aimed to address a specific set of impacts at the port resulted in a historic case that now requires Cerrejón to compensate for its impact throughout the region.

The Constitutional Court demanded 1) the suspension of the planned expansion of the Bolivar Port until the company carry out the process of consulting the impacted communities; 2) acknowledgment of the fundamental right of consultation for the community Media Luna Dos; and 3) the evaluation of the environmental license which covers an assessment of whether the Comprehensive Environmental Management Plan for the entire mining project is sufficient to manage the pollution it causes (Corte Constitucional 2016). In this assessment, covering the whole project

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9 According to Jackie Gilbert working with and assisting Wayúu lawyer, communities should be included in this consultation process (personal communication February 2019).

10 i.e. the modification, suspension or cancellation of the environmental license.
(not limited to the port expansion), the active participation of the entire affected population in the zone of influence should be guaranteed. Further, because the impacts include indigenous peoples, it should be done according to the rules of FPIC. Lastly, the sentence orders the company to implement an immediate plan to mitigate and compensate for environmental, social, and cultural damage in the area. Negotiations for these types of compensation must be carried out with the participation of the affected communities (Corte Constitucional 2016).

Following the Court’s decision to require compensation to Media Luna Dos from Cerrejón, the lawyer and the traditional Wayúu leaders engaged in a negotiation with the company. Instead of giving each family a monetary compensation – Cerrejón’s preferred compensation method, according to impacted community leaders – a compensation deal was made in the form of 15 equipped fishing boats to be given to 15 traditional Wayúu leaders. However, when the group of Wayúu residents from Media Luna Dos were asked how the fishing boats benefited the community, one man responded, “Well, it hasn’t really helped us… there are no fish because of the port!” (personal communication March 2019). The compensation of 15 fishing boats is framed by Cerrejón as a “sustainability project” made to “help conduct sustainable fishing and mitigate overfishing.”

Thirty years of coal dust contamination and the reduction of their territory has destroyed the traditional subsistence economy, and with it, much of the more intangible but deeply important dimensions of their culture. Compensation in Media Luna Dos did far more to sow internal conflict than to provide food security. In an interview with a resident he claimed just his family received three boats. Inevitably, many individuals did not have access to these boats as a source of income.

11 This participant also inferred that the salt biproduct from Cerrejón’s desalination plant is being dumped back into the ocean, and this may be driving away the fish.
12 Observation by colleague Line Jakobsen at seminar transicion minero-energetico, Uni Magdalena, Santa Marta, April 2019
Regardless of how much a family or individual actually benefits from a project, the mere act of giving a material or monetary compensation to some and not to others intensifies social divisions and gives rise to resentment and conflict within and between communities.

It is an open secret that Media Luna Dos today is divided in two: those who closed the deal with Cerrejón, and those who are still awaiting eventual recognition and compensation. The company managed to engineer what a Wayúu leader called a “prestige campaign” (campana de presticio). According to his perception, the company managed to make leaders from different parts of the community indirectly fight each other for ‘prestige’ by, in his words, “blocking their minds with pocket money” (“bloquear mente de autoridades con lo del bolsillo”). The strategy is, he says “dividir y regalar” (divide and give gifts) (personal communication March 2019). He continued by explaining that for Cerrejón, the consultation process has been about diminishing levantamiento (uprisings) by giving just enough to quell protests (personal communication 2019).

There are many indicators that point to the fact that the people of the Media Luna region adjacent to Puerto Bolivar are in a worse position than they were in before the court case. Compensatory measures legitimize the continued harm caused by the mining corporation while the ongoing compensation process continues to preclude anti-extractivist protest. What this case also demonstrates is that the company manages to use the far-reaching court ruling as ‘an opportunity,’ and adjusts the process as much as possible to its own favor through incommensurable compensation such as 15 fishing boats, while taking advantage of the fact that they are negotiating with communities who are under enormous strain and often lack basic resources. The corporate narrative is that a ‘gift’ was given to this community embedded in a scheme of sustainable development. However, Media Luna Dos, is a village where child malnutrition and mortality rank alarmingly high (Posada 2020). Fewer people are living from
fishing today than before the arrival of the mine. Any impact to fish populations is undoubtedly a result of the ports’ devastating consequences on the marine ecology, and not because of residents’ unrestrained overfishing, as the company states.

In the case of Media Luna Dos, the compensation strategy is leading to the unraveling of the community’s *tejido social* (social fabric). The compensation package of 15 fishing boats sets a low bar for other communities still awaiting consultation and compensation in the zone of influence through T-704, and the proposal that such damages can be compensated for in monetary terms clashes with local language of value, and the idea that 15 boats can be commensurable to the complex economic, social and cultural impacts is highly problematic.

**A Grim Outlook for Zone of Influence**

The T-704/2016 sentence was seen as a victory for the mining-impacted Wayúu communities. For the *rancherías* alongside the railroad in particular, this might be the only time Wayúu families would receive compensation from Cerrejón unless they were to have a different *tutela* approved by the Ministry of the Interior. However, a leader of a local Wayúu organization, who also works as a legal advisor for various communities in the consultation process, highlighted the ambiguity of the situation as both an achievement but also risky for communities. The process acts as a way to quell resistance. According to him “it is practical for Cerrejón to be in a consultation process, because during the process it is not likely that communities will make protests or roadblocks” (personal communication March 2019).

Impacted communities in the zone of influence have been vocal about their distrust of Cerrejón and of the various ministries in charge of regulating the company. In interviews with local communities near the trainline and mines, community members claimed that ANLA was not fulfilling its duty to adequately study all of the impacts of coal mining, but instead meeting with
the company privately to compile data (personal communication May 2018). Historically, ANLA, the Ministry of the Interior, and the Ministry of the Environmental have been sympathetic to Cerrejón and to other multinational extractive corporations, evidenced by their loosening of regulations and premature approval of projects and expansions (see Pardo 2018 for an analysis of the extractive-corporate cooptation of the Colombian state).

Participation in local town hall meetings with ANLA has been high and the distrust among community members has been heightened. The corporation refused to admit that stopping the port expansion project had anything to do with community resistance and organizing. A Cerrejón corporate manager said that it was not because of the court ruling but because of the drop in international coal market prices that led Cerrejón to stop three out of four projects related to the original expansion plan (personal communication 2019). The corporate shift in placing the blame for halting expansion on international coal market prices is more palatable for investors than admitting the Colombian government ruled in favor of organizing and resisting communities, or that Cerrejón had anything to do with social and environmental violence. The international market narrative is far more rational for corporations to grasp and removes any responsibility for their actions to a wider public.

If the company manages to get through the consultations with all communities in the zone of influence, the whole project – that has been criticized by national and international NGOs and activist groups – becomes legalized anew. The consultations and compensation schemes provide an opportunity to Cerrejón to legitimize the direct and structural violence of mining activities while creating larger divisions in impacted communities, coopting leaders who were earlier

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13According to an interview conducted by Line Jakobsen.
uncooperative, and slowly changing the image of the company from being ‘violators’ (of rights) to ‘victims’ (of “activist courts”). In this way, the aftermath of the T-704 ruling could be an opportunity for the corporation to transform its image and compensate the communities once and for all.

**Conclusion**

This chapter demonstrated the legal backdrop of consultation and compensatory mechanisms and the processes in which they are executed are contradictory to making up for mining impacts and exacerbate already harmful extractive practices. Compensation is increasingly used as a 21st century tool of “inclusionary control” benefiting from the structural violence in Colombia (Dunlap 2019). Throughout the rest of the chapters I show that compensation acts as a silencing mechanism that masks the wider and more structural socio-environmental impacts on communities and that compensation processes cannot result in real reparations, environmental justice or restorative justice for communities.

The mine has not only transformed the culture and way of life for many Wayúu communities, but it threatens their survival. When damages to water, territory, and the social fabric (*tejido social*) of a society are irreparable, the compensation for these losses are incommensurable. Furthermore, the divisions in Provincial and in communities throughout La Guajira that have been directly or indirectly impacted by Cerrejón generally weaken the position of Wayúu communities in any future negotiation scenario. La Guajira is not only a region rich in coal, but also in natural gas, oil, salt, wind and solar potential. The Wayúu in particular will undoubtedly be approached by extractive industries hoping to exploit the wealth of resources in the region. When communities are negotiating with any company for any reason, or making demands to the government, they will achieve a less favorable outcome when the community is divided.
When the company did manage to garner community consent through negotiating compensation deals, it can present a collaborative and responsible image. In addition to marketing the CSR “responsible neighbor” image, the coal corporations often present themselves as restoring biodiversity and forests (see Chapter Eight) however, all of these projects contribute to the justification of a project that is destructive to ecosystems, livelihoods and cultural practices. As with the case of the T-704, despite the fact that the ruling was considered a big setback for the company, the aftermath of the ruling should be seen as an unprecedented possibility for Cerrejón to improve their overall image and repair their social license to operate, once and for all.

Promises of compensation via a perception of financial gain functions to silence and prevent opposition from rising up against institutional inequalities and harmful extractive practices. The cases in this chapter and the following chapter demonstrate the corporations benefit more from compensation than the communities. Ultimately, the strategy aims to force communities into acquiescence to global economic forces and make extractive economies more viable in the long term.
Chapter 6. Afro-Colombian Consejo Comunitario Resistance, and the Violence of Socionature and Cultural Erasure

The National Development Plan (Plan Nacional de Desarrollo or PND) of 2014-2018 proposed a “territorial development approach” to address land imbalances related to inequalities (PND 2014). The peace agreement incorporates these same territorial restructuring goals with the aim of addressing land rights of vulnerable populations (Peace Accord 2016). The armed conflict overwhelmingly impacted Indigenous and Afro-Colombian populations, who experienced 73 percent of the forced displacement (OCHA 2013). The historical violence and forced displacement has weakened cultural ties, identities and socionature relationships. However, the new PND for 2018-2022 states a conflicting goal that aims to increase coal mining to 93 million tons per year (PND 2018). In Cesar and La Guajira where the Indigenous and Afro-Colombian populations have historically suffered from legal, economic, cultural, social and political marginalization, the PND and the development aspects of the Peace Agreement conflict with their ongoing struggles.

Sánchez-Garzoli (2012) argues that 60 percent of Afro-Colombians with land titles are now internally displaced (p. 7). Coal mining extraction and land displacement by paramilitaries in the region were tandem events. It is estimated that between 1997 and 2004, 123 massacres were reported in Cesar, totaling 607 deaths and 200 murders were reported in the small town of La Jagua de Ibirico, leading to the displacement of 58.3 percent of the total population (Schmitz 2013).

This chapter describes the struggles of several Afro-Colombian identified communities and neighborhoods directly impacted by coal mining in Cesar. Particularly, the chapter focuses on the erasure of Afro-Colombian socionature and culture in the face of coal mining extraction in terms of achieving rights under the Colombian Constitution, the struggles that continue after rights are
recognized, and the divisions, silencing and socio-cultural assault created by the mining corporation's compensation programs.

The Camino Real

Since colonial times of *terra nullius*, those seeking primary materials have frequently denied the existence of people (see Media Luna case in Chapter Five). One of the ways that corporations avoid recognizing the rights of Indigenous and ethnic communities under the Colombian Constitution is by denying their racial and ethnic identities. This injustice is the case for several Afro-Colombian communities in the mining region of Cesar. As a region whose history is that of river-dependent Indigenous people and slaves who fought for autonomy, Cesar is a racially and ethnically diverse region that has gone through a violent socio-economic transformation.

The first cities occupied by the Spanish were founded on the Caribbean coast. In Colombia, Santa Marta (1525) was the first and each city became a nucleus to build other cities. Santa Marta and *conquistadores* in Coro, Venezuela, converged in Riohacha to control the pearl trade along the La Guajira coast (Melo 2017). As the cities grew, the Spanish began to push towards the interior seeking a route to the south (Peru) to plunder gold.

For the most part, the displaced Indigenous Peoples that once inhabited the lower Cesar-Rancheria basin are now located in reservations in the two parallel mountain ranges. Several Indigenous tribes are located in the northeast region of Colombia. Many fought against the Spanish colonizers who took them as slaves. The Chimilas, or in the indigenous language the *Ette Emmaka*, inhabited the northeastern region of Colombia in the southeastern Sierra Nevadas across the Cesar-Rancheria river basin to the Serranía del Perijá mountains that border Venezuela. The *Ette Emmaka* maintained a two century-long war with the Spanish beginning in the early 18th century lasting
well into the twentieth century. Today, a statue of warrior Chief Upar sits at the center of the capital of Cesar, Valledupar. In the 1990s, at the beginning of the parallel conflicts of the coal mining boom and paramilitarism, the Colombian government created the Issa Oristuna reservation forcing the main Ette Emmaka tribe onto the reservation. The Yukpa tribes, who are part of the Chimila confederation of tribes, were forced onto three other reservations on the other side of the valley to the east in the Serranía del Perijá mountains.

The forced migration and slavery of Africans to Colombia began in the early 1500s. Most of the Africans disembarked in Cartagena, the largest port of slave trade. Many slaves were sent south to work in the gold mining areas of Chocó and further south in plantations along the Pacific coast. However, another route developed in the 16th century from La Guajira through Cesar to the Magdalena River, the principle waterway through Colombia. This route, the Camino Real, placed Cesar in the center of this early colonial route and acted as the principle route through Cesar.

Ricardo is a legal representative of an Afro-Colombian Consejo Communitario in La Jagua de Ibirico. He is also an elder who is one who holds the history and stories of the African Diaspora in the region. Ricardo shared this historical knowledge:

This road was called the Camino Real, the trade road... La Guajira had ports like in Cartagena and every week or so about two boats would arrive with Blacks brought from Africa, as Black slaves.... La Guajira has always been classified as a place with contraband, and always from there they came here.... They arrived weekly, sometimes twice per week, or even more.... Via the Camino Real they traveled and there were many who arrived from La Guajira. Actually, originally, they were named after the last name of the person who brought them, Spanish names like Avilés (personal interview 2018).

Slaves in the region were forced to work in mines and on Spanish farms and plantations, but many revolted against the landowners. The first slave revolt burned Santa Marta to the ground just five years after it was built in 1530. By the 17th century isolated forts built by escaped slaves called Palenques started to form throughout the country. Slavery was abolished in Colombia on
the 21st of May 1851, twelve years before the US. Today, Colombia has the second highest percent of Afro-descendant population in Latin America. In the country as a whole, Afro-Colombians are approximately 10.5 percent of the population. There is significant regional variation, however. The largest population live on the Pacific coast making up 21 to 80 percent of the population, and the second largest population is on the Caribbean coast and nearby inland areas (DANE 2005). On the Pacific coast Afro-Colombians have land rights to more than 5 million of the 10 million hectares of tropical forest (Davies 2008; see Chapter Nine).

However, this is not the case on the Caribbean coast. Davies (2008) states, “In the Atlantic coastal area, the racial mixture has been remarkable, generating a lack of clarity about ethnic self-recognition” (p.315). The lack of clarity about self-recognition on the Caribbean coast is explored later in this chapter in how it impacts Afro-Colombian’s claims to legal rights including collective land and territorial rights. Afro-Colombians in Cesar are estimated to be almost 13 percent of the population with 41.4 percent of them living in rural areas (DANE 2005). In La Guajira about 14 percent of the population are Afro-Colombian and 11.1 percent live in rural areas (ibid). DANE (2005) estimates that 74 percent of Afro-Colombians earn less than minimum wage.

More than 100 years after the abolition of slavery, the Colombian Constitution of 1991 finally expressed Colombia as a multicultural and pluriethnic society, but it took two more years for Law 70 to be included in the Constitution. Law 70 specifically outlines Afro-Colombian territorial rights to collective land titles and the right to manage the resources on the lands, the laws for an ethno-education approach, mechanisms for the protection of ethnic identity and culture, and the promotion of social and political development (Law 70 1993). In addition, as explored in the previous chapter, Colombia expressly accepted the right to Free, Prior and Informed Consent (FPIC), with language very similar to the ILO Convention 169 of 1989, which Colombia also
ratified in 1991. FPIC upholds the rights of Indigenous communities to free, prior, and informed consent when a development project is proposed on or near their land. FPIC informs the rights to prior consultation for Afro-Colombian communities to say no to development projects that might harm their rights under Law 70 that might impact their territories and cultural livelihoods. Yet, as demonstrated below there is a gap between principles and implementation of both Law 70 and FPIC that fail to uphold the rights of many as Afro-Colombian communities who continue to struggle for their rights.

Many Afro-Colombian communities in the northeast regions are not recognized under the law, so the first step for many communities is to first gain recognition as an Afro-Colombian community. Communities must go through an arduous legal registration process both at the municipal and state levels. I found in the field that members of at least two rural Afro-Colombian communities did not read, and they were not aware they had to also register at the national level. The registration process usually requires a lawyer and/or a supportive NGO to help fill out the materials and assist in facing several years of bureaucracy. The process can be delayed further, and the Ministry of the Interior is the final arbiter on the approval or denial of the ethnic identity of a community.

Afro-Colombian communities that manage to obtain the registration are deemed by the state to be Afro-Colombian. They are then referred to as a Consejo Communitario (Community Council). The Community Council is made up of the General Assembly and the Community Council Board (junta). The General Assembly is the highest authority of the Community Council and is made up of the people recognized by it, in accordance with its own law system and registered in the internal census. The Board of the Community Council of Black Communities represents the community, organizes its files and has functions related to its socioeconomic organization. In
Colombia, the shortened term Consejo is used to mean a legally recognized Afro-Colombian, Consejo Communitario.

In the interview with Ricardo, he explained the traditions of his community and the difficulties they faced becoming a registered Consejo. Ricardo stated:

And so the birth of the Afros occurred here in the municipality. Our ancestors brought and shared logistics of traditional organizing. So our organizing... [based on the ancestors’ organizing] of grassroots associations began here around the year 2011. We began the Community Consejo [council] in 2013. But at first the Ministry [of the Interior] did not recognize us in 2008, and we were struggling in many ways. Because of our ancestors, we already had a way that we worshiped that we always accepted.... The Ministry said we made an error in 2008. The resolution of the association in 2011 was passed to the Community Consejo and we received the resolution in 2013. However, this was the case for the Consejo here and the Consejos in La Palmita and in Victoria, but in Boquerón there is also an Association, a Consejo, but today so far they are not recognized by the Ministry of the Interior. Indeed, they [the Ministry] do not understand because it [Boquerón] was a Palenque [colonial escaped slave fort], but it has not been recognized. Unfortunately, as I said it [Boquerón] is the epicenter of mining in the municipality. There are other interests and so this is always how things are handled. There has been a long struggle.

Importantly, if a community is not legally registered as a Consejo, or even during the time when communities are still engaged in the registration bureaucracy, corporations can deny their existence and deny their rights to territory and prior consultation.

**Forced Displacement due to Environmental Pollution**

In 2010, the Ministry of the Environment, Housing and Territorial Development (Ministerio de Ambiente, Vivienda y Desarrollo Territorial - MAVDT) issued an “involuntary reassignment” to the three communities of Boquerón, El Hatillo and Plan Bonito under the 970 (Resolution 0970 of May 20, 2010).\(^{13}\) These three communities were considered to be living in an environment...
area with an uninhabitable level of air pollution. This was the first time in Colombian history that the government made such an order because of air pollution. The PM10 levels were recorded by the Ministry to be up to 67 $\mu$g/m$^3$ in El Hatillo and 177 $\mu$g/m$^3$ in Plan Bonito (Escárraga 2013).

The government argued that the legal order was issued to save the lives of the nearly 2,000 people living in the three communities. The government ordered the coal mining companies to negotiate the conditions and resettle the villages over the next two years. However, the NGO Tierra Digna argues that the so-called “involuntary reassignment” ordered by the state is best understood as “forced displacement due to environmental pollution” alluding to the fact that the communities were placed directly in the middle of a corporate and state dispute that would deny their agency (Tierra Digna 2015).

The mining companies immediately appealed the decision, but the Ministry of the Interior denied the appeal on August 5 of the same year. Drummond argued that the villages were not located in its mining concessions (Drummond 2020, see Figure 7). The Ministry reiterated the initial order and added strict percentages of responsibility to each mining companies for each of the villages.

The decision outlined the parameters of responsibility for each of the corporations and insisted that the mining corporations must finance the process in addition to hiring an intermediate operator to negotiate and implement a Resettlement Action Plan (RAP). The RAP would be the central document to include information on the population, a regional analysis, and a resettlement proposal. The Colombian government legally obliged Drummond, Prodeco and CNR to resettle Plan Bonito and El Hatillo in the municipality of El Paso, and Boquerón in La Jagua de Ibirico.

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to resettle El Hatillo, Plan Bonito and Boquerón was for Prodeco and CNR, then this resolution modifies the obligation and includes Drummond.
The state also required the corporations to hire an auditor to monitor the process. A deadline of September 2012 was set for completing the resettlement (Resolution 1525 of 5 August 2010).

The resettlement process does not follow one specific regulatory framework or standard in Colombia. Locations, housing type, infrastructure and amount of financial compensation are all negotiable, placing the process squarely into the power of the corporations. The corporations were deemed to follow the Operations Manual of the World Bank and IFC Standard for Resettlement.

In 2011, the Ministry wrote a reprimand to the mining corporations for failing to contract outside operators. In 2012, Drummond, Prodeco and CNR formed an inter-company collaboration to facilitate the process. One month after the reprimand, the companies hired the central government's National Development Fund (Fonade) as the facilitator and the Corporation for Interdisciplinary Studies and Technical Advisory (Cetec), a non-profit based in Cali, as the auditor.
The operators were to work under the parameters of the World Bank, the International Financial Corporation and the IDB to facilitate a negotiation (Drummond 2020).

Fonade lasted just a few months and the Toronto-based rePlan INC, operated unsuccessfully from 2012-2015 on behalf of the companies. RePlan Inc. is a corporation that secures territories and resettlement for: Barrick, BHP Billiton, Chevron, Glencore, Newmont, Rio Tinto, Shell, Vale, Xstrata, international financial institutions, public agencies and not-for-profit organizations (Environment Analyst 2015). In 2015, the second auditor, Environmental Resources Management (ERM) acquired Toronto-based rePlan. ANLA stated in 2015 that “the mining companies jointly identified various shortcomings and difficulties of both an administrative and methodological nature, which is why they decided to carry out a process they called ‘re-engineering’” (Gómez 2015). In 2015, a private Colombian company from Antioquia, Socya, took over. Socya has organized public-private displacement plans since the 1960s. The decade long unresolved process has been disastrous for the three communities including El Hatillo and Plan Bonito and at the time of writing, the corporations are now on their third, third-party corporation.

**Boquerón**

Boquerón is located about 10 kilometers west of the municipal center and town of La Jagua de Ibirico. It is a township of La Jagua and legally considered a *Consejo Comunitario* by the municipal government. However, the Colombian Ministry of the Interior has never granted *Consejo* status to the former *Palenque* leaving the community more vulnerable to the mining corporation's lawyers and powerful outside international resettlement operators outlined above. Boquerón is also located fewer than 5 kilometers from Prodeco/Glencore's Calenturitas mine, 7 km from Drummond's Prebbenow mine, and 11 km from the nearest CNR mine. Many locals (and other researchers) argue that the community has been denied their Afro-Colombian status precisely
because by attaining Consejo status the community would have territorial rights under Law 70 and the right to ex post facto prior consultation, giving them more legal leverage with which to fight against the pit expansion plans of Prodeco/Glencore and the mining companies (Power 2016).

Without legal recognition as a Consejo Comunitario, Boquerón has been unable to use Law 70 and FPIC. The entire process has been very difficult for the community because they live with not knowing if they will be displaced or continue living with the air pollution and surrounded by mines.

Ricardo stated:

Boquerón is not recognized [by the state] as Black [Afro-Colombian] although it was the central Palenque of the region. It is one of the known Palenques that does not have recognition today. In the struggle and this question, it has been difficult and hard because the way the mining extraction has occurred. Suddenly they have been removed little by little and they were not exactly evicted from our territory and yet, in a way, we can say it happened abruptly (personal communication 2018).

Although the Ministry of Interior gave the companies two years to resettle the affected communities, by 2012 nothing had happened. In fact, one participant told me that the community knew nothing of the resettlement plan and were not even notified about the displacement until 2012 when they received a letter from the mining corporations (personal communication 2018).

With the support of lawyers and NGOs, Boquerón fought hard against a confusing, nontransparent and asymmetrical process. One of the accompanying lawyers stated, “What we considered at that time is that if it is a discussion between the companies and the community, the community is going to lose” (personal communication 2018). The corporations initially demanded that the leaders of the Community Council and the Community Action Board meet at their office several kilometers away. The first small victory was when the leaders insisted that the meetings be held in their community so everyone could attend. Many people do not have transportation, and
although some people have motorcycles, paying for transport in a private car is very expensive. In this rural area there is no public transportation.

The community reached out to other government representatives, including the Ombudsman's office, to seek additional support, but one supporter working with the leaders of Boquerón stated:

The community started to create a record of the process, then some minutes, and then some agreements, rapporteurship, to be clear about what the community's demands are and how it should be managed over time. That was where we really began to see problems, they [the companies] began to distort the minutes, they erased the agreements, and they claimed that they had never said certain things (personal communication 2018).

Although the state required an outside auditor, the auditing process is performed by a private corporation that comes from the international banking scene. The first operator was Cetec, but later ERM took over. These changes in third-party institutions and auditors prolonged the process causing confusion for the communities and their supporters. A new negotiation strategy was implemented by Socya with the community, but the resettlement process has undermined social and cultural cohesion and caused division and conflict. One lawyer stated:

Mining activity generates all those territorial transformations in Boquerón and, in turn, there are environmental liabilities, but what was most evident at that time were cultural liabilities. How the Afro-descendant culture of that town had begun to be completely broken. This is very pronounced, and then it begins ... these agreements with the companies begin to appear.

Since the state mandated order, Prodeco/Glencore began installing their own air quality monitoring stations including along the road that passes by Boquerón and what is now the ruins of Plan Bonito. The company claims that the PM10 level in Boquerón has declined to 32 \(
\mu\text{g/m}^3\) (Prodeco 2019). Based on their data, the mining companies argue that there is no need to resettle Boquerón. The companies have argued that since the original decision to resettle the communities was based on air quality standards and since the companies have lowered the PM10 by watering
down the road and particulates in the mine, among other practices, there is no need to resettle (Gómez 2015, Prodeco 2019). The companies also claim there has been a significant increase in the population and that many people are no longer from Boquerón so they should not have to resettle such a large transient population (Gómez 2015).

The process has been bad for the public image of the corporations. One of the ways the companies have tried to remedy the bad press is to implement and strategically place compensation programs. One notable program is a fish farming operation. Prodeco has built several fish tanks just next to the road at the edge of Boquerón. I passed by this operation several times for a year and a half looking up at the enormous billboard exclaiming Prodeco’s aquafarming operation with the community. The billboard was just next to the empty tanks that lay wide open to the raging hot sun. One fisher said to me in jest as we sped by on his motorcycle, “They don’t want to raise fish, they want to boil them” (personal communication 2019).

In a meeting with the Mayor of the municipality of La Jagua de Ibirico, she told me that there were plans well underway to build an industrial park near Boquerón on 35 hectares of land that Drummond had given to the municipality where an army post was situated. The Mayor stated, “We are going to do it by public-private alliance.... Today there is a national body that is preparing the feasibility and the entire process of the project... Fonade is the entity. And the resource, the cost is approximately 800 million pesos paid in part by Drummond, CNR and Prodeco. The municipality did not pay a peso” (personal communication 2018). I was surprised by the involvement in Fondade. When I asked her about the resettlement process, she replied:

The national government is also evaluating the possibility of looking at whether the contamination exists or whether the contamination they projected does not exist, to see if they should definitely be relocated or just stay there. And a development plan has been made for them so they can remain in Boquerón. Where the army is, over there, a piece of
land that Drummond gave us. Drummond gave us 35 hectares of land and an industrial park will be built there.

The Mayor expressed hope that the industrial park would bring jobs as part of the development plan and explained the compensation programs underway:

The mining sector itself has made investments there. They renovated the CDI [Child Development Center] because the miners had nowhere to go to. They conditioned a playground, they had never had a playground. All this has been done with the mining companies -- the parks, the roads that have been improved, reforestation that has also been carried out, that is, the mining sector is intervening in Boquerón in a very pleasant way. Well and some productive projects that we have with the theme of social responsibility that they also have, and especially with the rivers in the area of influence. We have to renew 700 hectares in this government program, the development plan. We said that we would comply with 300. So we as a municipality are going to do 150 and Prodeco is going to plant 150 hectares of coffee. There is a fish farming program in which the mining sector is also involved. They helped us with the productive projects and the topic of entrepreneurship like what we saw yesterday at the meeting, because also especially Prodeco, which has led the subject of entrepreneurship for companies, we have also helped many families organize their businesses and some businesses that help generate jobs. They help us with these projects...

With that experience in La Victoria, it was also repeated in Boquerón and the three mining companies also intervened again and paid for it. Prodeco, Drummond and CNR made Boquerón Recycle there in Boquerón. Today the mining companies are also committed to taking everything... the garbage, the food, the waste they have there... the compost is then managed by the mining companies. In education, they have helped us, in health, especially in Boquerón, which has been an intervention by the three mining companies. They have helped us a lot – tuitions for schools, in scholarships (personal communication 2018).

However, despite these bold claims, my observation after spending time in the area is that the mining corporations are initiating compensation programs that benefit the companies more than the community. A decade after the first order from the state, the result of the resettlement-dispossession process in Boquerón is still unresolved. The former Palenque has experienced a type of socio-cultural dismantling by the coal mining multinationals. The air pollution, machinery noise and cultural-ethnic erasure has had severe impacts on the community cohesion. Yet, unfortunately, displacement could be worse. The last time I passed by Boquerón with a group of Colombian researchers, one researcher stated in disbelief, “I can't believe it. This is a national disgrace”
(personal communication 2019). Yet, while the companies organize compensation programs that distract the public and make them appear to be helping, the Afro-Colombian community continues to pay the price with their health, culture and livelihoods. As an advocacy lawyer with a national NGO concluded, “What is decided is to give precedence to an economic activity over the very existence of a people. And well, that is very serious, especially since this was a town also very affected by the armed conflict” (personal communication 2018).

“When the Walls will Fall”: Paraíso

Paraíso, an Afro-Colombian neighborhood located just off the principle highway that was once the Camino Real, sits at the northeast edge of the town of La Jagua de Ibirico. The neighborhood is about two kilometers from the La Jagua Prodeco/Glencore mine that produces around 7 million tons of coal annually (Prodeco 2020). The Paraíso barrio has strong social cohesion, an active leader and strong women leaders. The community leaders charge that over the past six years the detonations have occurred increasingly close to the town. Just after noon during lunch time, the detonations blow up the earth across a long strip in order to access coal further underground. Every day the houses rattle, new cracks form, windows blow, the metal roofs shake, and the air becomes more polluted. One female resident stated, “Everyone ignores the situation. There are seven people living in my house, and all of us are in a high-risk area in a high-risk house, and that least-expected day will come when the walls will fall” (personal communication 2018).

In the Paraíso neighborhood the housing damage is severe. The houses are built from cement blocks with metal roofs. They are generally two-bedrooms and one bathroom on one side of the house, and the other side is an open plan with a living room and kitchen. Foundations are cracked, walls are separated from roofs, and many windows are broken or can no longer shut. One employed resident told me that she rebuilt her house three times in the last 12 years (personal
communication 2018). On a follow up visit nine months later a large crack across the front of her newly built house was visible, and the foundation was torqueing on one corner (personal observation 2018).

As the mine grows ever-closer to this Afro-Colombian neighborhood at the edge of town, conflicts are building with the local authorities. One resident stated:

And the municipal administration absolutely does not help us at all. They say that there is no budget when we ask for help. I do not know who to go to. We no longer have practically anyone to go to that will help us solve this situation. Because when a catastrophe happens then yes, they come and throw themselves at the victims, but I know what happens, that they just come to take a photo and that's it (personal communication 2018).

According to the residents, Prodeco and the elected officials in the local municipality of La Jagua de Ibirico deny that the housing damage has anything to do with the daily explosions. One resident stated that the local elected leaders blame the community for building houses below the housing code standard. One resident's house was built of mud and when they had the opportunity to build a new house, they followed the municipal codes under supervision from the municipal building authority, but when the cement-block house began to crack, they were still blamed by the local government:

The administration says that we failed by not making the houses up to code. This house was made by the administration. So... they are to blame because they did not build up to code and follow the standards. And what did the administration do because they are more cracked? In other words, if you are the ones who have to follow with the rules... shouldn't they build the houses so that they don't have that problem (personal communication 2018).

At a meeting between the municipal elected officials, a Prodeco representative and the community round table, the corporate and elected officials were clear that they believed the problem had nothing to do with the detonations (participant observation 2018). Instead they claim that the geology in the region is the problem – that the soil below the houses is “bad ground” that
moves on its own so that the houses naturally settle (participant observation 2018). Another female resident active in the Afro-Colombian neighborhood stated:

We are practically alone because we have gone to various entities such as the administration [local government] and the mining companies. The mining companies say that they do not have any problem, that is, that they are not the cause of this. The administration says that they are going to commission a study to verify if it is true, that the blasting produced by the mines is the cause of the damaged houses and so many skin and respiratory infections (personal communication 2018).

For years, residents of Paraíso have demanded that the company and municipality issue a geological study to prove their claim that the ground is the reason for the housing damage. However, other nearby residents were skeptical of the possible results of such a study, warning me about the questionable relationship between state environmental officials and Prodeco.

One resident told me that after a truly enormous explosion in early 2019 that scared many people in the town, a strange gas came from the mine. The following week a state environmental representative came to measure the detonations and check that they were within limits. However, on that day the explosion was unusually far away from the town and much weaker than normal. The residents tried to explain this to the technician, but he was told this was all normal and concluded that the terrifying explosion could not have happened. Community representatives told me they believed that company and environmental monitoring bodies were working together. Therefore, it calls into question whether a geologic study issued and organized by Prodeco would produce unbiased results (see ports in Chapter Seven). As a result of the daily explosions and the recent enormous one, another resident stated that he believes his son is traumatized. After the explosion that was particularly house and earth shaking, his son sat in the corner and did not speak for days and he is now afraid to go outside.
Some residents have been offered resettlement by the municipal government in a new housing development, but they continue to refuse. The housing is located a greater distance from the town center and in much smaller houses. One female leader told me that her house was ten years old and she has rebuilt it twice. She stated the houses in the new resettlement were “...a very small thing. We are five people with the baby, six. We have our space because that is what the house was built for so that everyone could have their space. Not there, we would be overcrowded” (personal communication 2018). In addition, the residents told me the utility services were very expensive in the new housing development compared to what they pay now. The electricity would be higher (300,000 pesos per month), they would have to pay cable television separately, and “If you don't have cable, you see nothing. Because in other cities, you have the right to your national channels even if you do not have private cable, but here, not here” (personal communication 2018). Finally, several residents told me that the water in the housing development is not drinkable and they would have to pay a high water bill, “Because you cannot drink it, that is, it is bad. It has sand in it with little snails and worms. It is dirty” (personal communication 2018). In addition, the housing development does not have trees to provide shade, which is very important in the hot climate of Cesar. Instead, they continue to demand that the municipality and Prodeco pay to rebuild their houses or find another solution, for example, discontinuing the mining extraction and detonations so close to town.

The risk of health problems due to air pollution is very high due to the proximity of the neighborhood to the Prodeco mine. As the community struggles with the immediate threat of their houses collapsing, the slow violence of air pollution is often sidelined. An active female leader in the community stated, “Every time they do the blasting, you see the rising of the explosion coming
towards the community. That is, it is like a cloud of smoke, but it is not smoke, it is something else from the explosions” (personal communication 2018).

Air pollution has serious health impacts in the region. Rudas Lleras and Cabrero Leal (2014) combined data from DANE and WHO to find that from the few indicators available to the public, the average death rate for acute respiratory infections in mining towns in the region rose “from 20 per 1,000 total deaths between 1998 and 2002, to 31 per 1,000 between 2008 and 2012” (p.21). They argue that before mining began, the mining towns in Cesar had rates far lower than the departmental average of 25 per 1,000 (Colombian average of 28 per 1,000). They found that the incidence rate increased more rapidly in the mining towns than other parts of Colombia as a whole and that the death rate in the mining towns “increased during this periods by 55%, far greater than the 15% rise estimated by the WHO (2005, p. 11) when PM10 levels went from 20 $\mu$g/m$^3$ to 70 $\mu$g/m$^3$” (p. 21).

For now, this Afro-Colombian neighborhood has strong social bonds and active women leadership. They continue to struggle for the right to fair and safe housing and a solution to the air pollution, but they do not see support from the municipality in the future:

Because we go to the administration to collaborate with us, and she [the Mayor] always belittles us and claims it is not happening, or sometimes yes, that we could make a “project” [compensation]... We have been dealing with this for over six years, through two administrations who are the same, and neither of the two administrations have solved anything. In fact, in 2019 this administration ends and we will continue with the same problem. We throw the ball at one, and they throw it on to the next one and we do not find an answer to our problem (personal communication 2018).

La Loma de Calenturitas and Sabana Linda

On the southwest side of the mines is the town of La Loma de Calenturitas. This was once a sleepy fishing town with no more than 3,000 people. In the past two decades the population has grown to 25,000, but the social services have not. At the edge of La Loma is the Afro-Colombian
neighborhood of Sabana Linda. In addition to the residents experiencing similar problems with housing damage, the primary impact to this community is the constant high level air pollution from the nearby CNR mines, the enormous “hills” of coal mining overburden just 500-700 meters away, and water contamination and scarcity.

The sad irony is that La Loma means hill in English. Yet the town and surrounding area is located in the flat riverine valley. La Loma comes from the name of a nearby river that winds through the foothills of the mountains to the north. However, with the gigantic spoil mounds from the mines, La Loma is now surrounded by hills – toxic hills. One resident explained:

La Loma is a town that does not allude to its name because there are no hills here. La Loma is flat.... but today we do have hills, which are the big hills that the mines built, dumps of waste that they remove to extract the coal. Those are the hills that have been built, which is like our Great Wall of China. It causes a negative impact both visually and environmentally because all that pollution from that sterile they put there, we absorb it here in the town. So the problem is that we are one hundred percent environmentally affected (personal communication 2018).

The hills are piles of toxic mining waste that blows into the nearby community. The overburden is earth that has been separated from the coal. Underground, the soil and rocks are made up of locked up minerals and contaminants, including uranium. The chemicals react when they are broken into smaller rocks through the extraction process and exposed to air and water. The air pollution from both the nearby mines and the overburden blows into the community where Sabana Linda and two other neighborhoods are very highly impacted. It seemed that these gigantic spoil mounds hold heat and the proximity to the mine pits were what made La Loma seem so much hotter than anywhere I ever traveled in all of Colombia.

The coal mining industry frequently claims they do not contribute to any significant environmental damage in the area (Moran 2015). In fact, they belittle the air pollution as polvillo (little dust) as if the toxic pollution is something that can be easily pushed aside. Even more, they
call the overburden estérile (sterile) and argue that it has always been there, as if the mined minerals and contaminants were sterile innocuous forms of dirt and did not react to the air and water due during mining or accumulate in the human body (Moran 2015).

In 2017, CNR temporarily stalled mining operations because the environmental authority cited a violation for piling the overburden above the 100-meter limit. In response the company began a new overburden site closer to the community and resumed mining activities shortly after. Sitting with the residents of Sabana Linda for the first time, they explained how they planned to register as an Afro-Colombian community and were organizing together to apply. They pointed out the newly built park in the center of the neighborhood that was built without shade and the looming waste mound that was certainly more than 100 meters high. One resident stated:

They disabled it on one side and enabled them to continue on the other side closer to the neighborhoods of Sabana Linda and other impacted neighborhoods. These are impacted neighborhoods! We do not have a guarantee or a process. We are without jobs. But we are impacted by this. So with all of this we are badly treated and they always say that the community is lying. We have a government that we unfortunately do not trust because they are always on the side of the mine.... and now there is a wall around us (personal communication 2018).

Another community member chimed in and in jest explained that eventually “we will be buried” (personal communication 2018). In response, eucalyptus trees were planted to supposedly reduce the pollution between the impacted neighborhoods on one side and to hide the overburden and mines on the other. Of course the trees had little impact in reducing the air pollution aside from starting a dangerous fire and being notoriously damaging to the already scarce water supply. One resident explained:

They built a eucalyptus barrier to mitigate contamination. Those barriers, those ecological barriers, those living barriers they call them, you can see from here, right? That is what they began to plant and I would say that more than a living barrier to mitigate the impact, they are just barriers so that those who live in the neighborhoods surrounding them do not see the machinery on the other side. I would say this was their strategy, because it does not
mitigate anything.... Now to add insult to injury we have experienced a hot summer, so the fire rate has skyrocketed... and has threatened the neighborhoods that are close to mines right over there. Because there are houses that are threatened and are practically patio to patio with the eucalyptus trees (personal communication 2018).

Saban Linda identifies as an Afro-Colombian neighborhood and has worked to become a Consejo that would grant them rights, but they have ran into several obstacles along the way. One resident stated, “Because we are an ethnic minority community.... there is a lot of violation of rights here. And since they do not want our rights to be granted, they are not going to be fulfilled. Ultimately, we will have to appeal to the different international courts to have success, not only for the social rights but also the environmental issues” (personal communication 2018).

On my first visit to Sabana Linda, the community asked me to visit several sites where land changes were going on. They were concerned with a canal diversion and a newly dug pit in a nearby field. A group of us went out on a walk in a field and at one point were followed by a drone. During that visit, someone took a picture of me that was posted by a local resident on Facebook. According to a community leader, one whom I did not meet on this visit, someone asked him who I was, what I wanted and what NGO I represented. He told me that it was a CNR representative asking questions. They also called other community leaders to ask similar questions. Then they told the leaders to “be careful” (personal communication 2018). One of the community members told me they believed that CNR installed a new air monitoring station because of my visit. Months later, on a follow-up visit, I was told about the company showing my picture to community leaders. I confronted CNR’s social-responsibility representative and one of their lawyers at a meeting and they denied that it ever happened. I told them that if they were using me as a way to silence community leaders that we would have a legal problem. The response from the social-
responsibility representative was that “We would never do that. We are the good one” (personal communication, 2018).

At that same meeting two other significant events took place. There was a community walk out, and I once again witnessed up-close how compensation programs were used to divert opposition, divide communities and silence local citizens. This was the meeting where CNR was supposed to roll out their environmental plan with Ministry of the Environment, but the state representatives decided not to show up at the last minute. The communities had organized and prepared for weeks and they were furious to have to wait again. CNR had recently breached a contract by hiring an outside contractor to manage the food operations for the mine workers. There was a strike the week before because 105 families were left without contracts. The community round table had also organized to confront the state about CNRs pollution, and the on-going water problems among other things. As members of the community started to shout down the excuses being told to them by the corporate reps, eventually the meeting turned into a shouting match. After 45 minutes, in an outrage, the community members walked out. A community leader later told me:

Emotions were running high today and we had to deal with it on the agenda, it was an environmental issue with ANLA, but we found ourselves surprised that precisely an hour before [the meeting] they decided to say they were not going to show up. We were manipulated, handcuffed and cheated. The problem that the community has with the company is that they do not trust CNR anymore. There is no trust with the business community. Because there is always on one side trickery with small projects to collect a signature and after the people are deceived (personal communication 2018).

The “small projects” he was referring to are the social compensation programs. Just after the walkout, I hung around to confront the corporate representatives about allegedly harassing community leaders with a picture of me from Facebook. After that confrontation, I noticed that the only community members left in the room were the ones who were involved in CNR’s social
compensation programs. A strong and admirable woman from Sabana Linda was there. She had enrolled in a “productive” program to make sausage. I sympathized with the appeal and economic incentive to start a small business and generate a stable income. We spoke at length about her plan over coffee that morning. She told me that CNR’s foundation would train six people, buy the equipment and help them start a small business.

In addition to the sausage program, CNR implemented other programs, among them a bread making program. Another member of the community told me that the bread making program failed because the company did not support the efforts of participants over the long-term (personal communication 2019). The community member explained that without follow up financial support, starting a small business is a huge risk and can put people in more difficult economic situations over time and push them into debt.

In addition, like other communities, the social compensation programs continue to create tension and division in the community. In fact, I witnessed a community leader arguing with another participant in the CNR programs regarding her participation earlier that morning. The company was impacting the community in a multitude of ways, but on that day two things were clear. 1) The compensation programs were dividing the community, and 2) The toxic hills that surrounded the north side of La Loma impacting the unregistered Afro-Colombian neighborhood of Sabana Linda was creating dangerous levels of pollution. Instead of dealing with the root of the problem and stopping mining and overburden hills close to the town, the CNR planted eucalyptus trees that caused a dangerous fire, built a sweltering park, and initiated another compensation program that was causing community division.
Community Council of Negritudes Julio César Alcamar Muñoz

On the other side of La Loma, the Community Council of Negritudes Julio César Alcamar Muñoz became a state registered Consejo Comunitario in 2014. Afro-Colombian communities in Cesar continue to struggle for their constitutional rights to prior and informed consent but often find that even as a registered Consejo, they may not be properly consulted. In response to a lack of prior consultation, communities can file a tutela.

A tutela action is a protection measure and part of the state’s ordinary judicial channels to process remedial actions. A tutela enables any person or group of individuals whose fundamental rights are being threatened or violated under Colombian Constitutional law to request that a judge with territorial jurisdiction protect that person’s fundamental rights. Fundamental rights guaranteed by the 1991 Colombian Constitution under Article 86 include the right to education and health, among other socio-economic and political rights. The tutela may be rejected by the territorial High Court. The Colombian Constitutional court reviews all tutelas, and is designed to uphold the Colombian Constitution, in particular, Article 86. If the Constitutional court rules that another High Court has not upheld a tutela properly, and violated a human or basic right, it can overturn the ruling in the review process and issue a corresponding judgment (Eslava 2009).

The Community Council of Negritudes Julio César Alcamar Muñoz have been active in asserting their rights. They filed a tutela action against the Family Welfare commission for failing to consult them on a family welfare program that was violating their ethno-differential approach.

A member stated:

We had a tutela action with Family Welfare since they started to carry out projects without taking into account that there is a black community and we were not consulted. And they are leaving our children, the right that this family welfare program had to be carried out with an ethno-differential [education] approach is being violated. We filed a tutela action the first and we lost it, in the second instance as well, but it went to the Constitutional Court
to review and the court entitled us through a sentence, 17 of 2017, so through that it is being carried out. We are in the pre-consultation stage, that is, we are in the pre-consultation stage to get it done (personal communication 2018).

They filed for a deeper well and against a mega-project the Ruta del Sol and won. They also fought for prior consultation and won against a solar power plan that would be placed just next to their territory. The Consejo with other groups and organizations in the region are also active in supporting other Afro-Colombian communities through rebuilding cultural memory and support. A member of the Consejo stated:

We continue to prevail with our ancestors because they understand the territory better than we do, and everything used to be a consultative project, transparent and benefitted the community... And we are working on a project to strengthen our Community Councils through a process of historical memory. Collecting historical memory of Afro-descendants taking into account the process of violence we have experienced (personal communication 2018).

When asked about compensation the Consejo was clear that they did not want merely compensation but full reparations for the violence they and their ancestors have suffered. One member stated, “We want good compensation, not a conversation that only applies to one person. If it is true that they come to make water wells... Well that's fine, but that does not compensate even one percent” (personal communication 2018).

However, even though the Consejo is registered and has legally won several actions, the representative of the Consejo claims that CNR still denies that there are Afro-Colombian communities in the region. The leader stated:

I have a document that the company brought here saying that there is no presence of a Black community. We are fighting that to see who said this because I think it is that the mine that wants to get rid of us... Thank God that they [Ministry of the Interior] gave approval that there is an Afro-Colombian community. We have other projects as well, such as solar energy.... When we already made a prior consultation and the Afro community was ratified.... Then they went to CNR as well and they said, “No, there is not an Afro community”. Now we do not know who it is there that will be certifying or [is it that] they do not know the territory. The Minister knows our situation.... But this company that is
here, the one that does not totally sit well with this, they taunt the community. They render the population useless, they discriminate, and they do not hire workers from the community.

The *tutela* process and prior consultation are two ways for *Consejos* to demand their rights, but success is rare. As a lawyer operating in the region explained, “This is how it is shaped, these spaces for consultation that I am telling you about, this space for consultation has a billion problems. It is completely asymmetric, there is a lack of transparency, and there is no access to information for the community” (personal communication 2018). The barriers to the rights of Afro-Colombian communities in Cesar are high and continue to be stacked even higher, especially when the presence and rights of Afro-Colombian communities are denied by powerful extractive industries.

**Finca Alto Plano**

About five kilometers outside of La Loma, Silvia, an Afro-Colombian elder, returned with her family to live on her 90 hectare farm just three months before my visit. The land titles are old, and Silvia told me that there must be copies in the local municipality. Silvia was born and raised on the land and dreamed of one day returning. After moving into La Loma with her ill husband 13 years ago, she tried several times to sell the land to the company (CNR is the closest), but the coal corporations refused to buy. According to Silvia, the companies tell her that the state will not allow them to purchase any more lands in the region. In early 2019, she and her family returned to their old land in order to make their presence visible in the hope that the companies will purchase the lands or give them some kind of support. Silvia has suffered huge losses in her life. Two of her sons were killed by paramilitaries in 2000. Another son died in a motorcycle accident shortly after. She has six living daughters.
With no electricity or water from the nearly dry and contaminated Tucuy, Melana and Peralu creeks, the family nonetheless began to build and plant on the land. Within just a few months they had built three houses from gathered materials and began cultivating staple crops including three hectares of corn, yuca and ahuyama.

Just 400 meters away in a post by the coal railway, armed guards (*vigilancia*), including Interglobal and the military, control access to the road owned by CNR. The family has to pass by the guards to access the entrance to the land. They guards frequently patrol the area and initially approached the family to ask what they were doing there. The day before we arrived, representatives from CNR and Ecopetrol, the mega oil corporation, showed up to test the water in the nearby creek. When the family asked the representative from CNR about the contamination, according to Silvia, CNR replied, “No, here it is Drummond who *perjudica*” [it is Drummond who makes the damage]. This was not the first time I had heard a CNR representative claim that they are the good coal company operating in the region. The air pollution comes from all sides and there is the rail line running close by. In addition, they are surrounded by mines from Drummond, Prodeco and CNR.

Together, we walked to the Tucuy creek to find it stagnant and clearly devastated. The water situation is critical. They explained how the Tucuy creek has lost 75 percent of the volume since it was *canalizado* (diverted) and how it was once lush with vegetation. Silvia stated, “We used the water for all kinds of things before, it was so nice, but the mines have taken the water. Before, the underground water was five meters below the surface, today it is between 18 and 25 meters below the surface” (personal communication, 2019). She also pointed out that because of the daily detonations the ground smells of ammonia. Many of the *campesino* neighbors suffer greatly from the impacted water system (see next chapter).
Yet, even under the enormous pressure of living without water and electricity, and under encroachment, pollution, and patrolling armed guards, the family was visibly enjoying being back on the land. Silvia beamed with pride as we passed by the ruined site of her childhood home. The family was warm, eagerly invited us back for breakfast the next day and were clearly loving the land again; it was an act of revolutionary defiance on their part. They told us that the purpose was to pressure the company. While they waited for the company to purchase the land and move far away from the pollution, encroachment and violence, in the meantime they would build, plant and create.

As we walked back to the newly built houses – made of branches, palm fronds and mud – to gleefully drink coffee, share sweets, and swap stories, I was reminded of the “possibility of life in capitalist ruins” (Tsing 2015). Although the biodiversity was nearly destroyed on this land and not a great example of Tsing's multispecies landscape, certainly capitalism in the form of coal mining, the machines, the violence, were relying on non-capitalist social forms to further accumulation – the social forms being primarily Afro-Colombian women. The holding out of hope for this so-called progress and development promised to the communities, in Tsing's words was the ultimate “cover-up and translation mechanism for getting access to value procured through violence: classic salvage” (Tsing 2015).

Afro-Colombian communities near the coal mining regions struggle for their rights to be recognized as Consejo Comunitario and FPIC under the law. However, these demands for rights are in opposition to the emergent idea of development under CSR and compensation and its underlying colonial logic. Afro-Colombian communities are not asking for a little more participation or better satisfaction under the existing economic model, they are asking for the full recognition of their cultural, racial and ethnic rights. The law is confusing and especially rural
Afro-Colombians that I met who did not know that they had to register under both the municipality and the state. The registration process – and concept – is contradictory in this regard because it reinforces the authority of a capitalist state that favors a development model that undermines their survival and livelihoods. The complex and confusing legal process, including registration at two levels of government, and the lack of transparency about the whole process leaves communities with a lack of information that serves the power of the state and, in turn, capital accumulation.

The stories of violence endured by Afro-Colombians at the coal mining regions only begin to capture the devastation. Although some Afro-Colombian communities managed to survive the horrific events of paramilitarism and development, they continue to struggle against environmental racism. The justification of development by the state push for compensation programs in place of autonomy and recognition. Programs that justify air and water pollution, housing damage, and continuing violence to human and non-human nature are used to silence communities. Finally, the direct, structural and cultural violence committed in the name of development has resulted in socionature and cultural erasure.
Chapter 7. Water Grab for Coal: Accumulation by Water Dispossession and Contamination

Coal mining is a water intensive industry and in Colombia the multinational corporations divert rivers, accumulate water in private reservoirs, damage aquifers, and pollute the rivers and ocean. The consequences of these actions have life-threatening impacts on human and nonhuman nature dependent on water for livelihoods and survival. Rivers, lakes and oceans were once part of the commons for local communities, but mining has created a water grab through a process of accumulation by water dispossession and contamination. Nowhere is the interwoven violence against human and nonhuman nature caused by coal mining operations clearer than when examining the dual impacts on the river basin—headwaters, tributaries, rivers, *cienagas* (wetlands), delta, mouth and ocean – and the communities who rely on water for food security and basic needs for survival.

This intertwined violence is examined in this chapter based on research from three regions: near coal mining in Cesar, near the ports of Magdalena, and near coal mining in La Guajira. Near the open pit coal mines in Cesar and La Guajira, the Cesar-Ranchería river basin suffers extreme damage from mining operations.¹ In addition, at the coal ports on the coast, local fishing communities are impacted by water scarcity and contamination. This section demonstrates how the violent water grab caused by coal mining operations cause accumulation by water dispossession and contamination. The corporations and state representatives often deny these acts of violence. However, my field research finds that coal mining has severe impacts on water, wildlife, livelihoods, food security and human health.

¹ use the term river basin, also referred to as a watershed or drainage basin, meaning the entire river system from headwaters to mouth.
Coal mining is a water intensive extractive industry that requires high inputs of water for various industrial processes. The process of coal mining impacts water volume in the river system. Further, the perforation of the underground aquifers by large open-pit mining leads to aquifer depletion, which in turn causes water scarcity among local populations. The corporations have diverted important tributaries, legally and illegally, for water use as well as the creation of private artificial reservoirs. Third, the process of extraction unearths chemicals, some of which are toxic such as mercury, uranium and lead. High levels of toxic chemicals leach into the rivers and streams impacting all life along the often-stagnant streams. In addition, the overburden laced with highly toxic chemical pollution is piled near the communities and chemicals seep directly into the streams and wells used by nearby communities impacting human and nonhuman populations.

This chapter is organized in two sections. The first section provides an overview of water use and depletion by the coal mining companies as part of their regular operations: i) water use in industrial coal operations ii) impacts of water depletion from aquifer damage; iii) river diversions; and iii) contamination of water systems. The second section is based on interviews with fishers, Afro-Colombian communities and Indigenous Wayúu in Cesar, Magdalena and La Guajira. The impacts to the river basin have serious consequences for the communities that rely on water for survival. Historically, water has been viewed as a critical part of the commons by local communities, but the coal mining multinationals have altered their communal access to water via permanent damaged, privatization and contamination. The direct effects vary. The fishing communities in Cesar are impacted by river diversions, water privatization and contamination. Afro-Colombian and campesino communities in Cesar are affected by groundwater depletion which limits their access to well water. The fishing community of Villa near the ports in Magdalena
recount the impacts on fishing at the coast. Indigenous Wayúu communities are impacted by river diversions in La Guajira.

Water is a connecting force of human and nonhuman nature and the basis of all life. The water holds deeply cultural meaning for Afro-Colombians and Indigenous Wayúu. It acts as a form of unrecognized labor benefiting the corporation, and as such allows for increased capital accumulation. The corporations exploit, destroy, pollute and divert the water and for the purposes of “development” are not held accountable. The violence perpetrated against water in this dry tropical climate constitutes an assault on all human and nonhuman nature from the headwaters to the ocean. Nearby communities are impacted by water shortages and contamination. Moreover, traditional Indigenous Wayúu, Afro-Colombian communities, campesinos and fishers struggle to survive without healthy water systems.

**Part 1: Mining and Water Background: Hydrology and Climate**

The headwaters of the Cesar-Ranchería Basin originate in the Sierra Nevada de Santa Marta and Serranía del Perijá mountains. The Sierra Nevada de Santa Marta mountains massif stretching between Magdalena, Cesar and La Guajira. They are the highest coastal mountains on earth. They also are home to several Indigenous tribes who were forced to seek higher ground during clashes with the Spanish colonizers (see Chapter Five). The Serranía del Perijá mounains are the eastern chain on the border between Colombian and Venezuela. Between these two mountain ranges is the expansive river valley that makes up the Cesar-Ranchería Basin and the location of the coal mining pits in Cesar and La Guajira.
The Cesar river flows southwest and feeds into the Magdalena Basin that flows north to the Caribbean Atlantic mouth in Barranquilla (see Figure 5). The Magdalena River is the largest river in Colombia and flows through 1,528 kilometers south to north (Angarita et al 2017). The Ranchería River winds northeast and turns northwest to the Caribbean Atlantic mouth near Riohacha, La Guajira. In this dry tropical climate, the water table is relatively close to the surface.

Coal is the primary driver of climate change and responsible for around 40 percent of global fossil CO$_2$ emissions (Le Quéré et al 2018). However, coal extraction also impacts the local climate. In 2013, the Colombian Contraloria General estimated that mining in the region will intensify the
desertification process, contributing to a 10 to 30 percent reduction in precipitation by 2050 from the annual average (Cabrero Leal and Fierro Morales 2013). Further, water resources in the region are increasingly limited, especially during the dry and windy seasons. Although the time and duration has shifted in recent years, the windy season is usually in January and February. The windy season has increases water evaporation. The long rainy season is usually October-November with a second shorter season in April-May. However, in the last few years, the second season has nearly disappeared, and rainfall has reduced dramatically in the longer October-November season. Deforestation of dry tropical forest has increased regional warming and threatens remaining surface water resources. As local land use change continues, and global climate change takes further effect – partially from burning coal – the region is a global climate hot spot. Faced with increasing desertification and water loss, water use and damage will only increase as the extent of large-scale mining expands.

**Mining is a water intensive industry**

Coal mining is a water intensive industry. For decades, technical literature has demonstrated coal mining's negative impacts on river systems (Drake and Le Bosquet 1931, Biesecker and George 1966, Moran and Wentz 1974). From mining to combustion, coal depletes water at nearly every step of the process. A recent report from China estimates between 1m$^3$ and 2.5m$^3$ of ground water reserves are used per tonne of coal mined (Pan et al 2012). In addition, permanent damage to aquifers and rivers from open pit coal mining continues to be reported around the world (Cardoso 2015, Greenpeace 2014).

At the extraction sites, water is used for washing equipment, spraying coal piles to avoid fire and air pollution, watering down roads to decrease dust particles in the air, detonations, and
other industrial processes. At the ports, water is used to spray coal piles, wash equipment and water the roads to control fine particle coal dust.

Although there is no doubt that the coal mining operations require high levels of water use, there is significant under-reporting, which is also frequently criticized by NGOs, activists and communities who call for more transparency. However, under-reported water use, lack of transparency and unenforced regulation are still frequent in the mining regions of northern Colombia. Moran and the Contraloría General de la República (CGR) (2015) conducted an independent water analysis in Cesar and found, “the relevant Colombian regulatory agencies possess little useful and reliable environmental and water data (quantity and quality) with which to evaluate, oversee and control coal mining activities in Cesar” (p. 3).

Data on water use can be scarce and unreliable, but there have been some attempts to estimate it. In 2008, the Centro de Estudios sobre el Desarrollo Economico (CEDE) reported that coal corporations used 6 million cubic meters of water the previous year and that water use in Cesar had increased exponentially between 1985 and 2008 (Tierra Digna 2015). A decade later, Rudas Lleras and Cabrero Leal (2017) reported that available data from DANE suggested 178 liters of water was used per ton of coal (p.20). Assuming this figure is close to the reality of water use at the extraction sites, they estimated that Prodeco was using almost 2 million cubic meters of water per year. In addition, they pointed out that this volume far exceeded Prodeco’s authorized use of 275,000 cubic meters. Using the same ratio, Drummond was estimated to be using more than 5 million cubic meters.

In 2009, Prodeco was forced to report water use as part of its request for approval to divert the Calenturitas River (see below). The Ministry of Environment, Housing and Territorial
Development (Ministerio de Ambiente Vivienda y Desarrollo Territorial – MAVDT 2009) reported that the total water consumption of the Prodeco mine was 85.36 L/ton of extracted coal.

Cerrejón (2011) reported similar data in planning documents for an expansion project that would increase coal extraction by 55-60 million tons per year and require an additional 17,000 cubic meters (103.4-112.8 L/ton) of water per day. In 2017, Cerrejón reported using more than 13 billion liters of water, 1.1 billion of which is pumped directly from the Ranchería River and its aquifer (Cerrejón 2017). The rest of the water, they claim, is rainwater that accumulates at the base of the mine pit (personal communication 2018).

The mining corporations pay a pittance for water use in Colombia (Moran and CGR 2015). In 2011, in a report to the MAVDT from Corpocesar (the regional authority), Drummond paid just US$140 for all of the water used in its mining activities for that year (Rudas Lleras and Cabrero Leal 2017). When I asked a Drummond corporate representative about water use and how much they paid, the corporate representatives pivoted the question and argued that they follow very strict legal guidelines effectively putting the responsibility on the state:

The operation of the port is monitored by the national authority but permits and are regulated by the regional authority. So you have to get permissions, you have a file for each permission. You have to present the technical information to access all the permits, which are water concessions, dumping, atmospheric emissions, forest exploitation... there are five ... and groundwater. For all this, we must explain in order to obtain the license. Our operations are all licensed. The licenses are in force and obviously there is a frequent review of the state. Contrary to what many people think, our monitoring is very incisive (personal communication 2019).

In contrast, water consumption in rural areas of Colombia is estimated between 83 to 120 liters per day per person (Ojeda and Arias, 2000). In La Guajira and Cesar during the dry seasons, reports estimate that water consumption by surrounding communities can be as low as seven liters per day (Cabrero Leal and Fierro Morales 2013). Indeed, this chapter will demonstrate that many
residents living near mining operations report an alarming increase in water scarcity due to mining activities over the last 12-15 years.

**Damage to Aquifers**

By damaging the aquifers and diverting the rivers, the corporations accumulate water by dispossess and diversion. The high volume of water use is necessary for mining operations through two distinct processes: Damage to the underground aquifers and river diversion. The corporations cause permanent damage to the river and aquifers and benefit from the water grab by accumulating and possessing the precious water resources in this dry tropical climate. One of the main problems is the damage is difficult to study because of the scale of the coal mining operations and the fact that the coal corporations generate their own studies as argued in a MAVDT (2010) study: “The magnitude of this type of [water] contamination is generally not known, despite the fact that the companies carry out specific studies. Mining represents a serious problem for the country's aquifers” (p. 57). In addition, the report stated:

The La Guajira stations located on the Ranchería and Carraipía rivers, as well as the Cesar river downstream from Valledupar, they are highly deficient in their water yields, presenting in dry season disappearance of its water courses (intermittent), with flows when measurable, ranging from less than 5 m³/s at the highest elevation station, going from 25 to 50 and up to 100 m³/s in downstream stations; these low flows, they make them very vulnerable to the pressure of the surrounding socio-economic activities (p. 40).

Due to detonations expanding the mining operations the flow of underground aquifers is cut off. Dewatering is the technical term to refer to such a process that cuts into the underground aquifers causing direct damage and ultimately lowering the water table (McIntyre *et al* 2018). Water is accumulated in the mine pits in the process of drawdowns on groundwater levels due to mine pit dewatering. The underground water accumulates at the bottom of the pit. In addition, in
this dry tropical climate much of the water evaporates into the air, especially in the dry and windy seasons.

One of the problems that arises when scientists try to study the impact on the aquifers is that there is not reliable baseline data with which to compare. The mining sector audit in Cesar conducted by Moran and the CGR (2015) included well measurements that were compared to a study by Brown in 1983. Moran and the CGR reported a 10-meter minimum reduction to the water table. In the qualitative data presented in part two of this chapter, based on interviews with local communities, communities estimate the reduction to be at least twice that.

Over a decade ago, Corpocesar and the Colombian Institute of Hydrology, Meteorology and Environmental Studies (Ideam), studied the damage to aquifers in Cesar and reported that at least three aquifers of significant dimensions were damaged by the mines (Corpocesar and Ideam 2006). In addition, they reported that these three aquifers are likely to be the most abundant underground water sources in the region (see also Fierro and López 2014). The consequences of damaging the three most water abundant underground sources have very serious implications because once an aquifer is damaged from large-scale open pit mining there is no returning it to its original state. In other words, the subterranean aquifer system is permanently damaged.

The water table impact has been measured by the environmental authorities and the mining companies in meters of increased depth, but there is no reliable data that estimates total volume loss of the aquifers (Cardoso 2015). Cardoso (2015) argues that the damage to Cesar's aquifers have “consequences on ecosystems and local livelihoods [that] make the depletion of the water tables an irreversible and non-monetized loss” (p. 76). Dispossession of the aquifers in the mining regions are unable to be rectified.
River Diversions

The Cesar-Racheria Basin is dense with rivers and streams flowing from two nearby mountain ranges. Communities are dependent on these rivers especially due to the dry tropical climate, high heat index and high solar radiation. In addition to subterranean water damage explained in the previous section, river diversion is an important environmental issue in the mining regions. The pits are located in a river basin between two mountain chains with many rivers and streams. When mining operations on a new pit begins or coal corporations are given permission to expand pits, the rivers have historically been cut off and more recently diverted to access coal under the riverbeds.

Parallel to pit expansion and coal access under riverbeds, the coal corporations benefit from the diversions and have built privatized reservoir facilities within the grounds of the mining operations. The reservoirs are ring-fenced so that locals are unable to use these areas for fishing or other related activities.

By 2014, in Cesar alone, six brooks, seven streams and three rivers had been diverted by Drummond and Prodeco (Tierra Digna 2015). Meanwhile, community representatives in La Guajira report that Cerrejón has destroyed or diverted 17 rivers and streams in the surrounding area (personal communication 2019). In La Guajira, Cerrejón built a major diversion to the principal river, the Ranchería, and that has had grave impacts on food and water security for Indigenous Wayúu communities. In addition, Cerrejón recently diverted a section of the Arroyo Bruno, directly impacting at least seven Indigenous communities that live within walking distance to that section of the river (personal communication 2019).

The diversion of the rivers and tributaries in the river basins has implications for the natural drainage network, riverine ecosystem, deforestation, desertification and food and water security.
To date, there are no comprehensive ecological studies that measure the damage to the ecosystems caused by the coal pit expansions and river diversions. The impacts of the river diversions are explored in more detail below from the perspective of the impacted communities. The direct violence of the water grab carries immense socio-environmental impacts in the region, especially when taking into account that this is a dry tropical climate located on two critical watersheds. The impacts include: Privatization of reservoirs reduce access to fishing and increase water scarcity; flora and fauna loss of riverine ecosystems; food security due to impacts on fishing and agriculture; loss of cultural significance of the river for fishers, Afro-Colombian communities and Indigenous Wayúu; and impacts to the local economy.

**Water Contamination**

The process of unearthing minerals causes chemical reactions when certain chemicals are exposed to the air and water. These chemical reactions are often toxic and pollute the rivers and aquifers. In addition, explosives are composed of toxic materials that contribute to the contamination. The overburden or pit waste contaminates the rivers and streams as well. When it rains the minerals that make up the overburden mounds react with the water and drain into the drainage system. In the 2015 study by Moran and the CGR, the authors state:

> Inevitably, the quality of this water is degraded simply by coming in contact with the coal and other exposed rock, explosives, fuels, equipment, etc. Regardless of how it was used in the mine operations, adequate water may no longer be available or suitable for the other uses, or for the ecological system. Water is normally treated legally as a renewable resource, but clearly this definition is inadequate where much of the water is removed from the local / regional system and is also degraded in quality (p. 6-7).

The water dispossession is likely much greater than previously believed because there is no adequate publicly available historical baseline study with which to compare water levels and contamination (Moran and CGR 2015). The water is contaminated with: reactive chemicals,
uranium, chloride, sulfur, calcium, sodium, heavy metals including high levels of mercury and lead, equipment oils, and residue from explosive wastes to name a few.

Further, the accumulated aquifer, river and rainwater that sits at the bottom of the mine pits is highly contaminated. During a tour of the Cerrejón facility, the representative made a clear distinction that the company was not taking water directly from the river, but they were using the untreated accumulated pit water to spray the roads in order to reduce air pollution (personal communication 2018). The toxic water is also used to spray the coal piles to prevent ignition and fine particulate matter. The runoff goes directly into the rivers and streams contaminating everything downstream, and seeps into the groundwater contaminating the groundwater.

Compensation

In order to mask the permanent damage done to the aquifers and the river basins, the coal mining corporations use several tactics to divert, divide and distract blame through compensation programs. There are several programs that attempt to distract the public from the high intensity water damage and use. The programs include social programs such as small fish farming operations and fishing agreements with the fishers (Drummond 2016, personal communication 2018). In addition, in Cesar companies have paid for the digging of wells for nearby campesinos still residing in the region (personal communication 2018). In La Guajira, Cerrejón has a controversial water distribution program to Wayúu communities (Ulloa 2020, Avilés 2019).

The corporations are required by law to compensate for forest and biodiversity loss (see Chapter Eight). Through Resolution 1517 of 2012, the Ministry of the Environment and Sustainable Development (MADS) is the primary regulatory body of compensation for biodiversity (Law 99, article 57, 1993) based on the Manual for the Allocation of Compensation of Biodiversity Loss. In addition, reforestation and biodiversity compensation programs are also
regulated through the ANLA (National Environmental Licensing Authority). The damaged rivers are in part compensated through these programs. Besides the reforestation and biodiversity compensation programs, some of the corporations are involved with Payments for Environmental Services (PES) and carbon offset programs discussed in the following chapters.

However, researchers, activists and local communities argue that the compensation programs can never compensate for the shameful damage done to the aquifers and river basins (Tierra Digna 2015). However, the state maintains the position that when they run into difficulties, they are possible to fix. The CGR (2019) stated that studies demonstrate how compensation programs have had “countless setbacks and technical, legal and procedural difficulties that have delayed compliance” (p. 41).

In conclusion, coal mining is a water intensive industry from the mine to the port in Colombia. The high use of water, the damage to the underground aquifers, the river destruction and diversion, and the contamination are interlinked – the coal mining corporations rely on the damage to the river basin in order to operate. The next section of this chapter explores the impacts to the river basin from the perspective of the river-dependent communities that rely on the rivers and ocean for survival.

**Part 2: Community Impacts and Responses**

In this section I use several case studies to illustrate that the destruction of water resources is incommensurable with social and environmental compensation projects. The damage done through diversions, aquifer damage and pollution, considering the scope and the depth of the environmental and cultural harms that it poses, cannot be undone by biodiversity projects or other programs. For many impacted communities in the coal mining regions of Cesar, Magdalena and
La Guajira, the rivers are their only water source, and for others who rely on the river for fishing
and growing food, their survival and livelihoods depend on it. For Afro-Colombian and Indigenous
Wayúu, the river holds a cultural and spiritual importance that links the social cohesion and cultural
traditions of the communities. These case studies demonstrate that consultation and compensation
programs divert, divide communities and distract attention away from the permanent damage to
the river systems and privatize commons.

**Fishing Communities Near the Cesar Mines**

In order to understand the extent of the damage done to the river basin in Cesar, I sought
out the water experts in the region, the fishers.\(^\text{14}\) There is arguably no other group in the area that
understands the changes to the Cesar river basin and impacts to the sea more deeply than multiple
generations of fishers. Their collective generational epistemological knowledges range from
understanding nature's rhythms, weather patterns, species data, river systems, geography, socio-
cultural knowledge, ecology, food systems, and economics that surpassed that of any western-
styled scientist and hydrologists I encountered.

Luckily, I became immediate friends with an ardent fisher who later became my key contact
in that region of Cesar. He comes from a fishing family who trace back at least three generations.
I also interviewed his mother, uncles, cousins, and other fishers in the region. We visited many
fishers in their houses where we drank coffee and reminisced about life before the mines when
there was abundance and clean water. Some were elderly and could no longer fish because their
knees or eyesight had gone. Others were middle aged and involved in organized fishing
associations, and others fished on their own for subsistence or in a combination of subsistence and

\(^{14}\) I used the term fishers as a gender neutral term in English. About half of the fisher
participants are women.
small-scale sales to locals and fish mongers. I did not meet many youth who fished and I was told many youth did not see fishing as a viable livelihood in the future. The love of fishing, the region, and being on the water was always apparent. They often explained with deep sadness and grief the damage done to the rivers and how that directly impacts the fishing culture, the social fabric of the region, the precious ecosystem and their livelihoods.

I also learned that it was typical for women in the region to fish before the paramilitary violence and mining operations accelerated in the 1990s, but when the violence increased, fishing became more scarce and water contamination became the norm many women stopped fishing in the 2000s. Today, some women continue to fish and others support their families by cleaning and selling the fish.

It was a great privilege to spend time with my fisher friend on his canoe learning how to quietly row and throw a net. Our days began early in the morning. We spent time traveling around on his motorcycle to see the damage done to the tributaries and other impacted bodies of water in Cesar. We visited nearly every tributary impacted by coal mining near the mines in Cesar. We also interviewed several campesinos who are impacted by the water grab. The water damage and contamination impact their livestock and their health. This section explores the history of fishing in Cesar though the experience of fishers in the region and the ways that the coal mining water grab has changed the local economy and their livelihoods today.

**Fishing History**

Historically, fishing in the Cesar river basin is a primary source of sustenance. Fishing was always abundant and something that could be relied on to feed the people. The region's geography

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15 I use the word *campesino/a* to mean small-scale farmer that may or may not have land rights or titles.
led to plenteous fishing with a multitude of tributaries and larger rivers that flowed down from the nearby mountains into cienagas (wetland lakes) that eventually headed to the mighty Magdalena river and north to the mouth in Barranquilla on the Caribbean Atlantic.

A 78-year-old fisher explained how he learned to fish from his mother and father and that fishing made up a part of their diet.

Before, we lived in a distinctly different way. We used to harvest corn, yucca, and then we would fish in the River Calentura and also the River Cesar, and the water was pure... We would go by canoe until we shored here on the bank. We would fish there. In this time we would fish a lot. Each person could fish five hundred and then you could take the canoe wherever you wanted (personal communication 2018).

Fishers explained that they fished bocachico (Prochilodus magdalenae), doncella (Pseudoplatystoma magdaleniatum; tiger catfish), bagre (Pimelodus blochii y Sorubim cuspicaudus; catfish), comelón (Leporinus muyscorum), dorada (Salminus affinis; gilthead), and several other species. Many of the species are endemic to the Magdalena river basin and depend on the tributaries for reproduction. Half of the species are either listed as vulnerable or at risk of extinction (IUCN 2020, Lehmann 2009). The bocachico species name is named after the Magdalena River and endemic to Colombia. It is a traditional dish in Cesar and the fish is at risk of extinction. All of the fishers told me how there are some species of fish they no longer see and others that are just too small to catch (personal communication 2018 – 2019).

Before the mid-1990s when the mines rapidly began expansion, the fishers would go out early in the morning around four or five and return for lunch around 2pm. They did not lock their doors and often slept outside in hammocks. Before using motorcycles or cars, sometimes they would walk or go by donkey to the cienagas\textsuperscript{16} or the Cesar River and stay for a week and sleep on

\textsuperscript{16} Marsh or natural lake
the banks of the river. Then they would walk back or come back by donkey to the road where twice a week a truck would pass to buy some of the catch and take it to sell inland, sometimes all the way to Bogotá (personal communication 2018).

In addition to the fishing, locals used to drink directly from the rivers and streams, swim without skin irritation, and use the water for washing and cleaning. A fisher explained how “Previously you could drink the water directly, and now you cannot. It is contaminated. If you go to swim today in the river, when it is moving, it causes itching” (personal communication 2018).

For Afro-Colombians in the regions, the diminishing fish stocks and polluted rivers also impact their spiritual and cultural connection to the water. In anger and grief, one Afro-Colombian leader explained:

Our river is over there, it was our home and we would go to praise it when we would draw the water and take everything, we did from that sacred source that nature gave us, mother nature. Today we cannot do that, because today the mines pollute everything, and they do not even invest a peso to decontaminate it. That river served us, but now we do not have water (personal communication 2018).

Diversions

In 2006, Prodeco/Glencore's Calenturitas Mine doubled its production output of coal to 2.9 million tons per annum. In order to expand operations, the corporation filed to amend its mining contract to divert the Calenturitas River that ran through the mine. (Jusmundi 2020; see: Doc. CLEX-15, Informe de gestión 2006, p. 348). The revised long-term Program of Work and Taxes (Programa de Trabajo y Inversiones or PTI) was submitted to Ingeominas, the state engineering board for the mines, with plans to increase production to 116 MT by 2019, doubling the 55 MT contract. The Seventh Amendment was delivered in the long-term PTI and included the Calenturitas River diversion plan, a plan to extend mining operations of the mining contract 15 years to 2035 and permission to begin exploration of sectors B and D of the concession (Jusmundi
Finally, the plan would include a multi-river diversion of the Calenturitas River for over five kilometers, the Maracas River for 1.41 kilometers and the Tucuy River for 1.39 kilometers (MAVDT 2009).

In order to secure the permission to expand the mine, Prodeco (2008) estimated the impact on the water table in a prediction model (see also Corpocesar 2018). The model predicted the water table near Plan Bonito would decrease 14.8 meters by 2020. In addition, the report indicates that the Calenturitas River would reduce water volume by 0.86 liter per second and concludes by stating the need for importing water from other distant sources such as the Perijá mountain range and the Magdalena River. The multi-river diversion has had serious consequences on the river basin and permanently altered the riverine ecosystem, geography and food security. Indeed, as conversations with fishers revealed, they point to this timeframe when the river system began to seriously fail.

Prodeco began work on diverting the Calenturitas River in 2009. Local fishers and community members strongly objected to the Calenturitas River diversion. Many still have strong feelings about the loss of the river. One local resident stated:

This river then passes through here, through our region, called Calenturitas along this section. And here in Cesar, here the Calenturita river was diverted by the multinational Prodeco. They diverted the river where there was coal and they needed to divert the river to get the coal out. They destroyed the river and made a channel with authorizations from the Ministry of the Environment, Corporación Autónoma Regional del departamento del César (Corpocesar) and the different environmental bodies that exist in Colombia. That river was diverted. People were strongly opposed because logically a natural river bed will never be equal to a deviation that was already impacted by man. And since then, there has been a loss of a number of species that lived here in the region especially in the river and [they] have disappeared as a result of that deviation (personal communication 2018).

However, the corporations argue that the reservoirs and river diversions leave nature in a better state after diversion. For example, Drummond writes that in 1996 it “recovered” the Paujil channel, “a current that cuts through operating areas of the Pribbenow mine, provides a reservoir
that will achieve better, more well-rounded environmental characteristics than the original condition. Immediate benefits have become evident not only for wildlife, but also for water regulation which directly benefits the communities living downstream” (Drummond 2020). Although this diversion and the private reservoir altered the Tucuy and San Antonio rivers, Drummond constructed this alteration without a permit, leading to a contentious lawsuit (Cardoso 2015). Ultimately, the river diversions that created the water reservoirs are a water grab enacted by the corporations causing water dispossession on what once was a commons for local communities.

The diversions drain the rivers into reservoirs that are closed to the public and the fishers are not allowed in. One elderly fisher stated:

One earns very little fishing. There are no fish. The mines have diverted the rivers and made its own reservoirs there, the fish are stuck there and it is impossible to enter because the fishers are not allowed.... And in the wintertime, when there is some rain, some of the fish manage to get out, you can catch them around there in the riverlets. And when winter ends, that’s it. There is no more. It is not the same as before. We live badly. The reality is that we live badly here in La Loma (personal communication 2018).

Not only are the fishers not allowed into fish in the private reservoirs next to the mines, they are afraid to go there because of the multiple security forces that guard the reservoirs. One fisher stated, “If you try to go fishing there, they can call in the army, or the police, and the company will bring in their private security on the other side” (personal communication 2018). The historical memory of impacts on the rivers goes back roughly 12 to 15 years, covering the period during which mining ramped up and several streams and river, including the Calenturitas, were diverted. When I asked an older fisherman how long ago he noticed the change, he replied:

The river was diverted ... and went into the Prodeco reservoir.... So because of this, there is no water here and the river is dry.... The water takes on a bad smell and another flavor that nobody likes... and the fish also takes on this flavor. But when the water was clean this did not happen, but now we cannot fish because the fish is contaminated because of
the mine... The change began more than 12 years ago there. It has been about 12 years.... because the fish that we fished already have disappeared. Here in the river Cesar and the other river has destroyed the fishing. There is a small quantity of fish but they are very small (personal communication 2018).

Many species of fish migrate out of the cienagas into larger rivers making fishing a seasonal activity. Although fishers in the region take great care in refraining from fishing during the dry months and maintain no fishing zones in the expansive cienagas, technicians from the state and corporate representatives often attribute the problems of fishstock loss to overfishing by the local fishers (Castaño-Barreto et al 2020, Drummond 2020). In other words, the state and corporate representatives often blame the fishers for the fish going extinct. Their tragedy-of-the-commons argument not only ignores local and traditional conservation practices but overlooks the glaring violent water grab enacted by the coal mining development. They downplay the role of the mining corporations and spin the benefits of river diversions and local development (FIS 2019).

Ecosystem damage in their view is because of overfishing due to the fishers’ lack of education and knowledge.

This argument, or course, defies logic. My experience with the fishers in Cesar was that of ecologically knowledgeable people who care deeply for nature. To trespass upon the sacred act of fishing while out of rhythm with nature would go against a socially bound contract and a deep cultural understanding of survival (Ostrom and Hess 2007). They were acutely aware that a significant portion of their food security is tied to moments of pausing for fish reproduction and growth. One leader from a cooperative fishing association explained how fishers in the region are crucial to the ecosystem because they are in daily contact with nature. She explained that the fishers are:

...working daily and have a better and more or less defined knowledge of the relationship with nature... a relationship that has existed for a very long time with the ecosystem that
has a relationship with the fish and with the fisherwoman with the population that is around them because they participate in the care of the fish. Right now as fishers we have areas of care [no fishing zones] within our complex cienagas, which we use as spawning areas (personal communication 2018).

According to all of the fishers I spoke with, the rivers did not exhibit seasonal dry out before the large-scale mining was underway. In addition, they maintain that it has been tradition to refrain from fishing in the dry season to let the fish stocks grow and reproduce. For fishers in the region, the dry season marked the seasonal shift when communities tended to small-scale agricultural crops including yucca, corn and rice along the riverbanks. Some fishers still cultivate these crops, but many no longer plant because the rivers are both contaminated and lack sufficient water. They still hunt mountain hare and other small game in the nearby forests along the rivers and swamps, but more often towards the mountains.

When I interviewed a fish monger at a local town's street market, he told me that he rarely sells fish from the nearby streams and rivers – a loss of income for both the fishers and the mongers. Most of his catch came from sellers buying fish from the Magdalena and Cesar Rivers further away. He explained that, “The fish that is fished here is almost not suitable for consumption – very few can be fished – and this is because of the problem with the mines. Yes, they still fish here but very little of it is sold commercially because of the contamination” (personal communication 2018).

Aquifer Damage and Well Water: Campesinos and Afro-Colombians

The water table damage causes water scarcity in surrounding communities, largely because many of the communities rely on well water, even in many neighborhoods in the urban areas of La Jagua and La Loma. The small wells are located in the back yards of each house and the water is accessed with a small electric pump. Some residents have elevated water tanks and the water is gravity fed into the house. Others fill large plastic containers and the water is accessed by hand.
La Jagua and La Loma both have city water systems, but they are so unreliable that citizens still use their well water. One local Afro-Colombian women leader explained:

Our wells are what allows us to be able to consume water. Because look how the Peraluz River is. A river that we did everything around here. This is our territory. The environment is everything for us, our houses, our political passion, our life, it is everything. Today we cannot enjoy this because they have damaged all of it (personal communication 2018).

In a fishing neighborhood in La Loma, a 61-year-old woman fisher explained to me that they used to carry water when the well was dry and they had to rebuild their well twice:

Fisher woman: The first, second, and third year we were without water, and we had to walk over there by the water house. It was tiring carrying water.... So we dug the well and it collapsed and the second one also collapsed.

Tamra: Why did this happen?

Fisher women: Well, because of the impacts of the mine, we made a well here to draw water when there was no water here. And I tell you that when there were explosions, the well collapsed... And my partner said, 'No! The well has a lot of sand now.'... When the explosions happen over there, we feel it.

Tamra: Really? Can you explain this to me?

Fisher woman: Yes, you can feel it here by the well, these tremors, brrrrr [guttural sound], you feel it here when they detonate.

Tamra: When they explode out there in the pit?

Fisher Woman: Yes, it is collapsing from below.... it fills up with a lot of grit... the impact of the explosives affects the well here (personal communication 2018).

Residents maintain before the mining operations began they could access water at about five meters. This is consistent with hydrology data for the region (Moran and CGR 2015). However, many of the residents explained that the underground water is so depleted that in order to access water the wells require digging between 30 and 50 meters. Digging deep wells is very expensive for the residents in the region. Well diggers charged them by the meter. Many simply cannot afford
a well. In a group conversation with the Afro-Colombian community of Sabana Linda in La Loma, they explained:

Resident 1: Here in La Loma we do not have water because the water that we have is groundwater and it has already been captured because the water table has been damaged by mining. They have diverted the underground water channels. Here, we practically do not even find groundwater. We used to find water at a depth of five meters but now we can dig a well 30 meters and sometimes we do not find water.

Tamra: Since when? Since when did you need to look for deeper water?

Resident 1: Here you have to dig 50 meters deep to find water.

Tamra: When did this change?

Resident 1: Since the beginning of the boom. Since the beginning of the construction of the pits hole, the pit that is the hole where the mineral is extracted, through the decade or so of the 90s here.

Tamra. From your memory, what year was it more or less when you needed to look for deeper well water? In the last year, 5 years, 10, 15 years?

Resident 1: No, more than 15 years ago.

Resident 2: When I got here, I used to take water from a spring, from a well and that was just about 10 years ago. No, more like 15.

Resident 1: Our water table decreased as a result of mining. We have a shortage of water because water is no longer available within a few meters. We previously did. But there are already perforations, and it is very difficult for a person without an economic resource to drill that many meters because for each meter of drilling that has a fairly high cost (personal communication 2018).

**Magdalena Ports**

The coal from Cesar is exported at the northern ports in the Department of Magdalena. Drummond and Prodeco have dedicated coal loading ports located 10 kilometers west of Santa Marta on the Caribbean coast. In addition, Santa Marta has a multiuse port in the center of the city that exports coal from other mines. The Drummond port ships over 30 million metric tons of coal
per year from the direct ship loading port at Puerto Drummond and has a capacity of 60 million tons. Prodeco is authorized to ship approximately 25.7 million metric tons of coal (Drummond 2020, Prodeco 2020).

The ports are controversial as they are located near the city of Santa Marta, an established tourist destination. As Colombia and Santa Marta aim to increase tourism since the peace agreement was signed, the pollution from the ports undermines the lucrative tourism industry. In 2013, Drummond dumped between 600 – 1,800 tons of coal into the bay near Santa Marta in order to prevent a barge from sinking (Semana 2019). Although the ANLA license requires Drummond to report any incident within three days, the company tried to cover it up and did not report the dumping until pressured to report it 18 days later (see for example ANLA 2014). The port was closed for three weeks and the government forced Drummond to install direct loading infrastructure at a cost of US$360 million. In addition, Drummond proposed that instead of a large fine, it would restore mangrove habitat near the port. In 2019, after several delays, a judge ruled in favor of Drummond (Semana 2019).

Just a few kilometers away from the ports is a striking class contrast. High rise luxury hotels with private polluted beaches near a quiet fishing village marginalized by the war and discriminated against by the surrounding community. Villa\(^\text{17}\) is a fishing village that was a “red zone” during the war. The old road in the upper village was a dangerous contraband trading road armed by various groups over the years. Today the road is occupied by shacks built of scrap wood and metal and plastic sheeting. The community occupying the road were displaced from the mountains above during the war. For the most part, the community of Villa is entirely sympathetic

\(^{17}\) Name changed
and grateful to the displaced community who keeps the road much safer. The displaced community is referred to as the “inundation”. In the middle village, there is a school with a large community meeting room, and houses. In the lower village on the other side of the northern highway, there are more houses, a little shop and near the beach there are small boats where fishers go out early for the daily catch, while some work on the beach sewing their nets.

Even today, people tell you not to go to Villa, that it is too dangerous, that horrible things can happen. There may be some truth to this, but my experience was with a community who experiences structural discrimination, who lived in fear, and who were kind, open and generous people worried about their children's education and safety, the dire economic situation in the community, water scarcity, and health.

A supporter from an NGO described the community like this:

Sometimes outsiders see them as marginalized, as stigmatized, that is, you talk about Villa and they tell you, 'there are criminals, there are gangs' so they carry a very strong stigma. You see it in them too... because it is something that they have gotten into their heads, which is very negative.... It is totally internalized. So when we first went there it was not easy... but well, when you get into it, people are wonderful. They are wonderful and they are fighters. They have resisted everything (personal communication 2018).

My first visit to Villa was with this NGO representative, two local researchers and an observer organization that accompanies groups that require security. One of the purposes was to visit a resident who had returned temporarily after fleeing for their life in 2013 when they were attacked by an armed gang for denouncing Drummond's coal spill (personal communication 2018).

Shortly after the first visit, I began to teach English in the elementary school once a week. Teaching English allowed the community to have an answer if they were asked who I was and why they were talking to me – it gave them cover. It also allowed me to give something back to the community and they asked for this on my first visit. I taught English in the elementary school most
weeks for eight weeks between August and November 2018. After class I would spend time with my key contact and others conducting interviews, learning about fishing and other activities. I attended one meeting between the community, Ecopetrol, and a representative from the Mayor's office in Santa Marta. I gave a photography workshop to girls in the community in 2019. I returned twice with other groups of researchers in 2019 and went out on fishing boats.

Even during the tough years of war in Villa, the community had river and well water subsisting on small-scale cultivation, fishing and trade. The sea fishing was abundant. An elder woman in the community told me:

Fishing was a very beautiful thing, almost all the families of this town lived from fishing, here using nets one could go out at eight in the morning, then go to Santa Marta to sell it and return by six in the afternoon.... for example, the Róbalo (Snook), la Corvina, el Mero (Grouper), el Sábalo (Chad) ... up to two meters long (personal communication 2018).

The community lived on barter as well. Before Drummond converted the railway to coal transport, the train from Zona Bananera passed through the village and the community would trade fish for bananas. One community member remembered the train passing through:

We would go to the sea and get the fish for breakfast. The barter existed for a long time, the barter still exists, the peasants still go down, those who farm a little, come with the taro, they take the four little fishes, we are left with the taro. It is no longer like before, it was beautiful before, when the train passed, the trains stopped loaded with guineo (banana).... With bananas, the loaded train stopped, lowered the banana blocks and the fisherman would be there to trade fish. The fish has already been salted.... It was a barter that we were doing with the ... I remember the ferry, and that changed too. And we were happy and delighted with the bananas (personal communication 2018).

Now the rail that used to carry bananas and passenger trains from Zona Bananera in Aracataca, the famous site of Gabriel Garcia Marquez's, 100 Years of Solitude, delivers coal. In addition, members of the community told me that there were once ferries that went from Santa Marta along the coast to Barranquilla. The coal has impacted the public transport structure on the coast.
Prodeco built its first coal port facility, Puerto Zúñiga, less than one kilometer east of Villa. The coal train passed through the middle of the lower village just 20 meters from the beach. Initially, there was an agreement between Prodeco, the government and the community to provide employment at the port. Around 100 people from the community worked at the Prodeco port until 2013 when Prodeco's large port facility located five kilometers west of Villa Puerto Nuevo was finished. According to the former workers, Prodeco fired the workers from Villa without notice. When I asked a group of former workers why they fired them, one replied: “That is what they would not say. That is the question we asked them, 'why did you throw us out'?... you have to train the staff [for the new port]. Imagine, we had no complaints in the company, not one, we were excellent workers. Why did they act that way with us?” (personal communication 2018).

Since the mass firing, the community has not recovered economically. In addition, the historical violence has left a mark on Villa that makes the community vulnerable to powerful outside forces. The corporations have small social and environmental compensation programs, but they cause division in the community. One community leader stated:

They [coal companies] push for this, for the conflict, for the fight, for there to be no union... No, a divided Villa will never be organized. There will never be anything, but if we organize and fight for a cause, for that same cause, what will become of us? We have already gone to the street. We had water. We had beautiful things in the community. But now, this is bad... If we are justifying them, they will win. They are winning because they are meeting the requirements that they have to demonstrate to the government.... So they justify with what little they give us.... I was telling the compadre that day that we had the meeting, 'no more compadre, no more, you already received [compensation], do not continue anymore, tell them to stop, with what they already gave you, you have to defend yourself’ (personal communication 2018).

Prodeco organizes social compensation projects called “productive projects” in the area. One community leader said this:

They trick us. They make us take courses and they do not let us participate. After we do a 6-month, 8-month course, they say they will give us a project... So they always take all our
signatures during those projects and in those trainings. They take our signature and they appear there as if the community is happy. 'Look at total satisfaction, here we have the signature of 300 people....' But they leave us in more misery (personal communication 2018).

The air pollution from the nearby ports is noticeable. Simply by running your fingers along the leaves of the tress they turn black from the fine particulate matter in the air. Many locals told me their fruit trees were dying because of the coal “dust” (personal communication 2019).

Lack of drinking water is a glaring problem in Villa. Before the ports arrived, there was ample water in the Villa ravine and the community did not worry about water because they had access to the ravine that flowed behind their houses in addition to well water. Residents would use the river for all water needs. The ravine used to flow with water half of the year, but the year before I arrived it stopped flowing even in the rainy season. The ravine is now dry due to several problems. The closest river is the Toribio river. However, Drummond and Prodeco have water concessions on the Toribio river that is diverted to the ports. A community leader of Villa explained:

The two rivers are the Córdoba and Toribio. There is an aqueduct on the Córdoba that draws the water to Ciénaga, Pueblo Viejo and Tasajera so it has less water flow. The Toribio river supplied the companies Drummond, Puerto Vale, Puerto Prodeco, they are the ones that take the water from there, and the farms that are nearby also collect the water. That one has more water flow (personal communication 2018).

The ports use the water for several industrial operations including cleaning the machinery and train cars, spraying the coal mounds and spraying the roads. The communities argue that the water is being “given” to the coal corporations instead of to the community for basic needs (personal communication 2018).

In 2015, without water for almost three weeks, the community was experiencing serious water scarcity. In desperation, they blocked the highway with women and children on the frontline. The state response was brutal. They sent in a water tank truck that was empty with the riot police
(ESMAD) behind the tank. The ESMAD beat grandmothers, women and children and put three youths in jail (personal communication 2018). This incident prompted a visit by the United Nations and other NGOs, and a human rights training with the ESMAD who claimed they were attacked by the women and children (personal communication 2018).

The water situation is complex because in the last six years Villa is now zoned as a neighborhood of Santa Marta. Therefore, the city is charged with the responsibility to deliver water. The town receives two water trucks every Saturday each holding 12,000 liters of water, but it is not enough (personal communication 2018). There is a working well but community leaders say it needs to be drilled at least another five meters and they do not have the financial resources to extend the well (personal communication 2018).

Even the city of Santa Marta is impacted by an infrequent water supply. Shut offs during the dry season are not uncommon. A US$1.1 billion contract is in the works to improve Santa Marta's water system (BnAmericas 2018). In April 2017, the French company, Veolia took over a contract to operate the water works for the city of Santa Marta after 26 years of the corporation Metroagua. Veolia only lasted for one year and eight months before Essmar took over. Water is a frequent topic of discussion in Santa Marta and many in the city speak of years of corruption related to the ongoing water problem (personal communication 2018-2019).

The ports are surrounded by razor wired fences, lookout posts, private security, and a nearby military outpost. Security clearance is necessary to visit and not easily obtained. I was fortunate to receive a private tour from the environmental director of Drummond's port facility in May of 2019. Drummond's port is a private facility. The contract was renewed in 2014 for 30 years
The coal is piled inside the facility by type and quality of coal, so that it can be mixed depending on each shipping contact. The coal is shipped to the US, Europe, Turkey and Asia. A Drummond representative told me the most important client was Europe (personal communication 2019). The ships are contracted by the buyers usually with third party shipping companies. When I asked a representative from Drummond about the water in the port facility, he replied,

We have water for human consumption from wells. We have permission from the health department and permission from the corporation for the environmental part. We have surface water from the Torribio river that reaches the port through an open canal called the Nirpana canal. The surface water goes to a pool of fresh water, an artificial lake where we store [the water] into what has become a natural ecosystem (personal communication 2019).

The artificial lake inside the port holds the water diverted from the Torribio River. There are two major ponds inside the facilities with trees planted around the water ponds and many igrids roosting in the trees (personal observation 2019). The water is used to water down the roads inside the facility and there is an extensive sprinkler system throughout the complex for the roads and the coal piles. The coal also goes through a washing process in an elevator before it is sent on the conveyor system out to the ships. Water dripped from the elevator as we passed below.

At the beach, the navy officials had an outpost with dogs. One month prior to my visit to the port, I interviewed an anti-narcotics police officer who previously worked in the Santa Marta port. The officer informed me that it was more efficient to smuggle drugs on a coal ship than through the airport because the quantities are much larger. Just six weeks before my visit to the Drummond port cocaine was found in the Carbosan Santa Marta city port in a coal ship. In addition,

18 Drummond currently operates the Mina Pribbenow and El Descanso open-pit coal mines in the Cesar Coal Basin. Drummond has concessions to roughly 2 billion tons of reserves in La Loma, El Descanso, Rincón Hondo, Similoa, and Cerrolargo, the last three are in the process of environmental licensing.
the Prodeco and Drummond ports have to request inspections from the police. The army is not authorized to enforce drug inspections.

The contamination from the fine particles of coal dust impact all living things near the ports. The Drummond port facility does not have air quality monitors and relies on three monitors located outside the facility supervised by the state. Overall, the corporations deny that the coal dust impacts the water and even argue that coal is natural and probably good for the sea (personal communication 2018). A researcher who was conducting a study on coal dust in the ocean near the Drummond and Prodeco ports was contacted by a Prodeco representative who told them that Prodeco was interested in providing funding for the study. Initially, the researcher was interested, but during the conversation, the Prodeco representative asked the researcher what they were going to do about the results. The researcher replied that it would depend on the outcomes of the study and they could not predict the results. Prodeco allegedly replied that they would only fund the study if the researcher would guarantee the results showing that coal does not negatively impact the marine environment and favor the company. The researcher refused (personal communication 2019).

The Arroyo Bruno Diversion

The Department of La Guajira is the most water scarce region in Colombia. Potable water with 24-hour accessibility exists in just two places on the peninsula, both for Cerrejón's gated communities. La Guajira consists of three geographical regions: The northeastern peninsula, the Alta Guajira is an ecologically desert climate and Cerrejón's open pit coal mining operations are located in the middle and southern Guajira in the Cesar-Ranchería basin bordering Cesar to the south. Cerrejón’s 69,000-hectare concession impact numerous rivers, among them La Guajira’s principle water source, the Ranchería River. Cerrejón has state issued permits to dump industrial
wastewater with high concentrations of heavy metals into fifteen ponds that are periodically discharged into the Ranchería River and the Tabaco, Cerrejón and Bruno streams (INDEPAZ 2016). Indigenous Wayúu have lived along rivers rearing goats and cultivating yucca, corn, beans, sugar cane and other vegetables and fruits. The Wayúu also hunted for small game and collected medicinal plants and food, such as mamón (Spanish limes) and guaimaro. Communities rely on the Bruno stream for domestic water use, fishing, and subsistence agriculture.

In 2015, Cerrejón began construction on a river diversion of the Arroyo Bruno, a tributary that feeds into the Ranchería River. Despite widespread regional, national, and international opposition to the project, Cerrejón completed the construction of a 3.6 kilometer artificial channel that diverts the Arroyo Bruno away from the La Puente Pit to allow the company to extract over 35 million tons of coal from underneath the natural riverbed (Banks 2017). Without access to this portion of the river, the diversion impacts more than a dozen Wayúu villages and several Afro-Colombian communities.

A deeply held cultural belief for the Wayúu is the importance of dreaming. Wayúu believe that dreams protect people from harm and explain important information regarding health and general well-being. For example, after waking from a difficult dream or nightmare, it is believed that cold water, particularly river water, will protect the dreamer and their family from danger. Even in the middle of the night, they may jump in the river and purify themselves from the bad dream. Clean river water is needed to purify the person and protect them from the manifestation of the dream. Polluted water and stagnant water does not have as potent as an impact because the spirit has been driven away. In an interview with one Wayúu woman:

19 Guaimaro is a drought resistant tree that bears a highly nutritious fruit that was an important food source among many Wayuu communities.
20 Arroyo is Spanish for stream
I remember that my grandmother spoke to us a lot about the river. The river spirit is like the water nymph... which is what maintained the flow of water... but even the spirits have been driven away with the disaster that has been done to the earth [speaking about the mines]. There are no more dreams [to warn us]... and this also informs us of the cultural violence, coming so strong against the mother, Pachamama... this violence... is a way of [00:16:07] attacking the Earth and a way of ending us (personal communication 2019).

She told me that if the people that destroyed the earth would give offerings then the earth would forgive them and the water could flow again. She also talked about the loss of specific medicinal plants that had crucial properties to be performed in the rituals to protect and heal the earth, but the plants grew along the rivers and since the rivers were drying up they could not find the plants to perform the ritual (personal communication 2019).

Members of one Wayúu community living alongside the Arroyo Bruno expressed determination to protect the river, rather than accept money in exchange for their land, having witnessed how compensation and prior consultation processes left other Wayúu and Afro-Colombian families in a worse position. One Wayúu man from this community stated:

How will it serve me to do this consultation when I will not really benefit from it? Because yes, I might get a bit of money, but this money is not enough to be able to buy all of what I just sold. ... for them everything is money...[the company says] ‘we’ll buy this from you so that you can live nicely somewhere else… We’ll take you out from here, we’ll send you to a town, to Albania, where you will have permanent water provision, electricity, a paradise. According to them, that is a paradise. But here, this is paradise for me, not for them…yes, money is nice, it gives us the possibility to buy stuff, perhaps a bit of momentary happiness, but it would give us more enemies than happiness (personal communication 2019).

In 2016, three Wayúu communities brought a tutela to the Constitutional Court with the aid of a Bogotá-based social justice legal organization, CAJAR. The communities argued that the diversion of the Arroyo Bruno was a breach of their fundamental rights as Indigenous Peoples. In response, the Constitutional Court ordered that the grave uncertainties in the license with respect to the environmental, social and cultural impacts of the project be resolved by an Interinstitutional Roundtable in order to determine the social and environmental impacts of the project. Following
this litigation, a second Wayúu community that was displaced when Cerrejón acquired the land near the Arroyo Bruno was also given the right to a prior consultation.

When Cerrejón initially proposed the Arroyo Bruno diversion, the Ministry of the Interior and the company outright denied the existence of several nearby Wayúu communities. Throughout fieldwork, many participants candidly spoke of the special relationship between Cerrejón and the state officials. During an interview, a Wayúu leader living next to the Arroyo Bruno stated, “I’ll say that they are complicit… they are both one… The state is selling us and enslaving us to them” (personal communication 2019).

In conclusion, the research presented above demonstrates a water grab resulting in permanent aquifer damage, river divisions, privatized reservoirs and contamination. The water acts as unrecognized labor for the corporations resulting in exploitation and ultimately capital accumulation by dispossession and contamination. The labor of water falls under nonhuman nature, but what I demonstrate is that the labor of water is dialectically intertwined with the human part of the human and nonhuman nature couplet. This intertwining is true both for coal companies and for the humans impacted by water scarcity and pollution. The corporations, the communities and nonhuman nature all require water, but the needs are incompatible – one destroys life and the other contributes. Of course, the state justifies development and blames the fishers and local communities for lacking “sustainability” knowledge or for overfishing, while the corporations enjoy full impunity under the law.

The devastating impacts cannot be remedied with compensation programs, instead they allow for continued accumulation in favor of the coal corporations, while water dispossession and contamination goes unchecked. The loss of water abundance fundamentally changes the way of life and the survival of river-dependent and coastal communities, while threatening water and food
security for all who live near mining operations. Compensation is an *ex post facto* program that happens after the damage to the river basin and aquifers has occurred. It cannot possibly address the direct, structural and cultural violence enacted upon human and non-human nature resulting in cultural and socio-environmental erasure. Furthermore, the inconsistencies and shortcomings implicit in the compensation programs with the companies, and the state’s role in condoning these shortcomings, highlight the entrenchment of compensation programs that justify continued extraction. The following chapters demonstrate how compensation programs attempt to compensate for the violence done to biodiversity, human and nonhuman nature.
Chapter 8. “Until the last gram of coal is mined”: Biodiversity Loss, Deforestation and Environmental Compensation

Introduction

Colombia is the second most biodiverse country in the world and one of the least deforested countries in Latin America, partially due to the geography of the three mountain chains. In the northeast Caribbean region, the drivers of deforestation and biodiversity loss are correlated to extractive development including, cattle ranching, palm oil and coal mining. The Tropical Dry Forest (TDF) ecosystem in the eastern Caribbean has been decimated by extractive industries over the last 30 years. The delicate balance of this ecosystem relies on intact rivers and the aquifer in order to survive two annual dry seasons. Rehabilitation of this ecosystem is particularly difficult and in some places may be impossible due to high species and biodiversity loss.

In order to address biodiversity loss and deforestation, the Colombian government issued a policy in 2012 outlining steps requiring industries to have an environmental license in order to compensate for biodiversity loss and deforestation. The contradictions within the practice of compensation does not address the damage done by the mining corporations to the TDF ecosystem and these contradictions are embedded in the wider international context introduced in Chapter 4 and explored further in this chapter.

The 2016 Peace Agreement includes funds to prevent deforestation and at the same time integrates the National Development Plan (NDP) that aims to increase extractive industries, thereby undermining actions on environmental protections. In addition, the Colombian government, under direction from both international conservation NGOs and the coal corporations, issued two notable pieces of legislation. The first is the 2016 National Carbon Tax (Impuesto Nacional al Carbono), a tax on fossil fuels that aims to use the revenue for environmental programs
in a complex domestic and international carbon pricing regime explored in the following chapter. The second, Resolution 256 of 2018, expands on the 2012 compensation policy and creates an overarching Environmental Compensation policy that includes habitat banking, Payments for Environmental Services (PES), peace forests, zero-deforestation plans and Reducing Emissions through Deforestation and forest Degradation (REDD+).

This chapter argues that the Peace Agreement, NDP, carbon tax law and environmental compensation policy collectively undermine action on biodiversity protection and community rights. I will show that environmental compensation is far worse than nothing: They actively bolster the impunity enjoyed by corporations complicit in human and non-human violence and mask the wider more structural socioenvironmental impacts from development shouldered by human and non-human nature. Further, I argue that environmental compensation cannot possibly result in any adequate or fair conservation, reforestation or rehabilitation of coal mining impacts because the conservation programs themselves replicate colonialist structural violence against human communities and natural ecosystems while the payments and projects are measured within the capitalist economic framework of money and materials leading to socio-cultural and ecosystem erasure. As an Indigenous Wayúu elder told me, “The benefit is theirs” (personal communication 2019). The earth is mined deep, the water is destroyed, and the socio-cultural erasure is permanent. In addition, environmental compensation detracts attention and action away from the real drivers of biodiversity loss, deforestation and climate change, which in the eastern Caribbean region is coal mining.

**Part 1: Colombia's Forests in the Context of an Extractivist Peace Agreement**

Between 2000 and 2015, Colombia had one of the lowest overall rates of deforestation in Latin America (FAO 2012, Global Forest Watch 2020). However, recently researchers have found
that the increase in deforestation since 2015 can be attributed to the Peace Agreement with the FARC (Guhl 2018; Reardon 2018). FARC strongholds, often located in forested and mountainous regions, acted as primary regulators over land use (Prem et al. 2020). In addition, FARC used guerrilla tactics specifically to deter developmental industrial extraction (Murillo Sandoval et al. 2020).

After 50 years of internal conflict, new struggles over land use and control are impacting Colombia's forests (Armenteras et al. 2018; IDEAM 2017; Murillo Sandoval et al. 2020). Indeed, the Amazon and other southern regions of Colombia have been hit hard with soaring deforestation rates since 2016 (IDEAM 2017, Krause 2020). Global Forest Watch (2020) argues that the rapid spread of deforestation is related to increased development in the Amazon regions:

In Colombia, primary forest loss increased nine percent between 2017 and 2018, continuing a dramatic upward trend since 2016. Ironically, this loss was related to the peace process, as areas in the Amazon previously occupied by the Armed Revolutionary Forces of Colombia (FARC) have opened up to development. Tinigua National Park has been an unfortunate casualty of the rampant forest clearing, experiencing around 12,000 hectares of forest loss in 2018, six percent of its total forest area.

The Peace Agreement adopts a range of plans to deal with deforestation and land use problems (see Chapter Nine). In a glaring contradiction, the Peace Agreement also adopts Colombia's National Development Plan (NDP 2014, 2018), which is premised on continued extraction. The NDP (2014-2018) is integrated in the 2016 Peace Agreement, and by default, the most recent NDP (2018-2022) is also included. The NDP (2018-2022) clearly states the intention to increase coal extraction to 93 million tons by 2022 (NDP 2018).

Although the FARC operated in the Caribbean regions of Cesar, Magdalena and La Guajira, as explored earlier in this dissertation, the region experienced sustained violence by the AUC in the 1990s and 2000s. The paramilitary groups were focused on protecting the interests of their land
and of international capital (see Chapter Four). Indeed, the parallel violence of paramilitaries and coal extraction proliferated during overlapping periods. Thus, in the Caribbean coal mining region, widespread deforestation is more likely attributed to decades of persistent extractivism as the data evidences below. Therefore, the Peace Agreement and adopted NDP threaten an already devastated ecosystem and does not to address mining expansion plans, the real drivers of biodiversity loss in the region.

**Tropical Dry Forest Ecosystems**

Colombia is home to the highest number of bird species in the world and after Brazil, has the second highest biodiversity in the world. The biological richness is partially due to the multiple ecosystems formed by two major mountain chains as well as bordering two oceans. Within this rich biodiversity, Colombia's tropical dry forest (TDF) ecosystem is one of the most threatened and degraded ecosystems (González et al 2018).

Globally, TDF are the most endangered major tropical ecosystem (Miles et al 2006). TDF are located in parts of North and South America, Africa and Asia in tropical and subtropical regions. The ecosystems are defined by the evaporation of moisture exceeding precipitation, one or two drought periods per year between four to six months, high humidity and an elevation lower than 1000 meters (Murphy and Lugo 1986). The deciduous trees defoliate in the dry season to maintain water balance and adapt to drought. Therefore, the intact water basins and aquifers are essential to the survival of the fragile ecosystem (Hulshof et al 2013). In addition, forest fires, deforestation and overgrazing damage the ecosystem quickly and restoration is difficult, especially with aggravated and continual degradation (Janzen 1988, Griscom and Ashton 2011). One of the reasons that restoration is so difficult after degradation is because half of the seed distribution in Colombia's TDF is dispersed by birds and mammals. However, when damage to DTF is so extreme
that birds and mammals no longer exist in some regions, secondary forest succession is impeded (Kattan et al 2019).

TDF are endangered ecosystems with 72 percent having been lost in North and Central America, and 60 percent deforested in South America (Portillo-Quintero and Sánchez-Azofeifa 2010). The majority of research on these forests in the Western Hemisphere has been conducted in Mexico and Brazil (Silva Aparicio et al. 2018). Colombia has one of the most threatened and least studied TDF because of the years of danger to researchers of entering paramilitary and guerrilla territories for so many years. Today, estimates show eight percent of the TDF remaining (Portillo-Quintero et al 2015, González et al 2018). The upper watershed of the Magdalena River has been understudied and there are almost no comprehensive studies from the Cesar-Ranchería basins (Romero-Duque et al 2019).

The Cesar-Ranchería basin has lost much of its biodiversity in the last fifty years, but comprehensive biodiversity sampling data is limited. Early cotton plantations, cattle ranching and more recent oil palm plantations and coal mining are the major drivers of deforestation. However, coal extraction has been by far the most devastating to the ecosystem due to land use change necessary to construct large-scale deep open pit coal mines. As of now, there are seven large-scale open pit mines operating in Cesar by Drummond, Prodeco and CNR. In Cesar, the mines occupy an estimated area of 24,800 hectares (248 km²) but total concessions are much higher (El Pilon 2016). There are seven large-scale open pits in La Guajira operated by Cerrejón, and Cerrejón has exploited about 13,000 hectares (130 km²) of the 69,000 hectares (690 km²) the company holds in concession (Cerrejón 2020). In addition, there are other pits operated by the state and smaller operators in Cesar and La Guajira. Indeed, the impact on watersheds, the aquifers and rivers have
changed the Cesar-Ranchería basin permanently (see Chapter Seven). The impact on the hydrology has devastating impacts on biodiversity.

In Cesar and La Guajira the rate of deforestation is extreme. Global Forest Watch data estimates that between 2013 to 2019, Cesar lost 90 percent of its tree cover within natural forest (GFW 2020). In the municipality of La Jagua de Ibirico in 2001, 7.4 percent of total tree cover was primary forest, and by 2016, 2 percent was intact forest (GFW 2020). In El Paso, Cesar, the location of the town La Loma, in 2001, less than 0.1 percent of primary forest remained but by 2016, zero percent of El Paso's tree cover is classified as intact forests (GFW 2020). In the municipality of Chiriguaná, Cesar in 2000, 3.7 percent of total tree cover was primary forest, and by 2016 only 1.1 percent of intact forest remained (GFW 2020).

In La Guajira, the municipalities most impacted by Cerrejón, similarly deforestation rates can be seen since the early 2000s. The southern ecosystem and climate of La Guajira is similar to the regions of Cesar. However, further north, the region changes to a semi-desert climate. In 2001, in the municipality of Barrancas, where Cerrejón pits are located in the middle Guajira, of the 4.5 percent the total natural tree cover was primary forest, by 2016, none of its tree cover was intact forest (GFW 2020). In 2001, in Maicao only 1.2 percent was primary forest and by 2016, none of Maicao's tree cover can be classified as intact forest (GFW 2020).

Primary forests are a forest in their mature state of succession. Intact forests are stretches of primary forest that are not cut through by roads and divided up, so there is a continuity in them for biodiversity and species to survive. Intact forests are unbroken natural landscapes of forest ecosystem in an extant forest zone. There is no officially agreed upon amount of land to be considered “intact”.

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189
Forest and Biodiversity Policy

Environmental policies regulate land use, water, biodiversity and forests in Colombia. In theory, land use change and deforestation in protected areas including national parks, forest reserves and other protected areas is prohibited, but not the practice. For example, of the nearly 27 percent of Cesar's land designated as national and regional protected areas, 10 percent of the protected areas already have mining titles and 11.4 percent have pending requests (Cardoso 2015). However, the overlap of mining and protected areas is not prohibited. The additional policies allow development to destroy protected areas as long as they are compensated for.

As far back as 1993, the Colombian government implemented compensation provisions that allow for deforestation. For example, Law 99 of 1993 states the Ministry of the Environment and Sustainable Development is responsible for issuing the environmental license, and in said law, article 50 explicitly indicates “that the environmental license imposes on the beneficiary the obligation to comply with the requirements that it establishes in relation to the prevention, mitigation, correction, compensation and management of the environmental effects of the authorized work or activity” (Law 99 of 1993).

Regarding forests, there are several legal mechanisms, resolutions and articles that create loopholes for further destruction to protected forested regions. Subsection 2 of article 204 of Law 1450 of 2011 establishes that:

…in cases in which the subtraction of the forest reserve areas, be it temporary or definitively, the competent environmental authority will impose on the interested party in the subtraction, the compensation, restoration and recovery measures that may take place, without prejudice to those that are imposed by virtue of the development of the activity that is intended to be developed in the area. In the case of temporary abduction, the compensations are established according to the affected area (Law 1450 of 2011).
Therefore Law 1450 of 2011 requires that the “partial subtraction of the forest reserve, once the corresponding evaluation has been carried out, becomes necessary to establish the corresponding compensation measures, given the loss of area of forest reserve and ecosystem services that it implies for the Nation” (Law 1450, 2011).

Biodiversity encompasses forests and other biological loss. Law 165 of 1994, implements the 1992 United Nations Convention on Biological Diversity which among many provisions argues for the “the need to develop scientific, technical and institutional capacities to achieve a basic understanding that will allow the management and application of appropriate measures” (UNCBD 1992). Through the 1990s and 2000s, Colombia faced several challenges to control accelerated development and infrastructure projects, while confronting the damage done to biodiversity. Therefore, Colombia developed a regulatory framework that allows the establishment of objectives for the conservation of biological diversity, for which it builds a tool to determine and quantify the compensation measures for loss of biodiversity according to Resolution 1517 of 2012 of the Manual for the Assignment of Compensation for Loss of Biodiversity (MADS 2012a, MADS 2012b).

The manual was developed under the guidelines of the Policy for the Integrated Management of Biodiversity and its Ecosystem Services – PNGIBSE, which in strategic axis III – economic development, competitiveness and quality of life based on biodiversity (MADS 2012). Resolution 1517 states, “This Manual is intended to be compulsory for users in the preparation of environmental impact studies and for the National Authority for Environmental Licenses – ANLA, in the evaluation and approval of compensation measures for loss of biodiversity in the licensing process environmental” (MADS 2012a). The manual was the first Resolution that created a guidebook for ANLA to implement and layout compensation programs for development projects.
Through Resolution 1517 of 2012, the Ministry of Environment and Sustainable Development adopted the Manual for the Allocation of Environmental Compensations for Biodiversity Loss for the Biotic Environment in Terrestrial Ecosystems, the scope of which was mandatory for users who prepare and submit the compensation measures contained in the environmental studies required to obtain the environmental license of the projects, works or activities, including mining, contained in Annex 3 of the Compensation Manual of the National Authority for Environmental Licenses (MADS 2012b).

Compensation emerged as a way to legalize the damage done from extractivist development. But this was just the beginning. Internationally, conservation-style habitat swapping and other neoliberal environmental mitigation schemes were well underway by 2012. Colombia was already invested in Payments for Environmental Services (PES) schemes, habitat banking and other environmental compensation mechanisms. With a myriad of policies on the books, as well as the 2016 Peace Agreement and Carbon Tax policy, the government streamlined the various environmental compensation schemes into Resolution 256 of 2018 (MADS 2018). The policy updates the Compensation Manual from 2012 and creates an umbrella Environmental Compensation policy that incorporates Payments for Environmental Services, Habitat Banking, Peace Forests, REDD+ and a domestic carbon pricing market. In addition, there are provisions on adjustments, monitoring and greenhouse gas (GHG) offsets (MADS 2018).

**Setting the Stage to Commodify Nature**

The 1992 United Nations Conference on Environment and Development (the Earth Summit), in Rio de Janeiro, Brazil built an agenda based on the platform of sustainable development. The outcome was two international UN bodies created to address the environmental crises: The United Nations Framework Convention on Climate Change (UNFCCC) and the United
Nations Convention on Biological Diversity (UNCBD). In the final document of the conference a plan was set out to increase investments in the green economy:

We encourage existing and new partnerships, including public-private partnerships, to mobilize public financing complemented by the private sector [...] governments should support initiatives for sustainable development, including promoting the contribution of the private sector to support green economy policies in the context of sustainable development and poverty eradication (UN 1992).

Public-private partnerships encouraged by the UN, conservation NGOs, and other International Finance Institutions (IFIs) satisfied the interests of states and extractive corporations under the rhetoric of sustainable development. In this process, public-private partnerships between states, extractive industries and IFIs jump-started new financial instruments (Lohmann 2012). These instruments, backed by conservation NGOs, governments and the UN, were often written, guided, lobbied for and organized by representatives of fossil fuel corporations as demonstrated in the following chapter (Kill 2014).

Early approaches of commodifying nature formed the architecture that led to market-based financial instruments. These early approaches emerged in the US in the 1980s through wetland mitigation banking, a system that allowed for the destruction of wetlands in one place as long as another wetland somewhere else was restored or built. Problems in the system were linked to defining what exactly is a wetland and later that the restoration projects, mostly in suburban housing developments, were not sufficient (Robertson 2004, 2006). The insufficient wetland projects led to Habitat Banking, whereby a centralized bank of wetland projects are quantified as units of nature and developers can pay into the scheme based on an algorithm that produces an amount of units required to pay.

Although the idea behind putting a price on nature has been around since the 1980s, the concept of, innovative financial mechanisms, for pricing biodiversity was popularized at the 2010
United Nations Convention on Biological Diversity (CBD). In parallel, the Economics of Ecosystems and Biodiversity (TEEB) project, led by the Deutsche Bank, was launched, advancing the idea of incorporating the economic ‘value’ of ecosystems into governmental and corporate decision-making. Funded by the EU Commission, Germany, the UK, the Netherlands, Norway, Sweden and Japan, TEEB was welcomed by the CBD.

Proponents argue the need to consider the economic value of biodiversity by creating an accounting system. The units become financialized products. Hence, the construction of apparent equivalences between different biodiversity types, locations, times, and contexts can be exchanged. The argument then goes that the destruction in one place could be compensated with the supposed protection, or re-creation, in another place, so that the overall result is no net loss in biodiversity, with the same logic applying to zero-deforestation. The units and equivalences ignore other knowledges and values attached to nature by local communities explored in the earlier chapters. The process of creating an accounting system does not account for the foundation of what makes a natural system unique, what defines the area as an ecosystem and the socionature interaction.

A Flaw in the Logic of Compensation: PES, Habitat Banking, Zero-deforestation and Peace Forests

Biodiversity compensation allow for the destruction of a habitat to be compensated through the preservation or restoration of another habitat. While biodiversity compensation can be based on bilateral agreements between buyers and sellers, these trades can also form the basis of market-based instruments through which biodiversity credits can be traded at a price (Matulis 2017).

PES follows a similar compensation logic but frames the benefits to people receiving goods from the ecosystem – including water provisions, carbon storage or even crop pollination – as services that can be bought and sold for a price, often through voluntary bilateral agreements, or
in the case of the coal mining corporations, as compensation for ecosystem damage. Some authors define PES more broadly, to include some or all government subsidies or donation schemes for environmental protection (Gómez-Baggethun and Muradian 2015). Others have criticized the voluntary nature of the agreements with communities, demonstrating a power differential between communities and corporations (Rodríguez-de-Francisco and Budds 2015).

PES and habitat banking involve simplifying complex natural systems and converting them into values into a single exchange value. Pricing environmental or ecosystem services effectively renders the social and ecological relations inherent to producing and interacting with ecosystems invisible to the market (McAfee and Shapiro 2010). The conversion of “nature” into a provider of services is not, therefore, merely a matter of language, but rather represents the expansion of the borders of the market, inevitably focused on profit and economic growth, at the expense of socio-environmental and cultural practices between human and nonhuman nature. Transactions in PES demand that property rights over ecosystems functions be clearly defined (de Lima et al 2019). Where territories rich in “ecosystem services” are public or common property, the defining of property rights can lead to their privatization and loss of land rights and forced displacement, as explored in the case study below. The resulting loss of community control over the fate of local territories, and the traditional uses of the land, can clash with providing “ecosystem services”.

In this dissertation, when a unit of nature is calculated and sold on a market, the term offset is used rather than compensation, although offsets are a type of compensation. Calculating Biodiversity Offsets (BDO) is often done by measuring land area and the “units” of biodiversity in a region, similar to early wetland banking schemes described above. For this purpose, a whole set of incommensurable practices, undertaken at different places and times, are treated as though they are the same. The neoliberal market fundamentalism rife in this scheme homogenizes nature
whether the habitat of one destroyed region is similar to another, whose livelihoods are impacts and a whole host of other socio-cultural factors.

One example of a BDO is Colombia's Cocoa, Forest and Peace Initiative launched in 2018. Building on the initiative, the 2030 Action Plan was developed by the Colombian government with chocolate manufacturers, forest and conservation organizations. The first of five strategic focuses is the establishment of zero-deforestation cocoa production models. Zero-deforestation is premised on the idea that forests models are developed at a landscape scale and compensation can be subtracted from the deforestation rate. This plan will be implemented through public-private partnerships. The second focus is to create financial instruments to trade forest offset credits for cocoa. Market-based mechanism for forests will be explored in the following chapter.

**Incommensurable Flaws**

There are structural flaws in the argument that an ecosystem can be replaced or compensated. Every ecosystem is made of a complex web of biotic and abiotic nature. From bacteria, fungi to terrestrial mammals, every living species plays an important role in maintaining a balance. The drivers of deforestation continue to destroy the fragile TDF with impunity backed by government regulations that fail to acknowledge incommensurability of environmental compensation measures. Hence, the source of the problem remains.

In addition, Colombian law does not regulate the type of species used in the majority of the compensation programs used by the mining companies. Therefore, nonendemic species can be planted in the place of endemic species. One tree does not equal another and can have serious consequences for the ecosystem. For example, a tree could change the pH of the soil impacting the web of life or never be able to fully grow without human intervention in soils that are damaged (Castellanos-Barliza *et al* 2018). Another path taken in compensation projects is planting species
that have economic value such as coffee, tree plantations and other crops. However, these projects do not always benefit local communities as demonstrated later in the chapter. A fundamental problem is the location of the forest compensation program. Derived from colonial concepts, uncultivated land is usually misleadingly perceived as unused or abandoned, opening the door for extractive industries and industrial agriculture to justify land use change. Marginal lands play a key role in the discourse of reforestation.

Even when endemic species are planted, restoration of the TDF is especially complicated as stated above because many of the birds and mammals that disperse seeds are no longer in found in the area. The complexity of soils is a particular problem regarding conservationist compensation. Aerobic bacteria are found near the surface of soils and when they are disturbed, soils can be difficult to restore. Much of the top soil used in restoration programs have been found to not be conducive to long-term tree growth (see below). The time duration is a common inconsistency called “leakage” (McAfee 2016). In two of the examples below leakage occurs: one from the communities cutting down the trees after only three years when they stopped being paid to care for them, and the second because the trees could not grow in dead soil (Castellanos Barliza et al 2015).

**Part 2: “So the communities went and cut them down”**

In 2016, 160 members of the La Jagua de Ibirico community emphatically declared their opposition to Drummond diverting 9.2 km of the San Antonio river at a meeting with ANLA (National Authority for Environmental Licenses) and Drummond. The purpose of the diversion was to expand part of one of Drummond's concessions. ANLA had already authorized the modification of Drummond's environmental management plan so the meeting was a mere formality (Resolución 384, 8 April 2016).
The outraged community members argued that their primary water source would be impacted and they decided to create a technical and environmental committee made up of 25 leaders and environmental defenders from the municipality who later took legal action and called for social protests to prevent the diversion (personal communication 2019). The river is an important source of water for rural communities and campesinos along that stretch of the river. The headwaters of the San Antonio begins in the Serranía del Perijá mountains and supplies water to many campesinos and rural communities along its course. Prior to this diversion, the San Antonio river has been diverted by Drummond three previous times and much of the water was diverted in order to flow into Drummond’s policed and enclosed Reservoir Paujil.

The 2016 environmental license was modified to include: the construction of the “realignment” for the fourth time of the San Antonio; the expansion of the La Loma mining concession into another region; the creation of a new overburden dump, the relocation of two sections of the Las Marías – La Palmita road, over a length of 4.9 kilometers (Section 1: 3.47 km and Section 2: 1.43 km) and construction of its substitute route over a length of 5.88 kilometers. Although the inhabitants of La Jagua de Ibirico rejected the proposal in the public meeting, they had no power to refuse the plan for mining expansion, river diversion and road expansion which were already approved.

With approval of the modified environmental license from ANLA and permission from Corpocesar, the project is underway. However, the public opposition was bad PR for the company. In response, Drummond issued a statement on their website arguing that they committed no wrongdoing and followed the letter of the law by first notifying ANLA about the diversion plans in 2014 (Drummond 2016). In addition, they claim that the engineering plan for the “realignment” of the river would not impact water flow so the accusations of campesinos were false. In addition,
the company reiterated that the farms are located on Drummond's private concessions (Drummond 2016). The corporation did not address the impacts of the mine expansion, the biodiversity loss for destroying the 9.2 kilometers of the river, or the impact the diversion would have on river-dependent communities.

In order to obtain permission for the diversion, Drummond is obligated by law to compensate. Drummond plans to build on the first phase of a compensation agreement consisting of a Payments for Environmental Services project. The compensation project will take place both upstream in the mountains, continuing a project the coal mining corporations began in 2010 and downstream at the Paujil Reservoir, but the 9.2 kilometers of the river will be destroyed, mined and forever changed.

Early compensation programs for extractive industries were based on the companies buying lands and planting trees in “vacant space”. These programs were largely unsuccessful from the perspective of the mining company. A representative for Drummond stated:

In Colombia, previously the compensations obliged you to plant in a vacant space. There you would plant many trees... But actually, the story of reforestation in the eastern plains was not positive. The oil companies planted there too. The environmental advisers gave the go-ahead that these compensations were growing and that it compensated effectively, but when they returned to monitor them after it had been completed, the owners of the farms cut the trees to use them. So in the end, what was found was that there was an imbalance because you impact [an area] over here [with mining], and there is supposed to be a compensation over there [planted trees], but these were newly planted trees. They were very good malleable material so the communities went and cut them down. In the end we are left without this [at the mine] and without that [planted trees] (personal communication 2019).

The act of the trees being cut down in 2010 led Drummond and the other coal mining corporations to try something different, but this program also had problems. Instead of buying lands, the companies sought out farmers in the mountains of the high river basin. They offered campesinos a financial incentive to plant trees on their farms with the provision that the
Drummond claims this first phase of the project consisted of a total of 4,700 hectares. Many of the trees were “productive” trees project, meaning they were fruit trees including avocado, *tomato del árbol*\(^{22}\), and others. The campesinos were told not to use the trees for three years, and in that time they would receive a payment, but after the three years the money would stop and they could start to sell the harvest and make a profit.

A Drummond representative explained:

> Drummond proposed a scheme that was reforestation but with conservation and economic support for the families that had farms, and then Drummond said, “we are not going to buy farms, no. We are going to use farms from people who are displaced or in conditions of poverty that are found in the high basins and what we will do is a protective incentive. We will plant.”... So we found the families and we said if we plant on your farm, we ask that you do not cut them [the trees]. But we know they have financial problems, so it is a grant for three years and in those three years we are going to organize together some productive projects on the farm, planting avocados so that in those three years they grow. We are going to provide a payment for you to have during the three years. You are going to plant this and when this begins to produce you will no longer need the payment, but you will sell what your farm produces. But remember that the commitment is not to touch what we are going to plant and those agreements are called “conservation agreements”. So we signed agreements with many campesinos. We took over part of their farms, especially those that are next to the river basins and we reforested or conserved them with protection and with them we made Payments for Environmental Services and planted productive projects (personal communication 2019).

Although the project was successful for Prodeco and Drummond in the sense that they were able to expand mining operations and continue to accumulate capital, for the communities in the high basin another story emerged. After the project was completed in just three years, the campesinos were left without the payments. They had a few fruit trees but they did not have anywhere to sell the produce. In addition, the farms are located high in the river basin and they are far from a nearby town or city with a market in which to sell the products and many do not have

\(^{22}\) A Colombian tree fruit usually used to make juice
transportation (personal communication 2018). In the end some of the campesinos stopped cultivating the trees for Drummond. In no way was this project able to compensate for the human and nonhuman nature violence committed by the mining industries. However, the representative of Drummond put the blame on the displaced and impoverished campesinos and told me:

That was a weakness of the previous program. In the previous program, we helped them plant, they were assisted in growing [tree] tomato [tomato del árbol], but we have found some who said, “I have the tomato but what do I do with it… it was damaged… who do I sell to? They are buying it from me for nothing because I get to the plaza and we came here from five hours away and they tell me, if you want I will give you five pesos and come back again with your tomatoes.” We found that there is a weakness in the operation… There are some things to improve because there were payments that were made against some of the work and when they stopped the payments for the work, they stopped cultivating the crops that we were managing. We are making an improved version for this second stage that we are going to build, which will be more or less 5,000 hectares (personal communication 2019).

Although the campesinos stopped the work and the coal corporations were clearly aware of the failure of the project in the first phase, the coal mining corporations, Corpocesar and ANLA deemed the PES program successful in fulfilling the PES compensation requirements for Drummond's environmental license. In the on-line newspaper El Pilón (2020), a Drummond representative proudly stated:

Since 2010, mining companies have jointly carried out the first pilot compensation program aimed at recovering the environmental base with the active participation of campesinos and the use of Payments for Environmental Services. This project served as the basis for the compensation manual to consider this scheme as one of the alternatives. Given the positive results, Corpocesar assigned specific basins as work areas for each mining operation (El Pilón 2020).

And with that, the PES project became a flagship project used to “serve as the basis for the [updated] compensation manual”, having a major influence on the shaping of the 2018 environmental compensation umbrella policy. With the new Colombian environmental compensation legislation complete, and the ANLA license issued for the fourth diversion of the
San Antonio river, the corporations were required to continue and expand the PES and conservation projects. The second phase of the PES project was accepted and began in 2019. According to a Drummond representative, their compensation plan consists of planting 5,000 hectares in the San Antonio basin, beginning with 1,137 hectares. A Drummond representative stated, “They will not do 5,000 hectares tomorrow, but as the mine is going to advance, we are going to plant as we intervene. We will start with 1,137, and from there we will advance from 200 to 300 per year. The idea is that we are going to stay there for more than 15 years doing this project” (personal communication 2019).

In the second phase, Drummond included Corpocesar, the Department’s legal authority, in the contracts with the communities. In this way, if a project fails, Drummond avoids being held legally responsible for trees being cut, campesinos stopping their free labor or any damages. Instead, Corpocesar is responsible for anything that might go wrong. However, the way in which the Drummond representatives spoke about the agreement sounded a lot like a threat to the communities' livelihoods and rights, and could certainly put them at risk of losing the land in the future. The representatives stated:

We are going to be there for 15 years watching now. Corpocesar makes up part of the agreement that we signed with the people because Corpocesar said to the people, “to gain something, to gain a productive project, you are committed to taking care of this.” So [Corpocesar] would be responsible because we are not going to sue the landowner. “The [Corpocesar] is going to be watching if you misbehave, remember that you are in a park and therefore you do not own property on this land and I can enter to take possession of the farm.” (La corporación sí que va estar pendiente si usted se porta mal recuerden que está en un parque y por lo tanto usted no tiene propiedad y yo puedo entrar a tomar posesión del previo.) So, we made that change to solve the problems we had before, so that when people come and say "there are no more payments, there is nothing, and we will cut the trees." The [Corpocesar] can say, “you cannot cut them because we have a contract.” So they cannot sue us because they would have to bring it up to Corpocesar and the monitor of corporation [Corpocesar], because in the end it is their territory (personal communication 2019).
The authoritarian way he communicated this to me was outrageous. The communities were under contracted obligation to carry out the tree care for 15 years, and with one mishap – a drought, water loss, illness, etc. – they can be legally displaced for not fulfilling their obligations under the new PES contract. Thus, human and non-human nature are seen as a source of exploitable labor under environmental compensation programs, surplus populations, that can be displaced. In addition, the diversion and mine expansion does not address the loss to those downstream who are river-dependent. According to a prominent social leader in La Jagua de Ibirico, the corporations take advantage of the impoverished and displaced campesinos to get the licenses to expand the mines. According to him, PES is just a justification for expansion (personal communication 2018).

In addition, the projects with the campesinos do not make sense if the river is destroyed, he explained:

It makes me sad to go to the houses and see a fire that has not even made smoke because people do not have food to cook. That hurts me. That reaches the soul. There is so much wealth that mining has taken from here in the center of Cesar – billions of pesos have been profited and we never see change. Worse, is the polluted environment. We do not have a river and they plan for mangoes to be planted... if we do not have water, it is an illusion to be sowing and planting mango trees if there is no water. We need to think about the water first and then we will plant mangoes and the rest (personal communication 2019).

The San Antonio basin is now on its fourth diversion. The river in the region is of the utmost importance for biodiversity, water abundance, fishing, food security and small farms managed by local campesinos, many Afro-Colombians, but the water is being diverted to Drummond's private and policed reservoir. The PES program managed by the coal corporations do not address these losses. Instead, the projects are carried out with displaced and impoverished communities, who often do not have the means or power to organize against the company. Their acts of resistance consist of stopping labor when the contract is up or in the early days, cutting the trees (Scott 1985). The representatives described how easily the campesinos can be removed from the land based on
the new contracts with Corpocesar. Water from the San Antonio will be diverted through a canal and the 9.2 kilometers of natural river will be dug up and destroyed in the seemingly unending search for coal.

**La Guajira: The Viveros**

In La Guajira, Cerrejón must comply with environmental compensation regulations as well. Similar to projects in Cesar, among the environmental compensation projects underway, the company is involved with building a biological corridor connecting the Sierra Nevada de Santa Marta and the Serranía de Perijá mountains. This project is part of the Colombian government goal of restoring 260,000 hectares of TDF by 2030 (Cerrejón 2020). In addition to this program, the company is obligated to plant trees and restore damaged regions.

Cerrejón is both obligated by law to compensate and creates compensation programs through Fundación Cerrejón (Cerrejón Foundation), Cerrejón's non-profit foundation. Cerrejón builds *viveros* (greenhouses) on Indigenous Wayúu lands that are used for the environmental compensation programs. Important to note, the Foundation's work is tax deductible. The foundation claims that they are building socio-environmental programs by employing Indigenous Wayúu people. The plants from the *vivero* are used by Cerrejón for their environmental compensation obligations, which include replanting next to the Arroyo Bruno diversion (see Chapter Seven).

On a visit to a Wayúu community with a *vivero* managed by Fundación Cerrejón, the community explained how they suffered forced displacement by the mining company in the 1990s when they were forced to resettle farther away from the river. The *vivero* was built in 2016 on their resettled lands with the promise of funds and employment. The community leaders spoke about the lack of benefits to the community because the work is seasonal and they only receive a small
amount of money in December, about enough to pay for school uniforms for their children. The vivero does not provide the local community with plants or food because the plants are used by Cerrejón outside the community in the regions that must be “reforested” by law. It was in this context that one woman from the community said to me, “The benefit is theirs” (personal communication 2019). Another nearby community member who worked on a planting project for Cerrejón described how the plants rarely survive or do not grow for very long.

The viveros provide the plants for the so-called biological corridors, PES programs and other environmental compensation programs. Another place the plants are used are for the so-called rehabilitation areas. The mining companies are responsible for the treatment of mining waste dumps based on the guidelines in the environmental license. However, the Colombian General Audit office – CGR (2014), found irregularities regarding the treatment of the overburden dumps in that the mining companies only performed 42 percent of the rehabilitation (Cardoso 2015). The rehabilitation process involves covering the ground with an organic material of at least 15 cm and planting some native species.

The rehabilitation projects, under the guidelines outlined in the environmental license, undermine closure and rehabilitation. According to a Colombian scholar, mining closure in Colombia:

...has been very ambiguously addressed. In general, one of the components of the Environmental License should be the so-called Closure Plan, but it is not very clear how far the responsibilities go. Unlike Chile, where it is necessary to establish a Fund to guarantee adequate closure, in Colombia there is no such obligation, except for a mandatory policy established in the Mining Code, but which in Colombia is not applied due to very lax interpretations of these regulations (personal communication 2020).

I spoke with one former Cerrejón employee who worked for the multinational for 10 years planting trees in various locations, including land restoration projects. He told me that it was back-
breaking work. However, for him the biggest problem was breathing the dust. He explained in detail how the work eventually made him sick and bed-ridden for seven months causing him to lose his job. He explained, “After 10 years working there, I almost lost my voice from so much dust” (personal communication 2018). Indeed, his raspy voice was sometimes difficult to understand.

The former Cerrejón worker explained that along the planting sites the workers would plant one tree every 10 meters. In the fields, replanting along river diversions or at the pit restoration sites, he told me that the plants rarely lived past five years (personal communication 2018). They would only include about 30 cm of fertile soil at the restoration site and below the soil was what he called “black soil” or “dead soil” (personal communication 2018). He claimed, “They grow for about the first three to four years and after five years they start to get sick because the roots cannot continue to grow deep so they cannot grow into big trees. They stay weak and they do not flower or grow” (personal communication 2018). When I asked him about the environmental compensation programs, he said he had never heard of it, but he knew the company was obliged to plant on damaged lands.

None of the open pit mining operators have a comprehensive plan for closure. In fact, Drummond has three untapped additional mining concessions (Rincón Hondo, Similoa and Cerrolargo) and CNR has two additional untapped concessions. Cerrejón has approval to continue throughout its concession contract to 2032. Drummond's La Loma concession was renewed in 2019 for 20 years with the possibility to extend another 20 years. Drummond's El Descanso concession goes to 2032 and is extendable for another 30 years to 2062 (personal communication 2019).
In other words, there is only mining expansion in sight over the next 20-60 years. In an interview with a representative from a local conservation NGO that manages PES and environmental compensation schemes for the mining companies of Cesar (including the flagship PES project in Cesar), he stated: “I am pessimistic in terms of mining closure. They are not going to close until the last gram of coal is mined... It is political suicide to try to close the mines” (personal communication 2018). He went on to describe the international involvement of the major conservation NGOs in crafting the environmental compensation policies. According to him, in addition to the mining companies, The Nature Conservancy, Conservation International and WWF are all involved in designing the environmental compensation programs in Colombia. Indeed, it is written on the first page of the policy. In respect to the conservation NGOs working on environmental compensation projects in Colombia he stated, “It is the third parties that are living off of Indigenous misery” (personal communication 2018). He was skeptical of the role of compensation in the long-term but was certain that the mines would not close anytime soon, so in a defeatist argument, he decided that something was better than nothing.

However, I argue that what the “something” is, in terms of compensation, leads to livelihood loss, land dispossession, and ultimately, does not compensate for biodiversity loss. The environmental compensation allows the mining operators to appear to be conducting environmentally responsible projects. In continuity with the export enclaves of the colonial era, the bulk of the profit from mining expansion goes to foreign investors. Human and non-human nature are a source of exploitable labor under environmental compensation programs, surplus populations, that can be displaced. Water, land and biodiversity is destroyed when a river is diverted and a mine is expanded and the loss cannot be brought back in the same way, especially in such a delicate and deeply damaged ecosystem. Environmental compensation, in this way, are
the contradiction. The biodiversity, water and forest loss is incommensurable with tree projects kilometers away in the mountains. In this way compensation diverts, divides and distracts allowing for the continuation of environmental, social and cultural erasure.

Finally, to address deforestation and biodiversity loss, the Colombian government has made domestic and international policy commitments to integrate compensation agreements, increase extraction, and build environmental management strategies based on the further exploitation of natural resources, reflecting the political power among national and international elites that endorse resource extraction as a pathway toward development. Source-based regulations that protect forests, Indigenous, Afro-Colombian, campesinos and rural peoples’ lands, and biodiversity are being rolled back or are under threat in a trade-off for domestic and international development of environmental compensation. The following chapter continues the discussion on environmental compensation in an effort to outline a market-based international compensation program for forests and climate change.
Chapter Nine. “Fulfilling Our Obligations”: Corporate Involvement in Climate Change Mitigation

Introduction

Building on the early conservation approaches to compensation for wetland damage and Payments for Environmental Services (PES), emissions (or pollution) trading and REDD+ programs conceptualizes pollution as “units” to be commodified and compensated through buying, selling and trading in emissions trading markets. However, not only are pricing pollution and REDD+ ineffective instruments to address climate change but they also aggravate problems of existing inequalities at the heart of deforestation and land use conflicts. The REDD+ projects tend to be accompanied by the claim that deforestation happens because too little economic value is placed on intact forests, and that providing money for conservation to forested countries in the South will help to protect them. This assertion has been challenged by many Indigenous Peoples and forest communities, who warn that putting a price on forests has in fact encouraged further land grabs by carbon traders, large companies and governments (Gilbertson 2017).

Over the last 20 years conservationist compensation and market-based mechanisms have been promoted by policy makers, corporations, scholars, conservation NGOs and a range of environmentalists as the most effective way to address climate change. Yet in the last seven years plans to build carbon pricing schemes are underway. However, this chapter argues that using markets to fix the failures of capitalism inevitably delay the necessary changes needed to address climate change, biodiversity loss and environmental and climate justice.

Part one of this chapter provides a brief history of emissions markets that were created as part of the moves towards neoliberalism and market fundamentalism in the US and globally. These moves built on quantitative methods and scientific assumptions based in an orthodox reading of
autonomous markets that could regulate pollution. Pollution, in turn, was divided up into
equivalencies, tradable units that require an assumed commensurability of nature and pollution
while ignoring the complex web of social, cultural and historical life. Much of this history is based
on my work on environmental and climate justice\textsuperscript{23}, including personal observations and
communications around climate change conferences as well as working with communities directly
impacted by the market-based programs dating back to 2001.

The second part focuses on Colombia and its early experience with the Clean Development
Mechanism (CDM) and Reduced Emissions from Deforestation and Forest Degradation (REDD+).
I explore how markets are produced when social institutions – state, legal and political – create the
preconditions. More recently, Colombia has introduced a dizzying array of new laws, resolutions
and decrees to build a towering carbon pricing system, hailed as one of the most “integrated”
systems in the world (IETA 2018). However, this system offers more tax breaks to the coal industry
than it “pays” for through pollution markets. As such, it legalizes the expanded extraction of coal
that continues to put human and nonhuman nature, and the climate, at risk. In sum, the expansion
of carbon pricing represents the hegemony of market fundamentalism in Colombia and its impacts
reflect the glaring contradictions of capitalism.

Part 1: Made in the USA

The first early attempts to trade units of pollution on a market aimed to phase out leaded
gasoline and to reduce sulfur dioxide in the US. These programs were promulgated by the
Environmental Protection Agency in the 1980s and 1990s. Despite laudatory appraisals of these
market-based solutions (reference), the lead trading program actually delayed the phasing out of

\textsuperscript{23} Part of this section is adapted from research conducted for the Indigenous Environmental Network. See
Gilbertson 2017.
leaded gasoline in American automobiles, and the sulfur trading program collapsed while sulfur emissions were reduced via regulatory mechanisms.

The program led to a sulfur dioxide (SO\textsubscript{2}) trading program in the 1990s. However, the program resulted in corporations trading credits that ultimately delayed the lead phase out. The SO\textsubscript{2} trading program was the first emissions trading program in the world (Drury et al. 1998). The result was the same as other emissions trading systems since, the first phase over-allocated permits to pollute and a flat market ensued.

In 2008, the US approved the Clean Air Interstate Rule (CAIR) that required coal-fired power plants to install scrubbers. The regulation from US states led to further reduced SO\textsubscript{2} emissions. The sulfur market crashed as unit prices dropped to almost zero, as they have remained since 2011 (Coelho 2009). The surplus permits available at the beginning of the second phase (2000-2005) provided an additional opportunity for units to delay SO\textsubscript{2} emissions reductions at source. The decrease in sulfur emissions due to scrubbers and substitution of lower sulfur content coal led energy producers and other pro-market boosters to argue that emissions trading functioned well.

Furthermore, the reduction of sulfur emissions was not remarkable compared to other countries that used direct regulation. Between 1990-2000, the US reduced SO\textsubscript{2} emissions only 29 percent compared to the 90 percent reduction of sulfur emissions in public power plants in Germany between 1982 and 1998 (EEA 2008). Germany relied on cuts at the source achieved through direct regulation of electricity producers. Moreover, what required 23 years in the US with policy and an emissions trading program, Japan managed to accomplish in ten with direct regulation (O'Brien and UNEP 2011).
This example illustrates the role of the state in implementing policy both for direct regulation and to regulate market policies. Furthermore, the US Clean Air Act was already working towards a phase out sulfur dioxide through regulatory means, but lacked the political impetus to enforce the regulation. What reductions the sulfur dioxide scheme did achieve were likely the result of regulation, not trading, which functioned to reduce costs and delay policy for the polluting industries. Although the market failed to reduce sulfur emissions in this relatively small experiment, the market fundamentalists in the US pushed for a far more complex international program.

**The Kyoto Protocol**

In 1992, the United Nations held the first Conference on Environment and Development (UNCED) in Rio de Janeiro. The Earth Summit was the first international summit that aimed to build “sustainable development”. The conference was led by Secretary-General Maurice Strong, an advisor to the World Bank and a gas and energy entrepreneur. Strong was influential in the corporate sector and the US delegation led by Al Gore. The Summit promoted the idea of “sustainable development through trade liberalization”, in the words of Agenda 21, one of the Declarations agreed at Rio (UNCED 1992). The conference focused on the “positive” role that transnational corporations could play in linking development and environmental matters (UNCED 1997). Assumptions based on market fundamentalism and neoliberalism were reflected in a call for an “open economic system” based on economic growth, and in the Summit’s overall portrayal of multinational corporations as positive agents of environmental change (UNCED 1992).

The Earth Summit agreed on two focuses moving forward and created two bodies that would convene regularly: the Convention on Biological Diversity (UNCBD) and the Framework Convention on Climate Change (UNFCCC). International decision-making on climate change through the UNFCCC resulted in the Kyoto Protocol in 1997. The Kyoto Protocol was the first
international agreement to require countries to reduce their greenhouse gas emissions, and reflecting the neoliberal market fundamentalism of the time, the Kyoto Protocol centered market-based mechanisms in the protocol based on US insistence.

Early market-based mechanisms to mitigate climate change were based on a pollution trading system that built, in turn, upon the early SO$_2$ trading program, but now with the idea to trade between several pollutants, various kinds of offsets (compensations), and multiple jurisdictions (Coelho 2009). The early proponents of the system, many from the Chicago School, argued that the emissions trading system would only work if the market was large, robust and linked across the globe (Lohmann 2006). The International Energy Agency (IEA) and the Organization for Economic Cooperation and Development (OECD) guided a UNFCCC Annex 1 Expert Group, and in developing proposals for industrialized nations within the UN process created openings for an emissions trading system within the Kyoto Protocol process (Oberthür and Ott 1999).

As the negotiations advanced, the US government began to design a carbon trading proposal, announcing in 1996 that this kind of “flexibility” would be “the key requirement for [the US’s] accepting binding targets” (Stowell 2005, pp. 15-16). In December 1997, the third UNFCCC Conference of the Parties (COP) in Kyoto, Japan, resulted in a Protocol that was to become the first major international agreement on climate change. Many parties in the UNFCCC (including the EU) insisted that emissions reductions be made without trade, but the US delegation, led by then Vice President Al Gore, insisted upon market flexibility. The US was unwavering in its position and the US delegation threatened to block further agreements unless market-based flexible mechanisms were introduced into the Kyoto Protocol. Claiming that the sulfur trading scheme had been successful, the US managed to include flexibility. Companies like Enron, an energy trader at
the time, were well positioned to profit from the protocol. Under a great deal of pressure from the US, the other parties eventually capitulated to US interests in order to ensure that the planet's biggest historical polluter would back an international agreement on climate change (Gilbertson and Reyes 2009).

As a result, the Kyoto Protocol introduced the first international market for trading emissions. The Kyoto Protocol included six greenhouse gases: Carbon dioxide (CO$_2$), Methane (CH$_4$), Nitrous oxide (N$_2$O), Hydrofluorocarbons (HFCs), Perfluorocarbons (PFCs), and Sulphur hexafluoride (SF$_6$), and created a carbon equivalence for each gas so that one ton of CO$_2$e unit could be sold covering all gases. The Protocol required countries in the global North to reduce emissions by 5.2 percent based on 1990 levels (IPCC 1997).

The countries made the agreement but the polluting corporations were required to do the trading. Polluting corporations that could not meet their pollution limit “cap” were required to compensate for the extra pollution and to do so, may either purchase “allowances” from other polluting corporations who are below their allotted limit or buy carbon credits through an offset program.\textsuperscript{24}

The 5.2 percent reduction provided the cap or limit of emissions, but polluting industries could buy and sell allowances between themselves on the market. The program included Common but Differentiated Responsibilities (CDR), acknowledging that the countries in the global South were not historically responsible for pollution levels and climate change, so they were not required to reduce emissions, but could reduce emissions and sell those reductions as offset credits to

\textsuperscript{24}The type of compensation traded in a market-based mechanism is called a carbon credit and rather than compensation, the term is carbon offset sold as a carbon credit in English. In Spanish, they are referred to as compensaciones (compensation), bonos de carbono (carbon bonds) or cuotas (quotas).
polluting industries that could not meet their cap in the global North. Reforestation programs were permitted in the Clean Development Mechanism (CDM), but forests as offsets were largely contested from the beginning, and very few were ever allowed (see below).

In 2000, George W. Bush was elected in the US and almost immediately pulled the US out of the Kyoto Protocol, leaving the rest of the world to implement the fledgling global emissions trading system still strong-armed by US institutions and the World Bank. The EU, influenced by polluters including BP, Shell and others, were on-board and ready to implement their own in-house trading platforms (Victor and House 2006). By 2003, the World Bank “jump started” the CDM using an in-house Prototype Carbon Fund (PCF) with pilot projects in the global South (Rich 2013). By 2005, the EU built the biggest cap and trade system in the world, the European Union Emissions Trading System (EU-ETS) and the CDM was operational.

From the beginning of climate change negotiations, forests were always a contentious issue. Forest activists argued that if forests were considered an offset in the CDM, that the credits would be given too much value and could lead to more deforestation. In 2007, building on conservation compensation programs, such as Payments for Environmental Services (PES), a prototype program was jump started by the World Bank and backed by the UNFCCC at the COP in Bali, Indonesia, called Reducing Emissions from Deforestation and Forest Degradation (REDD). The plus was added in 2010 to include agriculture, conservation, soils and land-based carbon. REDD+ is a conservation program that turns forests into spaces valued for carbon capture and, through the creation of units of equivalence (again), provides carbon offsets for polluting industries to offset their pollution. Conservation organizations including Conservation International and WWF supported the establishment of REDD+ because they believe that, by putting a price on the carbon capturing potential of the forest, it can provide forest-dependent communities with revenue and
incentive to protect the forest. However, Indigenous Peoples organization and other forest-dwelling communities have argued that REDD+ is a colonialist mechanism that allows corporations to take control of forests by putting a price on nature. This control commodifies forests and monetizes conservation in ways that go against their spiritual and cultural cosmologies. REDD+ is explored in more detail in Part 2 of this chapter.

By the end of 2012, both the EU-ETS and the CDM markets were so flooded with permits and credits they were worth almost nothing. It looked like the markets would fail in an inevitable crisis of overproduction (Victor 2011). Rather than building regulation to keep fossil fuels in the ground where fossil fuels do not impact the carbon cycling capacity of the Earth, the waste is given value in the market so that the proliferation of capital and the need to expand the value of waste pollution had become another way for polluting fossil fuel industries to turn its waste into unlimited capital accumulation, bringing new meaning to when Marx and Engels ([1848] 2002) proclaimed: “The need of a constantly expanding market for its products chases the bourgeoisie over the entire surface of the globe. It must nestle everywhere, settle everywhere, establish connections everywhere.” The carbon markets were collapsing and there was a notable level of desperation on the part of the polluting industries (personal observation 2011).

Polanyi ([1944] 2013) argued that when markets inevitably fail, an injection from the state and its supporting capitalist institutions are necessary. In other words, by 2013, the inevitable crisis of overproduction was underway and new ways to expand the busting carbon markets were necessary in order to re-establish accumulation.

The Constant Need for Expansion: From Trading to Taxes and Pricing

Data demonstrating the failure of carbon markets to mitigate or reduce emissions were already overwhelming (Victor 2011, Bond 2013, Böhm et al 2012, Pearse and Böhm 2014,
Cavanagh and Benjaminsen 2014). In September 2014, 74 countries, 23 states, provinces and cities, and over 1,000 businesses and investors with more than $24 trillion in assets met to discuss a series of fresh initiatives to “price carbon”, announced at the UN Secretary-General’s Climate Leadership Summit (World Bank 2014).

The architecture was a plan to link emissions trading (cap and trade systems) with carbon taxes and REDD+ on a global scale in order to increase the “flexibility” of the market by the largest polluting industries and powerful industrialized governments in the world. The plan also laid out designs to include jurisdictional, domestic and sectoral trading that could easily link into the architecture. That way, whether or not a country was signed on to UN agreements, a jurisdiction could enter the trading system.

The result was an expansion of emissions trading markets and carbon pricing systems planned or implemented in British Columbia, California, Chile, China, Colombia, Mexico, Quebec, Kazakhstan and South Korea, together with a sectoral market in international aviation, an expansion of REDD+ programs, green bonds, more international private finance for new funds, and increased funding linked to climate mitigation for the newly minted carbon pricing schemes.

In 2015, the Paris Agreement was signed, the international climate change agreement that is due to supersede the Kyoto Protocol at the end of 2020. The Paris Agreement is based on each state's Intended Nationally Determined Contributions (INDCs) that lay out plans to reduce emissions, even the countries least historically responsible for climate change. The emissions were tallied up and did not meet the required amount to reduce emissions by two degrees warming by 2030, but new carbon pricing systems underway.

At the recent 2019 UNFCCC COP in Madrid, the negotiations broke down over Article 6 of the Paris Agreement. Article 6 outlines the rules and regulations of carbon pricing, carbon
trading and offsets regulation. After lengthy meetings going into the weekend and late into the night, the policymakers did not agree to the terms of carbon pricing, so the negotiations of Article 6 were postponed to the summer of 2020. However, because of COVID-19, the UNFCCC canceled all meetings, including the annual COP scheduled for Scotland in November 2020. The meeting has been postponed until 2021, when Article 6 and global carbon pricing will be up for negotiation once again.

However, carbon markets continue to proliferate with or without the UN. In fact, 2019 saw for the first time, the voluntary carbon markets out-trade the compliance markets (World Bank 2020). By the end of 2019, in the compliance markets there were 31 emissions trading systems (cap and trade with offsets) and 30 carbon tax systems operational worldwide, estimated to have traded over US$45 billion in 2019 (World Bank 2020). Each one of those trades represents real money for real traders and corporations – many large fossil fuel corporations (e.g., Shell) have in-house trading platforms. The market fundamentalists argue the refrain of “too big to fail”, while the carbon pricing such as carbon taxes with offsets, and net-zero emissions are being implemented all over the world, including by climate change activists in Green New Deals and other forms. The crux of the problem still remains: overall emissions are not being reduced and fossil fuels are not being kept in the ground at the rate required to address climate change, which begs the question, is carbon pricing really about the climate at all?

**Part 2: Colombia, REDD+ and the Carbon Tax**

Colombia’s involvement in conservation programs dates back to the 1990s at the beginning of the internationalization of these programs. Colombia signed on to the Convention on Biological Diversity (1992), the Kyoto Protocol (1997), and in 2004 Colombia set up a bilateral debt-for-nature-swap with the US. The country entered the CDM to sell carbon offsets with various projects,
the earliest and most notable being Bogotá's *transmilenio* bus system (UNFCCC 2012). Conservation NGOs including Conservation International and WWF have guided policymakers on conservation, compensation and offset programs in Colombia since the 1990s (see below).

The 2010-2014 National Development Plan (NDP) included early plans for REDD+ and a climate change inventory system. These plans, which were outlined by CONPES 3700, the consulting and advisory committee of the NDP, were to include a climate change strategy and REDD+ based on the NDP's four-year plan (USAID 2013, Grantham Research Institute 2014). In 2011, Colombia presented its REDD+ Readiness Preparedness Proposal (R-PP) to the World Bank's Forest Carbon Partnership Facility for early REDD+ implementation and was approved for funding.

The funds are channeled through national government so there is an interest in participation. The Ministry of Environment and Sustainable Development (MADS) further developed the REDD+ preparation document with the support of multiple institutions including the Forest Carbon Partnership Facility, the UN-REDD Programme and other donors. In Colombia, there are currently 25 sub-national REDD+ projects based on the REDD+ Project Database (2020) (not including Afforestation and Reforestation programs).

REDD+ is a system that quantifies the ability of forests to absorb carbon dioxide from the atmosphere. Third party verifiers measure the theoretical carbon dioxide absorption by trees. By measuring the circumference of a tree trunk or by satellite mapping estimations of forest density, the companies create an absorption estimate. Deforestation is then measured by percent decline and a model created with the carbon dioxide absorption projections built into a database. When a forest-community joins a REDD+ project or program, percentages of reductions are estimated based on follow up measurements compared to a baseline. In this comparison, units of carbon
dioxide that are “saved”, sequestered or avoided by reduced deforestation are then sold via carbon markets to polluting industries. The REDD+ trade has happened both in the compliance markets, as is the case of California’s carbon trading system, but mostly on the voluntary market. Market fundamentalists aim to streamline the various legalized REDD+ trading platforms by linking jurisdictional, compliance, project and programmatic (WB and UN programs) markets. This is referred to as “nested REDD+” (see below).

Similar to Payments for Environmental Services (PES) explored in the previous chapter, the process of categorizing the carbon sequestered in forests and soils reduces the ecological and social complexities regarding how to measure sequestered carbon and the rate of deforestation to a line on a spreadsheet. In addition, the equivalences sold on the market fail to provide any distinction between forests, industrial tree plantations and pollution. The diversity of approaches to valuing and relating to forests are similarly ignored as Indigenous Peoples and forest-dwelling communities are impacted (see REDD-monitor.org). In the process of creating a single exchange-value, or equivalence, as described above, land rights for Indigenous Peoples and land tenure conflicts in REDD+ are often sidelined and existing (neo)colonial disputes are aggravated, leading to increased struggles (Chomba et al. 2016). As a result, not only is REDD+ an ineffective instrument to address climate change but it also aggravates problems of existing inequalities at the heart of deforestation and land use conflicts as explored in the next section (Bumpus and Liverman 2011, Cabello and Gilbertson 2012, Fairhead et al. 2012).

25 The FAO does not distinguish between forests and industrial tree plantations.
Colombia's Entrance into Carbon Neutrality

In 2015, within the framework of the Paris Agreement, Colombia committed to reduce 20 percent of its emissions by 2030. In order to do this, commitments were made to extend protected areas, reduce deforestation, protect the páramos (wetlands), increase conservation of the river basins and build up a program for climate change mitigation and adaptation frameworks. Since 2015, a progression of laws for carbon pricing have been introduced in Colombia. The following section explains the progression of the policies.

In Article 175 of Law 1753 of 2015, Colombia created a Greenhouse Gas Emissions Inventory. The law includes REDD+ to be regulated by the Ministry of the Environment and Sustainable Development (MADS). Following that, the government passed carbon tax law (1819) in 2016. In this law, the tax on CO₂ applies to the combustion of gasoline, kerosene, jet fuel, ACPM and fuel oil, but notably not coal. Natural gas is also taxed but only for use in industry from hydrocarbon refining and petrochemicals, and liquefied petroleum gas (LPG) and only for sale to industrial users. The emissions from these fuels represent about 27 percent of the country's total emissions (Minabiente 2017). The tax was initially set at 15,000 pesos (US$5.5) per ton of carbon dioxide equivalent (tCO2e) and is scheduled to increase annually until it reaches around US$11 per tCO2e. This amount is equivalent to one Colombia Tax Unit, which was set to 33,156 Colombian pesos (US$11.5) in 2018 (Martin and Carranza 2019).

Coal use is not taxed under the scheme under the premise that the majority of the coal is exported and burned abroad. As Javier Sabogal, cabinet advisor to Colombia’s Ministry of Economy, explained, Colombia expects European buyers to place the emissions under their own tax systems (Monge 2018). However, Sabogal mentioned a plan to decrease coal exports and use
cheap coal to generate electricity domestically in the future and acknowledged that such coal burning would increase emissions:

There are countries that will stop or slow their coal acquisitions in the near future. This will impact Colombia’s exports, as it is the sixth largest coal exporter in the world. As exports slow down, the remaining coal will probably enter our energy matrix and produce dirty energy. A tax on coal was not possible at the time of the reform and is still difficult to implement, but we will have to find ways to deal with this situation (Monge 2018).

Originally, the tax revenue was to go into the *Fondo Colombia Sostenible* (FCS – Colombia Sustainability Fund). The FCS is an initiative of the Government of Colombia financed by Norway, Sweden and Switzerland which carries out conservation programs including REDD+ in 277 municipalities throughout Colombia (FCS 2020). The fund is administered by the Inter-American Development Bank (IDB) based on a Joint Declaration of Intent (DCI) signed by Colombia, Norway, the United Kingdom and Germany at the UNFCCC COP 21 in Paris 2015. In 2019, at COP 25 in Madrid the Fund was renewed (FCS 2020).

The carbon tax law is only applicable to the consumption of oil and gas combustion, not extraction. In this way, the coal industry must pay the carbon tax based on the consumption of diesel fuel (and other oil or gas combustion) in their operations, which adds up to extra taxes. In 2017, led by the big conservation NGOs and the extractive industries (see below), the government passed Decree 926 which amended the carbon tax law and built in a carbon offset provision. If corporations abide by the offset provisions, they are able to claim “carbon neutrality” and avoid full taxation. These carbon offsets must have been generated after January 1, 2010, and implemented inside Colombia.

The Colombian carbon tax program has thereby encouraged the development of more REDD+ projects (Krause 2020). Through Decree 926, instead of paying the carbon tax, the companies can instead pay for a carbon offset (compensate) through the CDM, REDD+, PES and
through voluntary carbon markets. By using the new carbon tax system, the companies also receive a tax break. The government is highly supportive of these measures. Javier Sabogal, cabinet advisor to Colombia’s Ministry of Economy admitted that, “Almost a third of the carbon tax revenues has been subject to tax breaks,” but he dubbed that “great news if these breaks have a clear and positive impact.” (Monge 2018).

Sabogal argued that the focus of the government has shifted to making its mitigation efforts more transparent and adequately certified. However, the program has been far from transparent and is riddled with problems. In June of 2018, the Congress of the Republic approved a páramos (wetlands) law that amended Article 223 of the tax reform. This change required the proceeds from the national carbon tax to be shifted from the FCS to the Fondo Colombia en Paz (Colombia Peace Fund) managed by the Ministry of Finance. The money is to be broken down as: 70 percent for post-conflict “with environmental sustainability criteria” (full of its own contradictions with crop substitution programs); 25 percent for coastal erosion management, strategic ecosystems and water sources conservation; and five percent to strengthen the National System of Protected Areas (Article 223, 2018). The Colombia Peace Fund is regulated by the Ministry of Finance and supported by the royalty funds, the World Bank, IDB, the UN, the European Union, and a multitude of other donors of which the FCS forms a part of a subcommittee (Decree 691, 2017).

The web of bureaucracy in the carbon pricing systems can lead to fraudulent management of large finances. In 2018, the money was stuck in the Ministry of Finance and not issued to the FCP. The Colombian newspaper El Tiempo reported in an article titled, “National Carbon Tax: What happened with the money?” that after the money was shifted to the FCP the payouts became stuck in a bureaucratic maze. The reporter interviewed the Director of the Colombia Peace Fund, Juan Carlos Mahecha, who claims the money was in the General Budget of the Nation, in the
Ministry of Finance and “We could not use it” (Pardo Ibarra 2018). Mahecha stated that the “Ministry of Environment and Sustainable Development must create a subaccount in the FCP and an Annual Payment Plan (Poap)” and that the Poap must be created by the FCP (Pardo Ibarra 2018).

Two additional laws were created in 2018 to integrate the domestic carbon pricing program. Law 1931 of 2018 is Colombia's Climate Change Law that includes, among other things, in Article 30, the Programa Nacional de Cupos Transables de Emisión de GEI (PNCTE – National Program of Tradable Emission Quotas of Greenhouse Gases) operated by the National Government. The law allows for one CO₂ ton equivalent to be recognized and paid into the carbon tax, linking carbon trading, carbon taxes and offset systems. Resolution 1447 of 2018 established the National Registry of Reduction of Greenhouse Gas, a GHG inventory database regulated by the MADS and regulation on monitoring, reporting and verification which is based on registry, accounting and additionality aspects.

Colombia is considering how to link the expanding domestic programs to international markets. However, Article 6 of the UNFCCC Paris Agreement is yet to be decided. At the 2019 COP 21 in Madrid, one of the most contentious debates stalling the agreements was how the CDM would be transferred into the new Sustainable Development Mechanism (SDM) under Article 6 (personal observation 2019). Based on the future of CDM projects and their credits, delegates disagreed whether to cancel them, sell them off, start over, transfer them to the SDM, or pool them (personal observation 2019). Many technical questions are still unanswered regarding the international markets, but if the major market players have their way, a globally carbon pricing market linked to jurisdictional (municipalities and local governments) and sectoral markets (for example, Carbon Offsetting and Reduction Scheme for International Aviation) could be at the center of the Paris Agreement and Colombia's system is already viewed as the international darling.
In 2018, Colombia won the IETA and CMIA Carbon Pricing Champion Award (IETA 2018). In 2019, at the COP21 in Madrid during a public presentation on nested REDD+, a representative from a top conservation organization working in Colombia stated:

Colombia fortunately has very progressive nesting regulations, and for us it represents a good model at all levels because national, programmatic and projects can be integrated into one system, so that it is the furthest advanced in terms of all the rules being in one legislation as opposed to REDD being separated around (field notes 2019).

On the same panel, a government representative from Colombia and an architect of the carbon pricing policies spoke about how the process was less technical and the politics were what was more important to build the system. He elaborated that the importance of promoting carbon pricing to the private sector could not be overlooked in explaining Colombia’s success in building an integrate carbon pricing system. He stated, “We needed to create conditions to connect investors to the projects... we needed to create instruments and many things to respond and in the end it was a political issue... we needed to promote this to the private sector” (field notes 2019).

**Prodeco-Glencore “Getting ahead of Conflicts”**

Under the new carbon tax and offsets policy, industries are able to become “carbon neutral” by purchasing carbon offset credits including REDD+ and PES. Prodeco estimated emissions based on burning diesel fuel in its operations and opted to prepurchase REDD+ credits instead of paying the carbon tax. The flagship REDD+ projects, Cocomasure and the BioREDD+ are located on the Pacific coast where Afro-Colombians have land rights to more than 5 million of the 10 million hectares of tropical forest (Davies 2008).

The COCOMASUR project began in 2011 and is located in the Choco-Darien Corridor in the Urabá Antioqueño. The project has generated 40,000 carbon credits in 20 communities throughout about 14,000 hectares and purchased by Prodeco to compensate for its diesel emissions.
The BioREDD program was developed by USAID in 2013 and replicated the COCOMASUR REDD+ project in eight other communities. The Director of the Environment for Prodeco explained that they were both involved in the policy negotiations to build the carbon tax legislation but also informed by conservation NGOs:

The carbon tax started here in 2016 and began to be implemented in 2017. Really, let's really call it, this opportunity. *It arose from us...* we participated in everything regarding the emergence and discussions of this legislation. We consulted on the birth of all of this legislation. But it really was a theme that for the mining industry in Colombia was relatively new. It took us a while to understand it and finally it was through allies like Conservation International because we already have several projects with them. (personal communication 2019, emphasis added).

Fondo Acción is the contract operator of the BioREDD project for USAID. Prodeco and Conservation International (CI) work on several PES projects together, and it was CI who encouraged Prodeco to get in touch with USAID. Prodeco signed the contract with Fondo Acción to purchase the credits. Fondo Acción has been involved with compensation and conservation finance for many years. They were the implementing NGO involved in the 2004 debt-for-nature-swap with the US. The director explained that Fondo Acción acted as a facilitator between Prodeco and the communities because “it is more difficult for a client, for a buyer like us to make an agreement with each of those communities. It would generate risks” (personal communication 2019). He also explained that Fondo Acción knows how to communicate “to the private industry in their language, about contracts and the financial issues” (personal communication 2019). He went on to say:

They [Conservation International] made contact with USAID and with Fondo Acción, which had been working on the REDD project in the Pacific for more than five years, even before carbon taxes were generated in Colombia. There is a USAID project which is a very, very large project, which is called the BioREDD project, which was basically the impulse that generated the structuring of the REDD project in the Pacific, by replicating the model of the REDD Project, that was a pioneer in the country. That it was the one in Acandí from COCOMASUR that was the first REDD project that was generated in the country. They
were the pioneer communities or visionaries, for more than eight years they have been working on REDD (personal communication 2019).

Despite the Director’s confidence, when Fondo Accion approached communities to sell REDD+ credits to Prodeco, the communities said no. They resisted and said they would not be involved with a coal corporation. However, according to the Prodeco representative, it was Fondo Acción who argued on behalf of Prodeco:

Because in fact they [the community consejo] said, “No, it is a mining company that is going to buy them. It is a mining company.” But Fondo Acción, said, “They are not just any mining company, it is a responsible company, ta ta tal ta ta tan tan [blah, blah, blah] And we left with the commitment and we made the agreement, but we still have to explain who Prodeco is [to them] and learn more about them [the community]. That is a process we are in (personal communication 2019).

The Director of the program was very enthusiastic about the program. The purchase of the REDD+ credits was great financial boon for Prodeco, he explained. In effect, the firm would pay about one-quarter to one-third of the amount of the carbon tax (personal communication 2019). He framed it as a win-win solution with great potential for further expansion, but win-win did not necessarily mean the coal company and the community were winning. Instead, Prodeco would garner not only tax benefits but public relations as being carbon neutral. He explained that it would boost their image in their European market because they could be carbon neutral (personal communication 2019). He stated:

We see tremendous potential in Colombia for the carbon market issue, especially land based carbon because we really have very sensitive ecosystems, which are being put under a lot of pressure and it is not just forests. I'm talking to you about mangroves, we're talking about sea grass. For example, in these marine ecosystems there is a Bluecarbon initiative, which Conservation International has been working on. There is already a pilot project in Cispata to generate carbon credits through mangroves. For example, I see tremendous potential in generating carbon credits in the Cienaga Grande de Santa Marta... At least we are buying Choco carbon credits basically because they are the only carbon credits on the market.... we bought in Choco but we want this type of project to be implemented in the Caribbean. We have great potential in the Sierra Nevada with the Indigenous communities. In fact, we are working with Conservation International on a prefeasibility project with the
Arhuaco people to implement those projects in the Sierra Nevada (personal communication 2019).

Prodeco purchased 40,000 tons of CO2e from four of the nine projects. The three-year contract indicates that in the first verification phase they will purchase the credits from COCOMASUR and from three of the eight BioREDD projects. Four of the other five projects will sell the REDD+ credits in the market, while one project did not generate credits (personal communication 2019). The director elaborated:

A year ago we signed the agreement and only now the first bonos [credits] are being generated. We have already made a purchase of 40,000 carbon certificates from Acandí, from the COCOMASUR project last year, but we have an agreement to buy up to 800,000 tons of carbon per year (personal communication 2019).

Prodeco is the first large-scale buyer in Colombia. According to the Prodeco representative, the financiers and third-party verifiers are all based in the San Francisco Bay Area of the US: San Francisco, CA based Terra Global Capital; Mill Valley, CA based Wild Life Works; and Bay Area with an office in Bogotá, EP Partners (personal communication 2019).

Many activists and scholars have criticized REDD+ projects for gaining control of land rights and forests, as well as controlling cultural and spiritual practices. In a conversation with a PhD candidate from UC Berkeley who completed 15 months of field research in Choco, she explained to me that one of the crisis points of the REDD+ projects is that many of the forests are being deforested by illegal logging done by armed rival gangs, not the community, and that puts additional and high-stakes pressure to stop deforestation in the region on the Afro-Colombian communities (personal communication 2019). The incentives to stop the deforestation done by the gangs can ultimately put the communities at greater risk. In addition, the carbon markets do not take into account who is responsible for deforestation.
The communities had protected the forests and used them for many cultural and subsistence practices, but these practices were also at risk because of the REDD+ contracts (personal communication 2019). For example, Krause and Nielsen (2019) found a provision that could impact food security in the USAID Colombian BioREDD+ program. One specific clause in the contract states that communities must eliminate hunting and fishing. The contract specified that “gradual involvement of the community members in restricting hunting and fishing of key threatened species will be sought” and that the restrictions should consider sustainable yields and include policies that allow only local, non-commercial harvesting of these species in the appropriate season/phase of their life cycle (p. 8). The problem is that the contract assumes the problem with endangered species and biodiversity loss is the fault of the Afro-Colombian communities, not the fault of the rival gangs or extractive industries like gold mining in the region.

However, when the environmental director of Prodeco was asked about some of the criticisms of the program and whether he was concerned about how that might damage the reputation of Prodeco, he was unsurprisingly enthusiastic about REDD+ achieving its stated conservation goals. More importantly, he revealed that to the coal company the REDD+ programs are the same as any other compensation program. Notably, he was clear that the ultimate purpose of compensation is to fulfill their obligations to the state and to their corporate reputation – not the communities, not human and nonhuman nature, not to the climate. He stated:

In the municipalities where we work our compensation is more or less the same but they are not REDD projects. We work with peasant communities and fishing communities on conservation schemes... because in the long run what is also behind the compensation systems is to fulfill our obligations.... So when ecosystems begin to decrease the production of ecosystem services like fishing, like water, and soil productivity, obviously due to climate change, but they immediately begin to target the mining sector. It is not that there is no fishing, well of course at the ports the fishing ended. It is that there is no water, and they generate reputational pressure and conflicts on us. So what we are doing is getting
ahead of that conflict because behind that conflict are the *tutelas*, the demands, the road blocks (personal communication 2019).

Effectively, the director explained in detail that the compensations, be it PES or REDD+, acted to preserve the reputation of Prodeco. Never once in the interview nor in any other observations of coal company officials was the role of large-scale coal mining in causing damage to water, soil, biodiversity or communities acknowledged. They pinned responsibility on climate change. Instead, they used compensation, conservation programs and the new carbon tax programs as a convenient tool to distract and divert. Prodeco was getting out ahead of any organizing and resistance from the communities to defy the coal industry through the use of the new carbon pricing mechanism and it was just the beginning. According to the director, the conservation programs had great expansion potential.

**Conclusion**

Up to now, this dissertation has attempted to expose how compensation programs are used by legal multinational coal mining corporations in Colombia to mask the scale of damage and violence done to human and nonhuman nature. The progression and proliferation of compensation executed through coal mining practices is viewed within a framework of imperialist and colonial history. This chapter has explored the historical shift that led compensation for conservation and community development to become market-based mechanisms as a tool to supposedly reduce the impacts of climate change. I argue that market fundamentalism and neoliberalism played important roles in shifting the function of compensations into a capitalist market whereby “units” of pollution are compensated, or theoretically offset, through carbon markets under the guise of climate change mitigation.
The brief historical and theoretical background on the political economy of carbon trading explores the historical role of the US in developing carbon markets, and the section explained how the US influenced and coerced international policy. It is no surprise that the financiers and third party verifiers, who are funded by the schemes, are all located in the Bay Area in California. Colombia's role within the early implementation of carbon trading, particularly the implementation of Reducing Emissions from Deforestation and forest Degradation (REDD+) as a conservation scheme was an important foundation for Colombia to its integrated carbon pricing scheme, but the impacts to the communities on both sides of Colombia is overlooked. The glaring environmental and climate injustice in the program is perpetuated by the array of market instruments, international finance institutions, government agencies, “green” entrepreneurs and ultimately, capitalism.

However, the environmental and climate racism in these projects are overlooked by the green economy. In Cesar, Afro-Colombian communities are under threat of displacement and live in regions of high air pollution, water scarcity and pollution, and housing problems. Their resistance through the use of tutelas and their protests against lack of cultural recognition continue. That resistance is precisely what Prodeco seeks to assuage through its actions. On the Pacific Coast, the Afro-Colombian communities are stronger than communities in Cesar by the mines in the sense that they have gained community land recognition. However, their strength is perhaps one of the main reasons they are targeted by these schemes because the contracts give certain rights to the polluters and the financiers that supersede cultural, spiritual and land use practices while also rendering them responsible for outside gangs destroying the forest they agree to defend. On both sides of the project, Afro-Colombian communities are impacted and controlled by the new green framework.
The recent developments in Colombia's domestic climate change policies include one of the most extensive and far-reaching carbon pricing systems in the world, a domestic carbon trading program based on a carbon tax and offset scheme linked to PES, the CDM and REDD+. By outlining how coal mining corporations receive a tax break for using the carbon tax offsetting mechanism, promoted by US-based conservation NGOs and implemented by USAID and other third party organizations, the market fundamentalism of the global North continues its development strategies. The parallels and contradictions of offsetting pollution through coal mining in climate change mitigation represents how capitalism must expand all over the globe, but not just for raw materials, even to expand into building and linking new markets for pollution and avoiding emissions.

As experienced with the carbon markets, governmental institutions play a key role in providing the regulatory frameworks needed to create demand and attract investors. In addition to the large amounts of regulations and laws created to set up a market, public funding is needed, in forms of subsidies or tax incentives, to attract investments which largely benefit the biggest polluters and not communities or the climate.
Chapter 10. Compensating for the Violence of Development, the Three Ds, and a Warning Against 21st Century Capitalism’s Green Economy

Throughout my examination of foreign direct investment coal mining in northeast Caribbean Colombia, my purpose has been to confront at least three issues as stated in the introduction: contemporary capitalist development; the lies told that allow for it; and the violent socionature erasure left in its wake. The central question guiding my research was how and with what effects coal mining persists in a region devastated by structural and systemic violence. In addition, I asked how the multinational coal corporations maintain and use power. As large-scale coal mining persists in an era of rapid climate change, emerging justifications used to legitimate 21st century coal mining development are underway. These questions led me to investigate the interlinked impacts of the multiscalar political economies at the in-between and edges of extraction sites where I found structural violence in the form of programs that claimed to be compensating for development. As a result, the incommensurable compensation programs leading to socionature and cultural erasure became the underlying theme of this work.

Guileful attempts to delegitimize resistance and whitewash oppression through compensation programs mask the ongoing violence sanctioned by the state. Complex international policies, and legal frameworks create an asymmetrical power imbalance between multinational corporations, international agencies, and states in the global North and South. Power is asserted through violence leading to the socioenvironmental impacts of coal mining development that has displaced communities, destroyed aquifers, diverted rivers and streams, polluted the air and water, devastated flora and fauna, and the impacts to human and nonhuman nature wear on. Rather than coal mining being a harbinger of so-called progress and development, the scaled up and ongoing
direct, structural and cultural violence leading to socionature and cultural erasure is what should define its brutal history.

So, what is new here? Scholars have called out development for decades as being “a myth” (Mies and Shiva 1993), or a “Frankenstein-type dream, the heir of the project of homo oeconomicus, which has damaged, perhaps irreparably in many cases, the immune system of many third World communities, namely, their local cultures and local subsistence systems…” (Rahnema 1988), and that the development model “impoverished our cultural roots and sources, destroying our historical identity and impairing the creative and productive possibilities of most Colombians” (Fals Borda 1986). Despite decades of research and resistance, most elites in the North and South and their allies at international agencies continue to adhere to the model. Therefore, there is a need for a reboot consisting of continued radical dissection and critique of capitalist development as it persists into the 21st century.

The indications that development has failed may be found in the present socioeconomic crisis itself. Rather than the global economy producing a trickle-down effect for the most marginalized during a crisis, livelihoods have deteriorated, socionature and cultural relationships are being destroyed and violence persists against human and nonhuman nature and the climate. Further, global leaders are feeding off of racism and discrimination, while empowering brutality, emboldening white supremacy and the hoarding of capital accumulation. The present historical moment has appended conventional political-economic structures to the market. What the research in this dissertation demonstrates is a trend or progression in compensation: from poverty alleviation strategies, to conservation programs, to eventually linking them to global financialized carbon markets. This has been demonstrated through the progression of corporate social
responsibility programs, environmental conservation programs, leading to market-based carbon pricing, or what some scholars call the financialization of nature.

Compensation in this dissertation is defined as social and environmental programs, both voluntary and state mandated, enacted by the multinational coal corporations. Compensation is incommensurable with the violence caused by mining because it transforms human and nonhuman nature from use value into exchange value by creating monetary “units” and an “equivalence” framework. As stated earlier in the dissertation, compensation is incommensurable with the lost material nature, human or nonhuman, and the socio-cultural damage created during the process of MCM’. The money transformed through commodification does not compensate for the lost material nature and socio-cultural damages that build-up as extraction and accumulation continue. In this way, compensation, regardless of the scale of violence committed against human and nonhuman nature, is incommensurable with the environmental, cultural and social erasure.

Perhaps the most important conclusion that I draw from this research is that if capitalist development succeeded in its claims of progress, compensation programs would not be necessary. In Colombia, compensation programs began in the 1990s as both foreign direct investment and conservation development expanded. Increased acceptance of corporate social responsibility frameworks and the recent adhesion of compensation to a financial market are evidence of how compensation programs are proliferating in the 21st century. The very existence of compensation tells us a story of violent patriarchal capitalism eager to continue to mine coal until “the last gram is mined”, and more importantly that the supposed progress of capitalist development is nothing more than gaslighting. Just as an abuser will compensate for their violence with a small gift as an apology, compensation does not compensate, it obfuscates. Or as I have argued throughout the dissertation, the programs divert, divide, and distract.
At the heart of the discipline of sociology is the ongoing examination of how social change arises. We ask: How, when and under what conditions does social change occur? Why and how do social movements create change? Who are the actors involved? What preconditions are necessary for social change? And what are the barriers to resistance and social justice? Although these are crucially important, my purpose has not been to catalogue, analyze or project my understanding of social movement struggle and resistance; to depict a generalizable formula for successful resistance strategies; nor explore alternatives to development. Although I am admittedly a social movement romantic, my purpose has been to dissect and critique one growing barrier to resistance that could lead to social justice. The purpose of focusing on the barriers to resistance is to unmask the discrimination and dismantle the violence cloaked by compensation programs. In this way, the unpaid and underpaid labor of socionature care, and existing struggles of environmental defenders and extenders can thrive. The three Ds of compensation – divert, divide, and distract – that I return to throughout the dissertation are barriers to resistance and social justice.

**Diverting Agency**

Diverting the agency of communities from launching a *tutela* or taking direct action, such as organizing a roadblock or strike, is an often-unstated goal of compensation programs. In Cesar and La Guajira where the Afro-Colombian and Indigenous communities have historically suffered from legal, economic, cultural, social and political marginalization, the laws enshrined in the 1991 Colombian Constitution are simultaneously levers to resistance and contradictory. The legal apparatuses were crucial to understand the complexities of the field and led me to a wider critique of the role of the state, the limits of the law and the contradictions of policy for much of the dissertation.
The 1991 Colombian Constitution is a remarkable document that includes the right to bring about a *tutela* action for any individual or communities to file a complaint when someone feels that their livelihood is impacted. The Constitution recognizes the rights of Indigenous and Afro-Colombian peoples and includes ratification of the global principles of Free Prior and Informed Consent (FPIC). When a *tutela* is upheld and FPIC is agreed, a process of consultation often leads to compensation. Although the law acts as a lever for impacted communities to resist the structural violence from the coal companies, it does not always result in positive long-term outcomes for the community. Throughout the dissertation, I have included case studies of asymmetric power relations that favor capitalist development over communities’ rights. Importantly, I distinguish compensation from reparations and restorative justice because the former is embedded in a system that rewards capital accumulation while the latter two concepts refer to justice beyond monetary rewards.

However especially since the landmark T-704 sentence was passed, the multinational coal corporations have preferred to avoid *tutelas* altogether. On both sides of the process, compensation programs are designed to quell resistance and stop communities from seeking their rights. On one side, corporate social responsibility (CSR) and their compensation programs, like the tree nurseries and sausage making programs, are meant to quell opposition. On the other side, when a *tutela* is upheld, the result is often compensation in a form that does not compensate for structural and cultural violence to human and nonhuman nature nor prevent the ongoing violence. In this way compensation is a catch-all and acts to *divert agency* both before and after any legal process is used.

*Consejo Comunitario* recognition is crucial to social agency, community resistance and solidarity for Afro-Colombian communities. The rights enshrined in Law 70 open up space for
autonomy based on connection to place and resources. The law gives rights to Afro-Colombians through ethnicity and identity recognition that interestingly pose challenges to the state itself over territorial and resource control. However, for many rural Afro-Colombian communities, the law is confusing. Several of the rural Afro-Colombians that I met did not know they had to register under both the municipality and the state. The registration process is contradictory in this regard because it reinforces the authority of a capitalist state that favors a development model and undermines their survival and livelihoods. The concept of a community having to prove their ethnic identity to state authorities serves the power of the state because ultimately, it is the state that decides who gains status and who does not. Communities require an authority to define who they are, or who they get to be, in an attempt to enact their rights. The state can deny ethnicity status in resource rich areas and, in turn, favor capital accumulation. The complex and confusing legal process, including registration at two levels of government, and the lack of transparency, leave communities lacking sufficient information to obtain recognition of their status.

**Dividing Communities**

The compensation projects capture the energy of communities that might otherwise lead to resistance strategies as explored above, but the projects can also divide communities. The revenue is seductive because impacted communities absolutely do need more support, but only because they are living through the direct and structural violence caused by the multinational coal mining industries in the first place. The paradoxical outcome of the historic T-704 Constitutional Court ruling is a particularly informative case study on the way that a tutela action, the right to free, prior and informed consent (FPIC) and compensation under the rule of law can all act to favor the multinational corporations. The Constitutional Court ruled in favor of the communities located in the influence zone, but the outcome has favored the corporation.
The corporation’s initial payment strategy of 15 boats to Media Luna Dos, the village that launched the *tutela*, is an incommensurable compensation and undermines community cohesion, thereby fracturing Wayúu community autonomy. The T-704 ruling in some ways is a victory for communities in the *zona de influencia*, but the ruling came from Bogotá and the elites in the urban center do not participate in the day-to-day handling of the consultation process. We found that the 15 boats as compensation offered to Media Luna Dos, caused divisions, silenced dissent, and continues to represent a socio-cultural assault on the Indigenous Wayúu and Afro-Colombian communities in the influence zone.

Indigenous Wayúu have a long-standing cultural process to deal with conflicts through their *palabreros*, as discussed in Chapter Five. Often, however, the consultation and compensation processes sideline the Wayúu cultural practice of conflict resolution. The impacts of cultural and environmental violence that Afro-Colombians and Indigenous Wayúu continue to endure demonstrate the systemic connections between racism and the environment and how corporations, backed by the state, use incommensurable compensation measures as mechanisms of structural and cultural violence as well as racial discrimination. The community division was described by community leaders in the field in both the case of the T-704 sentence and the case of Provincial. Indeed, an Indigenous Wayúu leader was clear when he said that the corporation “divides and gifts” in a play on words from the colonialist strategy to divide and conquer. He also stated that the corporations “line their [our] minds with pocket money”. The divisions in the communities that occur throughout the compensation process, therefore, reinforce the asymmetrical power relations that functions to justify violent coal mining practices in Colombia. When communities are divided over whether or not to accept the compensation, this creates a rift in the community and renders the communities vulnerable.
Another example is the community walkout in La Loma, Cesar. After the walkout of around 70 community members, the only people left in the room were those who were receiving training in CNRs social programs. That morning I witnessed a heated debate between two important social leaders in the community over participation in CNRs social program. The programs pit leaders against one another. The in-fighting reflects the internal divisions that weaken what might be otherwise acts of solidarity and resistance. This creates acquiescence as pointed out by many social leaders in the field. The blame is not on the community members. The point is to demonstrate how capitalist multinationals and their allies pit community members against one another for their advantage, and how they gain power through silencing and division.

When the state acted to address the air pollution caused by coal mining, the process impacted Afro-Colombian communities in Boquerón in the coal mining region of Cesar. Here, the power of the mining corporations is refracted through racialized class struggles, making it critically important to address environmental racism and social justice. The threat of displacement and the long process has impacted the culture and autonomy of Boquerón. While the Mayor and the corporations have created “productive” projects, such as aquaculture fishing projects and plans for an industrial park, to distract and mask the ongoing socioenvironmental impacts of coal mining, the former palenque has been divided and impacted in serious ways. Compensation provides a false appearance that nature-processes as well as racial and ethnic identities can be paid for and that damages can be easily erased, while silencing opposition, quelling political mobilizations and building international support for 21st century capitalist development rhetoric.

**Distracting the Public**

The large-scale direct, structural and cultural violence enacted upon human and nonhuman nature from the mines to the ports result in socionature and cultural erasure. The history of the coal
is “stained with blood” and the ongoing violence against human and nonhuman nature are severe. In order to continue the violence, the multinational corporations and their allies must distract the public away from the reality of the impacts. The public I am referring to are people that live outside the region and do not see for themselves the ongoing direct, structural and cultural violence. In this way, the distance from the mining activities act as a shield. In addition, when people do visit the mining regions, such as on the Cerrejón tour described in Chapter Eight, the corporation shows the visitor what they want them to see. In addition, a visitor does not live with the ongoing violence of mining. Perhaps the most important public for the corporation are the elites that are invested in the corporations, such as the shareholders, the banks, the insurance companies and the policymakers.

Although I do not analyze the elaborate public relations campaigns or conduct a discourse analysis in this dissertation, this would be important for future research. The legally required and non-profit-based compensation projects and programs form a basis of the distraction narrative. Several times while I sat to speak with corporate representatives from Drummond and Prodeco a compensation project or program was swiftly brought up after any slightly challenging question. With the Drummond representatives, they began telling me about their PES and other compensation projects. In some cases, the distraction led to useful data. The Prodeco representative directly explained to me in our interview that they use compensation to “get ahead of” resistance.

The Peace Agreement, National Development Plan, and the new environmental compensation policy collectively undermine action on biodiversity protection and community rights. Moreover, environmental compensation functions to distract attention from the public and action away from the root cause of biodiversity loss, deforestation, river diversion and climate change, which in the eastern Caribbean region of Colombia is coal mining. Conservation programs,
such as the PES project, replicate a colonialist structural violence against human communities and natural ecosystems. Further, the payments and projects are measured within the capitalist economic framework of money and materials leading to socio-cultural and ecosystem erasure.

In addition to the direct, structural and cultural violence enacted upon local communities, nonhuman nature is impacted. The conservation-based compensation programs act as a distraction away from the violence. Water was the first of the socio-environmental focuses in this dissertation because it represents the basic foundation of survival. Because coal mining is a water intensive industry, its growth has led to a water grab in the coal mining regions. Not only has access been grabbed such as through river diversion but also the coal mining industry has permanently damaged the underground aquifers and continues to cause high levels of pollution in the water basins. The incommensurable compensation of the conservation projects are unable to redress the violent water grab because coal mining permanently damages the aquifers and rivers. Thus, the devastating impacts of coal mining cannot be remedied with compensation programs. Instead, the distraction of compensation narratives allows for continued accumulation by the coal corporations, while water dispossession and contamination goes unchecked in the mining region. Further, in the example of the REDD+ program that allows a carbon tax break to Prodeco, the disruption to Afro-Colombian forest communities on the west coast does not compensate for the water grab and biodiversity devastation at the mining region in Cesar or the pollution along the trainline and at the port.

Environmental compensation is worse than nothing because it bolsters the scalar aspect of impunity enjoyed by corporations and sanctioned by the state, both complicit in human and non-human violence, and distracts from the wider more structural socio-environmental impacts of development shouldered by human and non-human nature. Furthermore, the inconsistencies and
shortcomings implicit in the corporate compensation programs, and the state’s role in condoning these shortcomings are expanding in other parts of the world. The entrenchment of compensation programs is highlighted as a structural mechanism used to justify and legitimize continued extraction. The corporations exploit, destroy, pollute and divert the water and for the purposes of “development” are supported by the Colombian state and not held accountable. As a participant claimed, “The benefit is theirs” (personal communication 2019).

Although some current academic debates in Colombia are centered on mine closure, neither the companies nor the government of Colombia have a comprehensive plan for closing the mines. I found that in addition to untapped mining concessions, older concessions had been recently renewed in Cesar, particularly Drummond's La Loma concession in 2019 for 20 years until 2039 with the possibility to extend another 20 years. Drummond's El Descanso concession and Cerrejón are licensed until 2032 and Drummond representatives claimed there is possible extension for another 30 years to 2062 (personal communication 2019). Importantly, I found that when extension and continuation of mining is discussed with corporate representatives, explanations of their compensation projects quickly follow, used in an effort to distract me as a researcher, and the public, from the ongoing violence committed by the mining sector. The distraction of compensation narratives is often successful because many people, especially the elite, do not travel to the mining regions. The distance from urban areas, isolated location and threat of violence all provide the conditions with which the compensation narratives claiming “success” and commensurability can continue without contestation.

Finally, in the case of the payments for environmental services (PES) project, compensation is leading to livelihood loss, land dispossession, and simultaneously, does not compensate for biodiversity loss. Communities cut down the trees from the PES project in the early phase, and
more recently found they were too far away from a town to sell the fruits from the trees. In the
PES projects, human and non-human nature were sources of exploitable labor of displaced and
impoverished communities, and the surplus populations to be displaced. Water, land and
biodiversity are destroyed by mining expansion and the loss cannot be brought back in the same
way, especially in such a delicate and deeply damaged ecosystem. The biodiversity, water and
forest loss are incommensurable with tree projects located several kilometers away in the mountain
ecosystem. In this way compensation has served to distract, justify and mask environmental, social
and cultural exploitation and erasure.

Colombia’s new carbon pricing system benefits polluters through a tax break when the
polluting corporation buys conservation cuotas (quotas or credits) on a market. Reflecting political
power among national and international elites who endorse resource extraction as a pathway
toward development, compensation for pollution justifies more pollution because the ultimate goal
of capitalism is profit. Source-based regulations that protect forests, Indigenous, Afro-Colombian,
campesinos and rural peoples’ lands, and biodiversity are under threat in a trade-off for domestic
and international development of environmental compensation and an integrated carbon pricing
system.

The carbon pricing system has linked and exploited Afro-Colombian communities on two
sides of the country. In Cesar, Afro-Colombian communities are under threat of displacement and
live in regions of high air pollution, water scarcity and pollution, and housing problems. Their long
historical resistance continues today through tutelas and fighting against the lack of cultural
recognition as outlined in chapter seven. On the Pacific Coast, the Afro-Colombian communities
are stronger in terms of cultural recognition and community land ownership, and I argued that this
is perhaps one of the main reasons they are targeted by these schemes because the contracts give
certain rights to the polluters and the financiers that supersede cultural, spiritual and land use practices. On both sides of the country, Afro-Colombian communities are negatively impacted by the new carbon pricing framework.

A Warning Against the Green Economy Era of Capitalism

At the basis of the capitalist system is the commodification of use value – nature, land and labor – into exchange value. As the climate crisis intensifies, capitalist firms and their allies increasingly seek false solutions to distract away from the violence enacted upon human and nonhuman nature. Land and water are imperative to capitalist development and expelling people from the land is necessary for capital accumulation to occur. Building on material ecofeminism explored earlier in this dissertation, both unpaid and underpaid reproductive labor and nonhuman nature represent use value – the unpaid care, body-focused labor and work with the land that takes place in the home and the fields. Capitalist multinational coal mining firms exploit human and nonhuman nature in Colombia for profit.

More acutely, as this dissertation has shown, large-scale extractive industry, conservation NGOs and state-sponsored development projects together increasingly attempt to put a price on unpaid human and nonhuman nature through incommensurable compensation programs for those communities living on the edges of extraction. The cumulative impact of these efforts ultimately allow capitalism to create exchange value and accumulation. By creating monetary “units” and “equivalence” frameworks, compensation transforms human and nonhuman nature from use value into exchange value. The unrecognized value of the labor and nature (human and nonhuman) exist at the margins of capital and is exploited by capitalism.

I have argued throughout this work that even if it was possible to put a price on everything, human and nonhuman natures have intrinsic value outside of what can be measured in a monetary
and accounting system. When use value (unpaid care, labor, nature and resistance) is withheld from patriarchal capitalism, violence ensues. Incommensurable compensation embodies structural violence at the in-between and edges of patriarchal capitalist development because it allows for: the violence of mining operations to continue; the compensation programs to transform use value into exchange value and accumulation; and the corporations to subsume human and nonhuman nature.

Commodifying, financializing and marketizing compensation, opens a path to putting a price on everything and the process has thus served to magnify the power of capitalism. In Salleh’s (2012) words:

The “green economy” ideology is an amalgam of actual and imaginary interactions between financial capital, human capital, and natural capital. The imputation of economic value to the life-giving capacities of "nature's services" translates metabolic flows into fictitious units… This epistemological reductionism does environmental and social violence (p. 144).

Carbon pricing, REDD+, PES and others put forward by the proponents of the green economy can be seen as both a barrier to resistance and as a flexible and emerging basis underpinning another phase of capitalism. Dismantling and resisting these financialized compensation efforts linked to capitalist development is a crucial component to the pursuit of social, environmental, climate, racial and gender justice. It is my hope that this dissertation acts as a warning against the green economy and its false solutions, and that heeding these warnings can assist resistance strategies. Contrary to the assumption of equity in equivalences, commensurability and compensation, and the other vestiges of offset/compensation logic, the strategy aims to gain acquiescence from communities to global economic forces and make extractive capitalist economies more viable in the long term. Importantly, there is a historical
scaling up and pattern of building compensation programs into more spaces, timeframes, and justifications.

We are currently living in an era where entire regions are experiencing socionature erasure at a scale and pace never-before experienced in human memory. At the base of life is energy that capitalism uses to produce and transform land, water and labor into more energy through the extraction of coal, oil, gas and agriculture, for the purpose of accumulation. Marx signaled the first contradiction of capitalism as the inevitability of overaccumulation resulting in a crisis and the need for expansion (if capitalism is to survive). The 21st century scaled up expansion of fossil capitalism has begun to undeniably impact all corners of the globe, so my guiding question has been how can coal mining persist in a moment when climate change and socionature violence has become unprecedented and the erasure caused by capitalism is folding in on itself? The answer to that question lies within how capitalism obfuscates the violence and creates barriers to resistance. My field research revealed the most prevalent form of obfuscation and barriers to resistance to be social and environmental compensation programs, as well as climate change justified carbon pricing and offset programs. The violence continues through 21st century capitalism justified by a proliferating green economy framework.

In Conclusion

The contributions of this dissertation are multi-disciplinary, and I hope the work will be a contribution to materialist ecofeminism, political economy, violence and compensation. The research demonstrates that the environmental and climate crises we face today are rooted in the transformation, exploitation and commodification of human and nonhuman nature through capitalism. In my 15 months in the field in Colombia, I witnessed multiple times how compensation and pricing nature divides communities. Compensation puts the free and unpaid
human and nonhuman nature at risk of exploitation for accumulation. Impacted communities absolutely do need more support and revenue of compensation is seductive. However, as stated above, if coal mining brought about the progress and development it claims, compensations would not be necessary. Instead, communities are living through the direct, structural and cultural violence caused by the historically US implemented and multinational coal mining industries in the first place.

The creative and life-affirming connection to the earth is being destroyed by the industry, so for the fishers who rely on the rivers, the Afro-Colombians who practice a spirituality that depends on a healthy river and holds the socio-cultural fabric of their communities together, the destruction of the river, the land, and the biodiversity is violence to the interwoven human and nonhuman natures. The violence of development causes a dismantling of that socio-cultural fabric and fisher-based, campesino-based, Indigenous and Afro-Colombian lives, all lives, are impacted. There is no payment for environmental services or carbon pricing or compensation program that will ever come close to addressing the erasure and violence committed to the earth. Thus, the payment is designed to divert, divide and distract from the underlying violence of capital accumulation.

Unfortunately, it appears that under the pressure of 21st century globalized capitalism to perform, these programs are flexible enough to proliferate and expand. Further research is needed to understand how compensation, pricing and offset programs expand and how the justifications might be similar and different in other sectors. Petroleum and plantations are two areas that would be welcomed contributions and comparisons with regions outside of Latin America might illuminate similarities and differences. Further, historical research exploring and comparing other
forms of capitalist justifications to obfuscate violence might clarify how compensation and offsets are similar and how previous forms have been resisted across time, cultures and place.

Finally, I sincerely hope that a contribution of this dissertation is to support the agency, struggles, solidarity, revolutionary actions and resistance of environmental defenders and extenders at the in-between and edges of extraction in Colombia. I hope that their solutions are upheld, seen and heard in efforts for water, land, food, racial, ethnic, gender, social, environmental and climate justice. In addition, I hope that communities who are impacted by the fossil fuel industries on all parts of the chain rise up and fight back – that is everyone. I hope that, in even the smallest ways, a contribution of this dissertation can be a part of the many who are working towards a profound shift from patriarchal capitalism to gentler, community-focused, justice-based, transformative political economies, and that collective shift becomes the lodestone of social progress. In addition, I hope that diversionary, dividing and distracting actions such as militarism, assassinations, and threats, that go hand-in-hand with colonial and imperialist extractive development, are not masked by compensation and offsets that continue to justify extraction and climate change. They act as barriers that undermine the efforts, agency and resistances by communities living near extractive industries. In addition, I hope that the arguments, critiques and research in this dissertation contributes to a timely phase out of coal, oil, and gas, so that they are kept in the ground without extraction justified by false solutions measured within the capitalist economic framework of units, equivalences and numbers on a ledger.

Life is not a balance sheet to be tallied up and counted. But even if it could, the second line from the bottom that claims to compensate for the violence and erasure is a lie.
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According to DANE, Afro-Colombians, or people who identified themselves as: “negro, mulato, afrocolombiano o afrodescendiente”, accounted for 10.5% of the population and 3.4% as indigenous (2005 Census). The 2018 DANE census data is still largely unavailable but initial reports indicate a significant decline in reporting of Afro-Colombian identity.


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