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## Indigenous Colombians' Struggle for Land Rights Under a Negligent Government

**ABSTRACT.** The purpose of this research is to examine the factors that allow the forced displacement of Indigenous people and how this is facilitated by a negligent government. The current study is a content analysis on the literature available concerning Colombia's environmental and business practices. The Colombian government has a history of ignoring its Indigenous people and not upholding the laws put in place to protect their cultural and land rights. Multiple businesses and groups have used this negligence to acquire mass amounts of Indigenous land to exploit for their gain, displacing thousands of Indigenous people in the process. Businesses like palm oil corporations, mining corporations, and cattle ranchers abuse land once used sustainably by Indigenous people by cutting down mass amounts of forests to be used as pastures or plantations. Some companies have reportedly been using paramilitary groups to harass Indigenous people into leaving their homes so the company can buy the land to be converted into production use. Regardless of these claims and existing land rights, the Colombian government has chosen to ignore and neglect Indigenous people. The Colombian government continues to ignore environmental regulations proposed by the courts and recommendations from Indigenous activists to improve relations. The Colombian government refuses to enforce its own laws and courts on matters related to Indigenous rights and wellbeing and continues to favor foreign business interests over its own people.

**CHRISTINE CREWS** initially got involved in an undergraduate research project when she took Dr. Tepperman's class on Issues in Global Justice. A requirement for the class was to write a research paper on a criminological issue in the



Global South. Christine chose to look at environmental law in Colombia, researching how economic expansion was affecting Indigenous people and how this was facilitated by a negligent government. Christine's research outlined how poor regulation and a disregard for Indigenous people allowed businesses to expand their practices onto Indigenous land, forcing mass displacement and potential cultural extinction. Christine plans to go further into criminology and obtain a graduate degree in forensic criminology or psychology. This research experience allowed her to have a different perspective in criminology by showing her different perspectives of the decision-making process and enforcement policies within the criminal justice system. Many laws and subsequent punishments disproportionately affect minorities and Indigenous people not only in the U.S but on a global scale as well. This research experience has also given Christine an introduction to what goes into writing a research paper and has better prepared her for her graduate research.

To other students interested in conducting research, Christine would advise them to start small and find an issue that relates to their personal interests and mindsets. Choose topics, you are interested in and passionate about that can open avenues of information and make the research process more enjoyable.

**ALEX TEPPERMAN** is originally from Toronto, having received a BA in History and MA in Criminology from the University of Toronto, after a brief sojourn to Western New York he received an MA in History from the University of Rochester. In 2011, Alex moved to Gainesville to study historical criminology at the University of Florida, where he received his PhD in American History in 2018. Upon graduation, Dr. Tepperman had the good fortune to join the University of South Carolina Upstate's Department of Sociology, Criminal Justice, and Women's Studies (SCW) as an Assistant Professor of



Criminal Justice. In recent years, he has published in journals such as *Crime, History & Societies*, *Social Justice*, and the *Prison Service Journal*, and he has provided original writing and research for various edited volumes and newsletters. Currently, Dr. Tepperman is developing a monograph that examines the craft of historical criminology and recounts the development of the field since the early twentieth century. He am so pleased to have had the opportunity to oversee Christine's research and writing, and she has done an amazing job developing her project through a variety of stages and incarnations with minimal oversight. For more than a year, Christine has shown incredible drive and curiosity pertaining to issues regarding indigeneity in the Global South and her impressive work made her a clearly deserving recipient of the first ever Carmen Hernandez Prize for outstanding student work in the study of the Global South.

## 1. Introduction

Latin America has been known for its armed conflicts and land rights struggles and Colombia is no different. This country has been plagued with armed conflict since the early 60s and this conflict just recently ended in 2016 with the peace agreement between the FARC (the Revolutionary Armed Forces of Colombia-People's Army) and the Colombian government [1]. This agreement has further shown how ill prepared the Colombian government is to regulate social order and settle land rights disputes. The Colombian government also makes a point to ignore its Indigenous communities [2] by not providing adequate resources for displaced Indigenous people and Afro-Colombians, which are the displaced populations in Colombia. In dealings with foreign businesses, the Colombian government blatantly prioritizes the business interests over its own Indigenous populations. This is especially evident in dealings with palm oil companies, like Poligrow and coal mining companies, both of which contribute to the cultural degradation of Indigenous people and the environmental degradation of the area. One of the more popular recommendations for amending Indigenous relations and regulating business practices is consultations, which, while effective, only work when the government tries to carry these out and enforce the decisions made [3]. The government has also been complacent in deforestation in the Amazon, even after the Colombian Supreme Court ruling that net deforestation rates must be at zero by 2020 [4]. These continued land rights conflicts and Indigenous rights violations are a direct result of government negligence and lack of ability to effectively enforce the court rulings.

## 2. Land Rights and Violations Occurring

Columbia is one of the world's leading producers of palm oil, producing 1.7 million metric tons annually [5]. However, palm oil plantations take use up a lot of land, most of which was seized during the armed conflict that has plagued Colombia for years [6]. One large palm oil company, with plans to expand their large plantation, is the Italian and Spanish owned company, Poligrow. The land that Poligrow is attempting to use for their plantation expansion has belonged to the Sikuni tribe for centuries [6] and the tribe is, naturally, opposing this expansion. This opposition from Indigenous activists has opened them to death threats and harassment from paramilitary groups acting in Poligrow's interest [6]. Poligrow has violated Colombian laws on land rights by buying land with "irregular titles, titles in liquidation or titles with extinction of the property by judicial means" [7]. Poligrow has also started palm oil cultivation on land belonging to the Sikuni people without consent, in direct violation of Colombian law. This illegal land acquisition is enabled by the Colombian government's negligence to ensure informed consent from the Indigenous people prior to palm oil cultivation on ancestral land [7]. The Sikuni people have been denied access to their ancestral hunting/fishing ground and the government is complicit in this

injustice. If activists attempt to oppose Poligrow, they and their families are harassed by paramilitary groups and the Colombian government blatantly ignores this. A complaint has also been filed by the Sikuani people against Poligrow that reported that the company has no "methodical tracking system of compliances with laws and regulations" which they are to establish as a result of the complaint [8].

Coal mining is another longstanding business venture in Colombia, with Colombia exporting 91.8 million tons in 2016 [9]. Coal mining in the Guajira Peninsula has been linked to the pollution of the Wayuu's drinking water, forced displacement of the Wayuu people, and an overall cultural and environmental degradation [10]. The largest village, Tabaco, endured many hardships at the hands of mining companies. Residents were convinced to sell their land cheaply "for security's sake" and many were told that the mining companies did not plan on using the land at all [10]. Land surrounding the village that was used for hunting was slowly being absorbed into mining land and the Ranchería River, a previous source of drinking water and fishing, was becoming polluted due to the runoff [10]. As a result, businesses fled, causing a lack of work and many people to have to sell their houses and move. Many people moved in with relatives or into inadequate housing in Albania. They refuse to settle with the company and demand that Tabaco be recognized as a community, collective negotiations, collective relocation, and reparations for the community that they have lost [10]. The Wayuu communities in Guajira have gone to court over these violations, and have been supported, however, these rulings have not been enforced and this displacement has been allowed to continue [11].

Colombia houses part of the Amazon basin, however this portion of forest is being rapidly depleted to be as grazing land for cattle ranching. Deforestation rates did not start to jump until after the peace agreement between the FARC and the Colombian government in 2016. Much of this deforestation is believed to be caused by poor subsistence farmers (campesinos) and rich landholders [12]. The rich landholders finance the campesinos, allowing them to go into the forest and clear out land they can use for their farms. This allows the landholders to buy many small farms that can be combined into one large cattle ranch. Much of this land being cleared by campesinos belongs to various Indigenous communities, including the Pijao, Tucano, Piratapuyos, and Nukak Maku [12]. These groups were forced off the reserves in Chiribiquete and Guaviare during the armed conflicts in the late 90s and early 2000s [12]. After the demobilization of the FARC, when the Indigenous communities came back, they were met with large-scale cattle ranches and coca farms [12]. While there is government involvement in attempting to curb deforestation caused by campesinos, the attempts are fraught with human rights violations including police burning people's houses down [12]. This violence results in campesinos going to more remote areas and continuing this deforestation there. Other than that, government involvement has been kept to a minimum even after the Colombian Supreme Court ruling stating that the Amazon is an entity that is "subject to rights" and that deforestation net rates must be lowered to zero by 2020 [12]. Deforestation rates in the Amazon have increased to 220,000 hectares (543,600 acres) per year following Iván Duque's election [12]. This continued deforestation has given way to illegal land-grabbing negatively affecting Indigenous people as well as their ways of life.

### 3. Methods

This article is a content analysis of the literature available discussing Indigenous land rights violation in Colombia and the environmental consequences that come with them. The author gathered scholarly, journal articles, and news reports that detail various unethical business practices negatively affecting the Indigenous people. Research was gathered about the negative environmental impacts caused by business practices in Colombia. Through this research, it was

revealed that much of these business practices are conducted on Indigenous land illegally acquired through land-grabbing. Much of the land acquired this way belongs to Indigenous people and poor people, both of whom are pressured to sell their land to big businesses in the area or are threatened by paramilitary groups. Businesses in Colombia also acquire land through illegitimate channels. From there, research pointed to how these businesses used this land and the effects this had on the residents and the environment. News reports were used to identify instances of Indigenous land rights violations and some of the communities' reactions to this. It became clear that much of what activists call for or offer as recommendations to grow are ignored by the Colombian government. It has been made evident by a continuous lack of enforcement on court rulings concerning the environment and Indigenous rights.

## 4. Results and Discussion

The Colombian government has released vague policies regarding Indigenous land rights that have allowed companies to occupy Indigenous land through unethical acquisition. This in turn causes mass displacement of Indigenous people, contributing to cultural and ethnic degradation as well as potential extinction of multiple groups. With businesses occupying the land, unregulated and unethical production practices contribute to deforestation in the Amazon basin and overall environmental destruction. This environmental destruction negatively impacts not only the residents nearby but also the rest of the world as the Amazon is one of the last great forests left. This destruction has caused activists to take legal actions including a Supreme Court case in Colombia concerning the Amazon's rights as an environmental entity and Colombian citizens' rights to a clean environment. These rulings in favor of Indigenous people and environmental protections have not been enforced by the Colombian government. In the case of deforestation, rates have continued to increase despite judicial mandate stating that all deforestation net rates must be at zero by 2020. The Colombian government's negligence has enabled harmful business practices for decades at the expense of the health and wellbeing of Indigenous people and other citizens. Recommendations made by Indigenous activists and Indigenous rights groups are also ignored, further demonstrating the government's refusal to enforce its own laws protecting Indigenous land rights.

The Colombian government has allowed for these harmful business practices to continue unchecked for decades, allowing for forced displacement of multiple Indigenous and ethnic groups. Certain legal steps have been taken by the Colombian government to protect land rights, such as defining Indigenous cultural and land rights in the 1991 Constitution, however they are not being enforced properly. It is not entirely clear why the Colombian government fails to enforce laws concerning Indigenous land rights, but it could be for economic reasons. Colombia is not developmentally on par with many other leading countries like the United States and the government may see these businesses as an opportunity to strengthen their country economically. This economic expansion comes at the expense of thousands of Indigenous people and the country's environment as well.

## 5. Recommendations

With increased awareness of Indigenous land rights violations in Colombia, many different solutions are being proposed to amend these violations. One such recommendation is consultations, which theoretically protect Indigenous and black communities' territorial and cultural rights by obtaining prior informed consent in the instances of agribusiness conducted on Indigenous land [3]. Consultations need to be conducted before decision-making and before any



intervention in the territory with the representative authorities, which in turn must go through “pre-consultation” [3]. However, in Colombia, consultations are a formality and not as an effective way for communities to participate in discussions affecting their territorial and cultural rights [3]. Often Indigenous communities are not informed about the scope of each project nor its effects on the land and no effective environmental impact studies were carried out to know about the full potential impact [3]. A member of the Yaguara II reserve makes several recommendations for curbing deforestation including “establishing a firm agricultural frontier, formalizing titles for campesino farmers in the region, providing education and training to change destructive practices, offering health and education guarantees, and working with campesino associations to reforest and recruit them for environmental control” [12]. These suggestions would give campesino farmers their own plots of land to cultivate as well as regulating the amount of land they are able to clear, solving the issue of displacement of campesinos. The other recommendations focus on how campesino farmers can be educated in better practices and included in future endeavors of environmental conservation. They go on to say that landholders and land-grabbers need to be prosecuted in order to alleviate the pressure on the Yaguara II community's lands which would in turn allow them to return to their ancestral lands [12].

A personal recommendation revolves around the government's seemingly negligent inability to carry out judicial rulings or regulating social order. The FARC stepped in as the sole regulator for social order in the late 1960s to early 1970s [12]. The FARC maintained control on the ground throughout the armed conflict and during the carrying out of Plan Colombia, a counterinsurgency operation aimed at stopping cocaine production [12]. Under the FARC, deforestation rates were lower, and the FARC worked with community groups to maintain a “sense of moral authority and territorial control” and helped fix community issues such as building roads and enforcing social codes, like caring for the environment [12]. After the demobilization of the FARC in 2016, the Colombian government was not able to handle the maintenance of social order, so deforestation rates and land values have shot up. This capital infusion has created an environment in which land-grabbing is rewarded [12]. Some communities turn to the legal system for retribution but that often yields little to no results. The Yaguara II community filed and won a land restitution claim in court, however, there is not enough governmental presence in this region to enforce this ruling [12].

This research was conducted to determine the factors preventing Indigenous people from reclaiming their ancestral lands and why it has continued to present day. This revealed the shady business practices allowing corporations to occupy Indigenous land, the Colombian government's lack of enforcement of court rulings, and how these factors in turn affect the environment. The poor production practices contributing to mass deforestation and pollution that are affecting Indigenous people also influence the rest of the world. The mass deforestation is shrinking the Amazon basin in Colombia, which decreases the world's oxygen producing plants, making this a global issue as well as a human rights issue.

## 6. Conclusion

The purpose of this article was to examine the factors that allow displacement of Indigenous people and how that is facilitated by a negligent government. Through research, it can be concluded that the Colombian government continues to ignore the interests of Indigenous people's land rights and court rulings supporting these rights. The inquiry is interesting topic and can create insight into Indigenous affairs as well as how interactions with Indigenous people and the government can be improved. This inquiry, however, can be conducted in a more in-depth approach than was presented here. For future research, focus should be on the recommendations and demands of Indigenous people and how that can be implemented on a national level to

improve relations. This avenue of research has revealed blatant neglect by the Colombian government and shows that more work needs to be done to repair the relationship between the Colombian government and the Indigenous people residing here.

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