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## **Violence Entrepreneurs, Law and Authority in Colombia**

**Jacobo Grajales**

### **ABSTRACT**

Local power in Colombia has been profoundly restructured since the mid-2000s, with the partial demobilization of paramilitary groups and the state's direct presence at the local level. This has led to the articulation of claims to new rights by internally displaced people, paving the way for new conditions of access to property and citizenship. However, paramilitary groups and their political and economic allies remain a *de facto* power in some areas. This contribution argues that a situation of rupture, seemingly characterized by a re-monopolization of state violence, does not necessarily lead to the marginalization of criminal actors but to a reconfiguration of the links between statutory institutions and unofficial networks. This argument is based on an ethnographical exploration of claims regarding citizenship and property rights. The analysis of the strategies of rights claimants sheds light on the formation of both political authority and political subjectivity.

## INTRODUCTION

I met Luis on a sunny morning in a coffee shop in downtown Santa Marta.<sup>1</sup> He was a community leader from the Los Fundadores neighbourhood, a slum that had swelled in the mid-1990s to a population of 10,000, mostly due to the arrival of internal refugees, *desplazados*. After a coffee or two, Luis invited me to follow him in his daily routine as a community leader. I accepted gratefully, pleased to live what I expected to be an ethnographically rich experience. First we met Jaime, who worked for the General Inspector's office and was in charge of the assistance policy for internal refugees as well as other human rights issues. We spent nearly an hour in his office, talking about an ongoing case of violent land grabbing that had affected people from Luis's organization. Jaime told us an investigation was trying to establish the strategies used by businessmen linked to paramilitary groups to legalize violently seized property. The next meeting took us to a foreign NGO office, where Luis had to arrange some details concerning the next cycle of workshops for community leaders. They were focused on the use of judicial tools for the protection of peasants' property rights on abandoned plots. After a quick lunch, I accompanied Luis to a meeting with members of his organization. It was an important day, as they were expecting the arrival of a local politician. This man had promised his support in the diverse judicial procedures for the recognition of property rights. I knew him by reputation, as his political mentor had been found guilty of supporting paramilitary groups. According to the trial judges, the terms of his mentor's deal with the paramilitaries covered both electoral alliances and bureaucratic intervention. The political influence of paramilitaries had been instrumental in the cycle of violent eviction and land grabbing that local people had endured. Some of these dispossessed peasants were members of Luis's organization. It all felt very awkward and contradictory; after the meeting I bashfully expressed my incomprehension to Luis. He seemed amused. 'He is a powerful man', he told me. 'He will help us with bureaucratic stuff. Hopefully, if everyone here votes as they should, we will gain an ally, and the *paracos* (paramilitaries) will leave us alone'.<sup>2</sup>

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<sup>1</sup> The names of interviewees have been fictionalized so as to protect their identities.

<sup>2</sup> Field notes, Santa Marta, March 2009.

The above account invites us to carry out an assessment of the relation between the struggle for rights and resources and the formation of political authority. My analysis is relevant to a body of scholarship that explores these links (Lund, 2006; Sikor and Lund, 2009), and refers to current debates on the link between institutional competition and the production of citizenship and political subjectivity (Comaroff and Comaroff, 2008; Gayer, 2014; Hansen and Stepputat, 2009; Jaffe, 2013). These processes are traced during a moment of rupture in the political order which offers favourable conditions for the observation of everyday processes of state formation (Lund, Introduction).

Like several Colombian regions, the Magdalena Province (*departamento*) experienced, from the mid-2000s, a deep rupture in the local forms of political authority. The demobilization of paramilitary groups and the criminal procedures brought against local politicians resulted in a reconfiguration of patronage networks and state intervention. In some ways, this rupture has led to a centralization of the political game and a nationalization of local political spaces. New rights specifically related to compensation for the victims of paramilitary groups have been recognized by the central government.

However, this process has not led to a reconfiguration of politics following the standards of legal-rational authority and good governance. From the point of view of the *desplazados* and their organizations, the new situation is characterized by a multi-level game, where the pursuit of recognition via official institutions is not in contradiction with the necessity of gaining the protection of local politicians, members of collusive networks associated with convicted individuals and new armed groups, the heirs to the paramilitary militias. Despite political rupture, old forms of authority persist and continue to determine local politics.

While the existence of newly empowered legal arenas opens the way to new rights and offer new grounds for their enforcement, the salience of official institutions has not led to a marginalization of unofficial spaces of power. An examination of the local setting reveals a complex entanglement of legal and illegal practices in the exercise of authority that cannot be considered as a failure in state building. Rather, it should be seen as an

instance of the ‘vulgarization of power’ (Berman and Lonsdale, 1992: 5), a manifestation of the ability of individuals and social groups to use institutions to further their own interests.

This contribution is based on the case of Magdalena. First, I provide an analysis of the formation of political authority both before and after the reconfiguration of local power in Magdalena. This is followed by an examination of the production of new political subjectivities in a time of rupture.<sup>3</sup>

## **RUPTURE AND RECONFIGURATION OF THE LOCAL ORDER**

For decades, local order in Magdalena was defined by the collusive relations between politicians and what can be referred to as ‘violence entrepreneurs’ (Volkov, 2002). This order was disturbed by the intervention of central state authorities which led to prosecutions aimed at dominant local elites. In spite of this intervention, local political authority has not been entirely reconfigured around the new principles of law and rational-bureaucratic central power. Some politicians have been able to retain their political influence in spite of criminal convictions, mostly by placing their relatives in key positions within the local administration. Moreover, if paramilitary groups went through profound changes after their official demobilization, their former members continue to be active in the political and economic sphere, and play a central role in the control of local communities. This section will trace the reconfiguration of local authority so as to gain insight into the mechanisms that led to a situation of overlapping authorities that is marked by new forms of state intervention and the reconfiguration of violent entrepreneurship. Access to land appears as one indicator of a reconfiguration of local power. Paramilitary rule had been marked by plunder and dispossession, both of which were based on the use of violence and the mobilization of political and administrative alliances (Grajales, 2013). As the state was supposed to recover direct jurisdiction over the territory, an ambitious policy of land restitution was adopted. Yet, as will be argued

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<sup>3</sup> This contribution draws on field research carried out in 2009 and 2011 in different parts of Magdalena, which formed part of my doctoral research on the links between paramilitary groups and the state, published as Grajales (2016a).

throughout this article, access to property is still determined by the capacity of individuals to navigate both statutory institutions and political networks linked to violence entrepreneurs.

### **The Paramilitary Local Order**

In Magdalena, the first violence entrepreneurs, initially dedicated to the protection and regulation of the drug economy, can be traced back to a booming marijuana industry in the 1970s. Their engagement in the repression of political movements, and also labour and peasant organizations, was linked to the transformation of the dynamics of internal conflict in Colombia which involved the politicization of criminal actors, the criminalization of the state's repressive forces and practices, and the radicalization of social conflicts linked to land property and land control.<sup>4</sup>

The first violence entrepreneurs to adopt a counter-insurgent orientation were the Giraldo and the Rojas clans, respectively active on the northern and western slopes of the Sierra Nevada de Santa Marta, a coastal mountain range that rises 5,700 metres above the shores of the Caribbean Sea. Both groups had their origins in the contentious social context of the marijuana — and later cocaine — boom, and established strong links with the economic and political elites of the province.

Hernán Giraldo, the patriarch of one of these families, has acknowledged his participation in the murder of political and community leaders from the mid-1980s, a time when left-wing parties and grassroots movements started to be regarded as a threat to the hegemony of installed political entrepreneurs. Judicial investigations into his political allies have also shown that he acted as a political broker, exchanging the votes of peasants living in his zones of influence for the support of regional politicians.

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<sup>4</sup> A different account of the origins of paramilitary groups can be found in Romero (2003). In the case of Magdalena, I engage with the work of Renán-Rodríguez (2007) and Zúñiga (2007).

At the turn of the century, Giraldo's local power was challenged by the arrival of a new paramilitary group. The AUC (United Self-defence Group of Colombia – Autodefensas Unidas de Colombia) backed a national confederation of paramilitary groups (Cubides, 2005). Although not initially hostile to local paramilitaries, AUC leaders soon made their intentions clear: to integrate Giraldo's group into their own network. Giraldo was ultimately forced into compliance, and his group became a part of the 'northern block', a paramilitary army led by the now infamous Jorge Cuarenta, which was officially part of the AUC although it was politically and financially independent.

Elsewhere in Colombia, diverse dynamics led to a similar result. In most cases, paramilitaries participated in local politics, supporting their own candidates as mayors and governors, as well as members of municipal and provincial councils (Romero, 2007). While some of these political allies were newcomers, most of them were well-established politicians who successfully negotiated their support. Their upper hand in local politics provided paramilitary groups with the possibility of placing loyal associates in parliamentary positions, where they could influence legislative debates and nominate the heads of executive agencies and public investments in local projects. Paramilitary commanders also reaped huge profits from their participation in politics. Through the creation of shell companies, or with the complicity of existing firms, a share (or the whole) of public contracts was redistributed to the paramilitary network, enriching politicians, civil servants and other accomplices. The diversion of public funds could lead to elaborate schemes; in Magdalena, the collection of local taxes and electricity bills was privatized, and the firm in charge of the collection was controlled by one of Jorge Cuarenta's lieutenants. Criminal investigations have shown that around 20 per cent of the money collected had been diverted into the paramilitary 'economy' (Martínez and Molinares, 2008).

Paramilitary control over a territory frequently led to violent forms of land grabbing. However, violence was not enough; their political and bureaucratic networks played a key part in their strategy to acquire land (Restrepo Echeverri and Franco Restrepo, 2011). With this support, they obtained property titles for land that had been forcibly abandoned

by its owners. The complexity of property rights in Colombian rural areas, where legal ownership of the land is an exception and most peasants merely enjoy tenancy rights, further facilitated this strategy (Barbosa et al., 2007; Reyes, 2009). In Magdalena, several cases of active bureaucratic assistance in land grabbing have been identified. In cases from the town of Chivolo, documented thanks to peasant and NGO mobilization and judicial intervention, beneficiaries of land reform programmes, who had received property titles during the 1980s and 1990s, were dispossessed by the same state agency that had been in charge of land allocation. It was the task of INCORA (Colombian Institute for Land Reform – Instituto colombiano de la reforma agraria) to redistribute under-exploited land. Yet, when paramilitary groups grabbed land that belonged to agrarian reform beneficiaries, the same agency legally certified that the plots had been abandoned by their owners, something that was contrary to the land allocation agreement. Consequently, regular owners lost their property titles, which were reallocated by INCORA to family members or frontmen of paramilitary members and commanders.

Research into these matters is only possible because of the radical rupture in political power in these areas, brought about by the demobilization of paramilitary groups. Both field and documentary research have been strongly dependent on the possibility of moving around freely (even if not completely securely) in places such as Magdalena, and obtaining access to the cascade of judicial investigations against former paramilitary allies. The next section provides some insight into this period of rupture and the reconfiguration of political and criminal networks.

### **Disruption in the Local Powers**

A few weeks after the newly elected president Alvaro Uribe took office in August 2002, secret meetings were held between representatives of the government and paramilitary commanders. The discussions led to the signing of the Ralito Agreement in July 2003, which marked the official beginning of negotiations aimed at the demobilization of paramilitary groups.<sup>5</sup> The process was profoundly disrupted by the paramilitaries who

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<sup>5</sup> This episode is analysed in detail in Grajales (2016b).



saw the demobilization as an easy way to legalize their assets, thereby escaping criminal prosecution in the United States. However, justices of Constitutional Court and Supreme Court rapidly became an unavoidable obstacle to the government's intention to grant generous amnesty to former paramilitaries. Even Congress, though dominated by the presidential majority, was divided between those who supported the 'benevolent' treatment of demobilizing paramilitaries and those who criticized the government's bill in the name of human rights, justice for paramilitary victims and constitutional principles (Lecombe, 2014).

As the prospect of quick and profitable negotiations diminished, paramilitary commanders tried to pressurize the government. Some of their middle men, who had never laid down their weapons, started to become more visible, bringing back the threat of rearmament and even insurrection against the state. As the process had already led to the voluntary confinement of paramilitary leaders, the latter used compromising information about their links with politics as leverage. From late 2006, information and evidence about these collusive alliances were leaked to the press, thus confirming rumours that had been circulating for over a year. Moreover, the publicity given to these links, and the political scandal that followed, strengthened judicial investigations that were already pending.

As these prosecutions became politically explosive, they were taken before the Supreme Court, which had legal jurisdiction over the cases against members of parliament and high civil servants. The Supreme Court's intervention disabled the usual legal obstruction and circumvention strategies, and led to the collapse of political alliances. Such a fluid conjuncture led to more than two hundred investigations against MPs, and hundreds of governors, mayor and local officials were also convicted.

Yet the paramilitary commanders' pressure on the government did not have the expected result. As a way of neutralizing the disruptive potential of both compromising revelations and militia rearmament, President Uribe extradited 14 paramilitary commanders to the US in May 2008, where they are currently being held on drug-trafficking charges. This

move was severely criticized by the Supreme Court and human rights organizations, who saw it as a way of covering a disturbing truth.

A new rupture followed, with the election of President Juan Manuel Santos (2010–present). One of his first actions was the introduction of the Land and Victims Bill, which was presented as a means to end the cycle of violence and dispossession that marks Colombia's contemporary history. This offered an opportunity to reformulate the links between citizenship and property at the local level, especially in peripheral areas such as Magdalena. One of the objectives of the law is the restitution of several million hectares of land that were violently grabbed by paramilitary groups, thus favouring the return of internally displaced people to the rural areas. Even though the resources allocated to such an endeavour do not reflect the complexity of the issues surrounding land and violence in Colombia, this decision was a turning point in public policy regarding forced displacement and land grabbing (Vargas-Reina, 2014).

### **Violence and Politics Today**

Political power held by local politicians and paramilitary groups did not vanish entirely behind the impressive intervention of central justice institutions. Both armed and political networks were reconfigured and adapted to the new situation. The relations between violence, crime and politics were also reshuffled. The recognition on which citizenship and property depend remains connected to these forms of unofficial authority, but the hybridity of the new order — the various fluctuating elements determining recognition — has yet to be clarified. It is clearly difficult and hazardous to study a very recent context determined by clandestine links and hidden strategies, but some hypotheses can be offered on the basis of known data and recent scholarly research.

The extradition of some paramilitary leaders in 2008 accelerated the fragmentation of the existing armed groups. Their chiefs, mostly former lieutenants of those who were extradited, became autonomous criminal actors, placed in a situation of violent competition (Ávila and Nuñez, 2008; Restrepo Echeverri, 2010). This new context also

favoured the emergence of new leadership. In northern Magdalena, Hernán Giraldo's extradition was followed by a war involving rival factions headed by two of his sons. In need of new allies, Giraldo's heirs called for the support of criminal entrepreneurs from other regions, contributing to the escalation of violent struggle over this territory.

Demobilization, accompanied by state repression leading to the arrest and death of old leaders, created opportunities for younger, less experienced violence entrepreneurs. Sociologist William Renán-Rodríguez has studied typical trajectories, such as the story of Dagoberto Maldonado. Initially part of the rank and file under Giraldo's rule, Maldonado became the chief of one of the rival groups associated with the patriarch's sons, a gang known as the Paisas (Massé et al., 2010). According to Renán-Rodríguez, the emergence of these new chiefs went hand in hand with their dependence on translocal criminal networks which linked drug traffickers and violence entrepreneurs throughout Colombia (and even Venezuela). These networks provided emergent chiefs with the necessary resources to participate in a highly conflictive criminal competition.

The Bacrim (an acronym for *bandas criminales*, criminal gangs), as these groups are called by the press and the Colombian government, are associated with diverse actors in the drugs trade to whom they provide protection of coca plantations, drug production and transportation. They engage in cocaine and marijuana production, but do not generally control the entire economic cycle. They are also invested in other sectors of the illegal economy, such as gasoline smuggling, subcontracted homicides and prostitution. In several Santa Marta neighbourhoods, Bacrim control retail drug dealing, either directly or by co-opting smaller gangs. Moreover, the Santa Marta central market shopkeepers seem to be subjected to their racket, as recurrent acts of violence against unwilling payers demonstrate.

These armed groups are agents of social control in everyday life. In the Los Fundadores shanty town, groceries, bus drivers and hairdressers pay a 'tax' for Bacrim 'protection'. The informal economy seems to be controlled in a more direct manner. Illegal motorcycles providing individual transportation, known as *mototaxis*, are often controlled

by the Bacrim. They are not only business-oriented but also provide intelligence to the criminal network. Moreover, the local head of the demobilization and reintegration agency admitted that most drivers of *mototaxis* are former paramilitaries, some of whom bought their motorcycles thanks to DDR subsidies (allowances provided by the state to demobilized paramilitaries).<sup>6</sup> Racketeering and illegal business generally combine financial aims and social control. For instance, the ascent of Bacrim in Los Fundadores was, according to local inhabitants, accompanied by the emergence of a particularly usurious money-lending scheme. The *paga diario* ('pay every day') consists in lending small amounts of money and collecting interest every day. The general daily rate was 10 per cent in 2009 and 2011. Needless to say, failure to pay would lead to corporal punishment, and sometimes even death.<sup>7</sup>

According to official inquiries and journalistic research, the initial fluidity of Bacrim started stabilizing from 2009 (Corporación Nuevo Arco Iris, 2010; Massé et al., 2010). Smaller and weaker groups disappeared and were replaced by more sophisticated criminal organizations. In Magdalena, two main networks emerged, respectively known as the Urabeños and the Paisas. These organizations are capable of blatant demonstrations of territorial and social control. One episode exemplifies this capacity. In January 2012, after a police operation led to the death of Juan de Dios Úsuga, one of the group's leaders, his brother Dairo ordered an 'armed strike' (*paro armado*) in all the zones of influence of the group; this action was aimed at capturing the attention of provincial and national authorities, as a demonstration of the Urabeños' authority over local communities. In Magdalena the 'strike' was generally followed, as trade and transportation shut down for 48 hours on 4–5 January 2012.

While statutory institutions now claim to have full monopoly in the enforcement of property rights, the access of peasants and *desplazados* to their land continues to be subject to violence and threats. In Magdalena, individuals and peasant organizations have

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<sup>6</sup> Interview, Santa Marta, March 2009.

<sup>7</sup> Lukas Jaramillo-Escobar (2011) makes the same observation in his study of the Nelson Mandela shantytown in Cartagena.

denounced the obstacles *desplazados* seeking to return to their land still confront in the aftermath of AUC's demobilization. In the case of Chivolo, mentioned above, tentative returns started in the middle of 2007. From January 2008, peasant leaders started reporting threats against their lives to the Ombudsman bureau (Defensoría del pueblo). They accused local landlords, who had presumably acted as frontmen for Jorge Cuarenta, of being the source of the threats. One of these men, Saúl Severini, is under criminal investigation for conspiracy to commit murder. In 2010 peasant leaders reported the presence of armed men in the countryside, purportedly members of the gang of Omar Montero, also known as Codazzi, a former AUC lieutenant. They also accused Augusto Castro, a businessman and the brother of a former MP who had been convicted for his alliance with paramilitaries, of being a central actor in the land-grabbing strategy. Criminal investigations have shown that Castro crafted complex financial schemes to introduce grabbed land into global markets. Thanks to his brother's political support, he obtained subsidies from Corpomagdalena, the provincial environment agency, as well as a contract for timber production with French multinational ONFI, in 2006. Both Castro and Codazzi are currently behind bars. The former was captured in October 2012 and the latter was extradited from Venezuela in July 2014.

The reconfiguration of these violence entrepreneurs coincided with changes in political networks. In Magdalena, most of the established political entrepreneurs were convicted for their links with paramilitary groups. Former governor Trino Luna was found guilty of criminal conspiracy and is currently under investigation for the murder of one of his political rivals. Almost all the MPs appointed after the 2002 and 2006 elections have been convicted. But criminal convictions have not affected the political capital of all of the major actors in the same way. The rich families of Santa Marta, who had controlled the key political positions for decades, lost a share of their capital. Convicted political figures tried, rather unsuccessfully, to transfer their power to members of their families. However, former governor Luna, despite being in prison, became one of the key actors of the local political scene. He managed to install his private secretary, Omar Diazgranados, in the governor's seat. During the 2010 legislative elections, Luna's support was instrumental in the election to the senate of his former legal adviser. Luna's capital even

resisted further judicial pursuits. In 2011, Diazgranados was dismissed from the governor's position by the Inspector General's office on embezzlement charges; nevertheless, Luna and his allies piloted the election of a 24-year-old member of the provincial assembly as governor of Magdalena in October 2011. In the same elections, mayors were elected despite pending judicial prosecution in several Magdalena towns.

All over the country, the links between the Bacrim and the politicians who inherited their political power from the allies of the paramilitaries have been denounced. These countless accusations have led to a single indictment, in the case of the Guajira governor Kiko Gómez, who is accused by the Attorney General's office of having conspired with a local Bacrim leader to murder three of his local rivals. Today, in the absence of further judicial inquiries, it is impossible to assess the extent and the mechanisms of these new collusive networks. Yet, as Colombian local governments (*municipios*) enjoy great autonomy both in financial and security matters, alliances with mayors and local officials are vital to criminal and armed actors (Valencia, 2009). As a matter of fact, the implementation of security policies is largely dependent on local actors. Mayors are supposed to monitor security and report to the national police and the army. Law enforcement operations are communicated to a provincial security council, where the governor is represented. In consequence, links between armed actors and local politicians are probably one of the most effective strategies for evading law enforcement.

Under such conditions, political order appears fluid and contingent. The recent intervention of central institutions in favour of the rights of *desplazados*, especially through the land restitution policy, is undoubtedly a novelty. Yet such a new institutional framework does not necessarily subvert the relation between the legal and the illegal, or the official and the unofficial. The overlapping of statutory and clandestine forms of authority is not necessarily a temporary situation, bound to bring forth either chaos or legal 'normality'. It is more likely to be, as Laurent Gayer argues, a situation of 'fluctuating, tensile equilibrium', which 'may accommodate a significant level of competition over the means of coercion' (Gayer, 2014: 12). For more than two decades in Magdalena, political authority, citizenship and access to property were determined by the

close alliances that existed between violence entrepreneurs and politicians. The intervention of the central state can thus be viewed as a centralization of power, although the initial intentions of the government should not be overstressed. The fragmentation of the paramilitaries' power structures can be attributed to complex interactions between DDR policies, judicial inquiries and security matters — not a centralized endeavour to monopolize violence. Throughout, the intervention of the state reconfigured local political authority, but it did not marginalize the economic and political role of violence. The next section explores the ways in which these changing forms of authority interact with agency and political subjectivity.

## **TOWARDS A NEW ORDER?**

How can we reconcile these opposing views of politics, one marked by the reinforcement of the rule of law and the other by the reconfiguration of forms of violent and unofficial political authority? This section will examine the ways in which statutory and unofficial forms of authority belong to the same institutional landscape. As we consider public authority as the result of the recognition of a specific institution's capacity to qualify and enforce different forms of property and citizenship rights (Lund, 2006; Sikor and Lund, 2009), the study of rights-claiming processes provides insight into the practical ways in which statutory institutions and illegal violent authorities are related.

### **Bringing Back the Law**

The first time I met Alberto in Bogotá, he was quite suspicious about our meeting. I had contacted him through a human rights NGO, whose name I hoped and expected would serve as an endorsement. Support from such NGOs was certainly the reason why he accepted a meeting with me. However, times were not conducive to free speech, and they were especially unfavourable when I asked Alberto to inform me about the investigations his organization had been conducting into the links of politicians and INCORA officials to paramilitaries and violent land grabbing. This was in 2009, when denunciations of this

kind were publicly stigmatized by President Uribe himself as serving the guerrilla cause, a life-threatening accusation.<sup>8</sup>

Two years later, when I met Alberto again, he set up a meeting with Omar, the leader of a peasant community from Chivolo in central Magdalena. Alberto's organization, an NGO named ILSA (Latin American Institute for an Alternative Society and an Alternative Law – Instituto latinoamericano para una sociedad y un derecho alternativos) was taking the community's case to court. Members of Omar's organization had been victims of forced displacement and land grabbing perpetrated under orders from Jorge Cuarenta. Although they enjoyed property titles to their plots, they had been dispossessed by a combination of legal schemes and the complicity of local notaries and INCORA officials. Omar's case was one of the few land-grabbing incidents selected by the judiciary and the government that illustrate the combination of legal and illegal strategies used in land grabbing, and the evident responsibility of the state.<sup>9</sup>

The considerable differences in the circumstances of these two meetings correspond to profound changes in political opportunities, linking legal action, rights claiming and access to land. A month before the second meeting, the Supreme Court had ordered INCODER (Colombian Institute for Rural Development – Instituto colombiano de desarrollo rural), previously known as INCORA, to revoke 36 title deeds that had been granted to Jorge Cuarenta's frontmen in Chivolo. The Court's sentence acknowledged the fact that land grabbing had been facilitated by the intervention of INCORA, thus endorsing the claim that had been made for several years by peasant organizations and supporting NGOs like ILSA. The ruling also ordered the Attorney General's office to investigate the criminal responsibilities of INCORA officials. At the time of writing this article, José Fernando Mercado Polo, former head of INCORA in Magdalena, had pleaded guilty to charges of criminal conspiracy, and admitted participation in Cuarenta's land grabbing scheme. Other INCORA executives were subsequently prosecuted on similar charges.

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<sup>8</sup> Field notes, Bogota, March 2009.

<sup>9</sup> Field notes, Bogota, February 2011.



The Court's intervention contributed to the process of constructing land grabbing as a public problem. The activities of 'human rights entrepreneurs', such as ILSA and other NGOs, have been crucial to this process. More discreet institutions, such as those in charge of social policies for *desplazados*, also played a role in the construction and framing of the problem (Estrada and Rodríguez, 2014). In October 2010, the Ministry of Agriculture announced the selection of 149 cases considered to be 'emblematic' and requiring administrative investigations: of those cases, 89 were situated in Magdalena. The main reason these cases received official attention was the role the bureaucratic allies of paramilitary groups played in the legalization of land grabbing. The government intended to concentrate its administrative and financial resources on cases where the responsibility of state officials was directly involved.

Such a calculation was partially due to the international mobilization of NGOs in land-grabbing cases in Colombia. The case of the black communities of the Lower Atrato Valley had marked a rupture in the judicialization of land grabbing in Colombia (Grajales, 2015; Rolland, 2012). Following the intervention of a Colombian NGO, Justicia y Paz, the Inter-American Court of Human Rights recognized that these communities had been victims of forced displacement and land grabbing, and that paramilitary groups and their corporate allies had benefited from military support. The international intervention triggered a series of inquiries by Colombian institutions. Between 2005 and 2006, the Inspector General's office and INCODER recognized the link between forced displacement, land grabbing and agribusiness. The Inspector General even considered that 'land grabbing, dispossession and plundering [were] part of a "counter agrarian reform" mostly perpetrated by paramilitary groups in alliance with corporate actors' (Procuraduría General de la Nación, 2006: 156).

Land conflicts and land restitution issues have occupied a dominant position on the political agenda of the government since 2010. Since the beginning of peace talks with the FARC guerrillas in 2012, the government has presented the land restitution policy as indisputable proof of its solid commitment to peace building. However, there have been deep disagreements about the meaning and the scope of this new policy since its

inception. For Uprimny and Sánchez (2010) two competing interpretations of this policy were expressed from the beginning of the debates. The first, referred to as ‘thin restitution’, stresses the reinforcement of the rule of law, the marginalization of criminal actors and the clarification of property rights. Such reforms are seen as part and parcel of a good governance paradigm, which is compatible with the commodification of land and the industrialization of agrarian production. The second, ‘thick restitution’, holds that land policies should address fundamental issues such as the concentration of land and natural resources, the lack of recognition of specific peasant rights, and the promotion of alternative agrarian models. If scholars and peasant movements understand the Land and Victims Law as corresponding to a ‘thin’ model, it is too soon to assess correctly the consequences of the implementation of this policy.

Violence against peasant movements has also been considered a public problem. In 2012, President Santos stated that a ‘land cartel’ had been formed, composed of criminal actors, former paramilitaries and their frontmen. Their objective, Santos said, was to obstruct the implementation of the land restitution policy by threatening peasant organizations. The names of 15 people were released to the press, and rewards were promised for information leading to their capture. Several of these individuals, including Codazzi and Castro (above) have already been captured. However, this does not mean that the Colombian police have managed to dismantle a centralized criminal organization. On the one hand, the image of a ‘land cartel’ was certainly a political construction destined to capture the attention of the media and public opinion. As is generally the case when criminal ‘organizations’ come under the spotlight, political actors and security professionals tended to exaggerate the structured character of what typically are fluid networks (Briquet and Favarel-Garrigues, 2010; Sommier, 1998). Studies of Bacrim’s violence against peasant organizations conclude that these conflicts are determined by very diverse types of local alliances between large landowners, violence entrepreneurs and agribusiness firms (Massé and Camargo, 2013). Violence entrepreneurs are part of complex networks connecting legal and illegal economic actors and politicians (Giraldo-Ramírez, 2011; Giraldo-Ramírez and Muñoz-Mora, 2012). Repression against peasant organizations is not determined by a criminal structure that would pursue a centralized

agenda, but more prosaically by the fact that the rupture in local political orders has not precluded the use of violence as a repertoire in the competition for resources and political power.

An enormous gap remains between the resources allocated to land restitution policies and the consequences of armed conflict. Between 2012 and 2013, the newly created Land Restitution Agency (Unidad de restitución de tierras) received more than 3,700 claims pertaining to Magdalena. In December 2013, 248 of these claims were taken before the Santa Marta special land restitution courts (*juzgado especializado en restitución de tierras*), of which 54 per cent were approved. Although the agency publicized and advertised these numbers, they remain quite modest in the light of the number of victims of armed conflict. Indeed, between 2000 and 2008, the state's database of internal displacement registered 294,664 people in Magdalena (Unidad para la Atención y Reparación Integral a las Víctimas, 2013). According to a study by the University of Magdalena, two-thirds of the province's *desplazados* were peasants, with either a legal title deed or a tenancy right (Barbosa et al., 2007) to land from which they were forcibly displaced.

This state of affairs creates new obstacles for rights recognition which are linked to the social characteristics of claimants. As the Chivolo example mentioned above shows, the possibility of success of collective action is strongly dependent on the definition of land grabbing cases as politically sensitive, and on the intervention of high judiciary authorities. Both the judicial and the political construction of the urgency of a few land-grabbing cases are strongly linked to the capacity of peasant activists to obtain the support of NGOs specialized in legal advocacy. The effectiveness of collective action is also linked to the extent to which the case meets legal criteria. Uppermost is evidently the existence of title deeds; yet a history of ongoing relations between the land claimant and diverse institutions of 'rural development', such as INCORA/INCODER or the Rural Development Bank (*Banco agrario*) can also be instrumental in the definition of a land-grab case as fitting the restitution criteria. In consequence, state intervention primarily benefits people who already had access to modalities of rights protection and who were

already, in some sense, ‘clients’ of the state. In this way, the restitution policy reproduces forms of inequality that find their origins in past policies such as agrarian reform and modernization programmes. It also reproduces the forms of (in)visibilization that stem from the same policies, as institutions and bureaucracies are more likely to ‘see’ those who correspond to the image of individual peasant entrepreneurs enjoying legal property over a determined plot.

### **Subjectivity and Authority**

What about all the others, namely those who are less likely to be prioritized in the application of these policies? Furthermore, what about all the social needs that exceed the scope of land restitution and redistribution: money, housing, food? Internally displaced people have become the target of both social stigma (frequently labelled as guerrilla supporters) and a diverse range of social policies (Gómez, 2012). Yet, the implementation of these social policies is strongly dependent on the *desplazados*’ capacity to associate with patronage networks. Moreover, as has been argued above, life in shanty towns, where these internal refugees live, is controlled by armed groups, usually former paramilitaries. As a result, social claims must be expressed in ways that would not be considered hostile by armed actors.

This does not mean that the *desplazados* I met rejected the legitimacy of statutory institutions or that they were unable to criticize bureaucrats, politicians and violence entrepreneurs. They were more likely to have developed the skills to navigate these diverse social spaces, adopting the appropriate language and repertoire of action. Applying these skills can be viewed as a type of social navigation (Vigh, 2006).<sup>10</sup> Individuals navigate statutory institutions, mobilizing a civic and lawful rationale, while

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<sup>10</sup> While I will not engage theoretically with the very rich elaborations of Henrik Vigh, I share this author’s critique of the purely stylistic usages of this notion. According to Vigh, ‘social navigation’ is not simply a ‘metaphor for practice’, but aims at providing a ‘point of departure for a reworking of the relationship between agency and social forces [...] in volatile environments’ (Vigh, 2009: 419, 433). As such, it appears particularly pertinent for the study of social settings such as civil wars, post-conflict or ‘no peace, no war’ situations.

simultaneously building, maintaining and helping to reproduce linkages with unofficial networks, in search of brokerage and protection. This metaphor does not come down to an ontology of a rational actor capable of planning and calculation. Social navigation is less about strategy than about tactics (de Certeau, 1984); it is less about calculation than about the capacity to interpret and to adapt to changing social circumstances (Vigh, 2006). It is not only about a situated and limited rationality, but also about a *habitus* shaped by social trajectories. An analysis of social navigation coincides with the findings of a study of Colombian *desplazados* conducted by Agier (2000). The study concludes that the existence of multiple authorities leads people to acquire a fine-grained knowledge of actors and interests at stake and to develop tactics of seeking patronage, given that this a course that is deemed inevitable. Social navigation is thus constitutive of the formation of political subjectivities that cannot be reduced to passive patron–client relations but which do not correspond to a moral economy of liberal citizenship either.

*Desplazados* are thus confronted with overlapping forms of authority. Their capacity to navigate them leads them to formulate a diversity of claims pertaining citizenship and property. Yet a closer look at their everyday tactics of survival demonstrates one of the conclusions of this volume, namely ‘that competition over jurisdiction is not simply a question of crass confrontation but equally one of clever collusion’ (Lund, Introduction).

The example of Luis, mentioned at the beginning of this article, illustrates the link between social navigation, subjectivity and the formation of political authority. When I met him, he had just created a new *desplazado* organization. His vocation as an activist was linked to his social trajectory and his political background. Luis had fled from Pivijay, a violence-ridden town 150 km (but more than five hours) south of Santa Marta. Paramilitaries had accused him of being sympathetic to the ELN guerrillas, and threatened to kill him if he did not leave.

He was very proud of his past as a young activist with ANUC (National Association of Users of State Agricultural Services – Asociación nacional de usuarios campesinos), a corporatist organization that became the largest peasant confederation in the country in

the 1970s. His background as an activist had provided him with a variety of organizational skills. Luis knew how to write a *tutela* (plea for protection of fundamental rights); he had learnt to interact with rural development actors and to obtain subsidies and credit. As a peasant activist he had met domestic and foreign development professionals, and was pleased to be able to say that he had succeeded in setting up a farming project with the help of the FAO. He had become a ‘development broker’ (Olivier de Sardan et al., 2000).

Luis originally came to Santa Marta traumatized by his experience of forced displacement. He joined a *desplazado* association that collectively negotiated subsidies with the state to satisfy basic needs, and tried to survive selling avocados in the street. When I interviewed him, he was extremely critical of his first experience as a member of such an organization:

The leader of the first foundation I went to [*fundación* is one of the terms commonly used to refer to non-profit and grassroots organizations in Colombia] had no political perspective, no sense of identity or solidarity . . . Plus, he was not an honest man. He wanted to have as many people as possible with him, but only because each of us had to pay a monthly fee. More people, more money! And each time someone got a subsidy, whether for housing, for a project, or so on, he got his share!<sup>11</sup>

Despite these criticisms, the trajectory Luis followed to become a leader corresponds with his capacity to navigate both the field of statutory institutions, producing a discourse of moral rectitude and compliance with the law, and the field of patronage. Asked why he decided to create his own organization, he told me:

I was sick of the corruption and immobility of X. But I did not feel ready to start a foundation of my own. One day, when I was at INCODER I met David; I knew him from a project back in Pivijay. He was in charge of rural subsidies for *desplazados*. He told me: ‘If you create your own foundation, I will help you, we have a new programme, there is money for you to

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<sup>11</sup> Interview, Santa Marta, March 2009.

distribute among your people, and elections are coming’. So I understood he wanted me to gather *desplazado* votes for him. Actually not for him, for X who was a senator and controlled bureaucratic positions in INCODER. I saw a good opportunity and I went for it!<sup>12</sup>

Luis’s role as a broker demonstrates the types of collusion that exist between different types of authority. As a matter of fact, *desplazados*’ struggle for recognition is dependent on their capacity to succeed at a series of assessment operations (Mora-Gómez, 2013), as well as to obtain the support of a political network. In both cases, brokers like Luis play a pivotal role. They act as translators — introducing newcomers to bureaucratic language and procedures — and endorsers — providing a social guarantee of the veracity of the *desplazado*’s account. They are regarded as fulfilling a useful role by both rights claimants and bureaucrats. Furthermore, brokers have expert knowledge of the diverse procedures to follow in order to obtain social aid and micro-credit from local, national and international organizations. They are fluent in the bureaucratic language of these institutions, which bestows upon them a certain kind of credibility regarding the use of funds, project management skills and other qualitative assessment aspects, such as a gender-conscious approach and potential for individual empowerment. The latter are qualitative indicators that state and NGO officials often regard as indicative of the potential of beneficiaries to become autonomous.

Mastering these social skills is a necessary but not a sufficient condition for anyone seeking to become a fully established client of the state’s social programmes. The recognition of a *desplazado* organization as a credible partner of statutory institutions often requires the intervention of a political figure. Luis and David’s meeting in INCORA illustrates that officers in these institutions are also members of a political network. These agents owe their position to the ‘recommendation’ of a politician. In exchange, they are in charge of recruiting supporters for political meetings and of gathering votes for elections. In this endeavour, they are highly dependent of people like Luis, who are directly in contact with the beneficiaries of social programmes. Luis felt he had managed to obtain

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<sup>12</sup> Interview, Santa Marta, March 2009.

the ‘confidence’ of several political figures (mostly town councillors) because he was recognized as being capable of mobilizing his troops on election days.

Furthermore, the relationship with politicians and their patronage networks — such as David’s — is also a strategy of protection for individuals who live in dangerous environments where social claims can be perceived as subverting the social order. For Luis and other leaders I met, political activism had to be conducted ‘on the edge’, mostly in relation to land conflicts. Several members of Luis’s organization were claiming for state recognition of their abandoned plots. Yet they had received threats from a local landlord who was using the land for pastures and — as peasants thought — would be negotiating the allocation of a legal title deed with INCODER. Luis had filed a legal complaint and was requesting special protection of the plots on behalf of claimants. He had gathered a large number of documents and statements in order to support the claim of legitimate tenancy rights. He also received legal counselling from a foreign NGO that specialized in peasant and *desplazado* rights. At the same time, he was trying to obtain David’s help to reach his political patron, an influential senator; Luis thought political support would expedite the process. Furthermore, he was convinced that being identified with a powerful man and his political network would protect him and his people. When I asked him what kind of protection a politician could provide, he told me: ‘It is simple, he is a paramilitary ally. Those guys work for him, as I do; they gather votes for him, as I do; they even financed his last campaign. If they know we all work for the same man they will leave us alone’.<sup>13</sup>

Subjectivity is the product of images and identities generated by the state, such as ‘victim’ or ‘internally displaced person’. These identities are compatible with the repertoire of intermediation. Institutions in charge of social policies define *desplazados* as ‘entrepreneurs of aid’ and ‘actors of their own inclusion’. Their capacity for autonomy, displayed through the establishment of social organizations involved in the distribution and administration of social assistance is regarded as a sign of their capacity for ‘self-

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<sup>13</sup> Field notes, Santa Marta, March 2009.



help'. Public institutions, along with NGO who participate in the implementation of social policies, interpret everyday practices of social navigation as signifying this capacity. The episode this article opens with, the meeting between Luis and Jaime at the Inspector General's office, illustrates this argument. When Luis raised his concerns about the security issues that might hinder the potential of some members of his foundation to return to their land, Jaime answered: 'I can help you with the legal paperwork but I cannot ask the police to stay night and day at your friend's house. They (peasants) cannot go back that easily (*como si nada*). They have to get the go-ahead from the armed groups. But you know what to do, your politician friend might be able to help'. Then he looked at me and said: 'This is why I like this guy (Luis). Some *desplazados* keep waiting for the state to come and give them security, food and shelter. He is not like that. He is a *berraco* (resourceful man). He doesn't sit and wait for things to drop down from heaven (*que las cosas le caigan del cielo*), he goes for them'.<sup>14</sup>

Aid professionals do not consider political intermediation as an illegitimate practice, but rather as an indicator that allows them to distinguish between 'active' and 'passive' clients. This self-image of resourcefulness and astuteness (*berraquera, malicia*) that is advanced by peasant leaders but also by bureaucrats and political brokers, reflects the importance my interlocutors attribute to moral values that are common among peasants from Magdalena (and other Colombian regions), who often see themselves as 'pioneers' or 'colonizers' of new agrarian frontiers. The emphasis placed on self-reliance and the capacity to overcome the challenges of life echoes the moral economy of peasant communities in peripheral areas of recent occupation. Consequently, political brokerage is not seen as contradictory to an appeal to statutory institutions for recognition and support. It belongs to a varied repertoire of intermediation and 'arena shopping' where seeking the support of an NGO and a politician's patronage at the same time is not only incompatible but sometimes even mutually reinforcing.

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<sup>14</sup> Field notes, Santa Marta, March 2009.

## CONCLUSION

The description of the structure of official and unofficial local powers and the practices of social navigation that characterize rights claiming provides us with a better understanding of the formation of political authority and the recognition of property and citizenship rights in Colombia.

An analysis of a historical period that encompasses conflict and post-conflict periods helps us to arrive at a more nuanced understanding of social order than the one that is often assumed by political actors and policy analysts. The Colombian case shows that violent local orders are not simply swept away by a new institutional framework that is based in rational-bureaucratic institutions and the rule of law. Everyday practices of rights claiming illustrate in a concrete manner the types of relations that can exist between statutory institutions and unofficial forms of local power. An approach that focuses on the perspective of the rights claimants also provides a better understanding of the kind of political subjectivities that are created under circumstances of overlapping political authorities. Their claims to rights and resources are indicative of complex processes of state formation where, as Sikor and Lund (2009) observe, the recognition of rights and the acknowledgement of the state's authority to grant those rights are mutually constitutive.

Accordingly, unofficial and even criminal powers do not necessarily pose a threat to the authority of the state. Not only do they participate in the practical functioning of politics and policy implementation, but they also reinforce the idea of the state as somehow being 'above' society (Ferguson and Gupta, 2002). In this way, they are the homage vice pays to virtue.

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