Territorializing resource conflicts in "post-neoliberal" Bolivia: Hydrocarbon development and indigenous land titling in TCO Itika Guasu

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Introduction

For lowland indigenous peoples in Bolivia, neoliberalism brought both threats and opportunities. On the one hand, neoliberal economic restructuring intensified the incursions of extractive industries in their lands, producing profound social and environmental impacts. At the same time, multicultural reform created a new package of cultural rights for indigenous peoples, among them the opportunity to gain collective title to their ancestral territories, recognized in 1996 as Original Communal Lands (TCOs). Less than a decade later, a neoliberal government was swept aside by a wave of popular mobilization, heralding the beginning of a new era of cultural and resource politics. Yet, for all the transformations of the Morales era, this double movement – the expansion of an indigenous rights framework accompanied by the advance of the extractives frontier – has continued.

This chapter explores the dynamics produced when these two logics, of extractive development on one hand and cultural rights on the other, collide in particular territories. It does so by focusing on one indigenous group's struggle to gain legal title to their TCO territory in the midst of a new wave of hydrocarbon development. This is a struggle that began in the late 1990s but continues under the current government of Evo

Morales. By examining these parallel struggles over land and gas as they have unfolded in one territory, the chapter aims to provide a territorialized reading of contemporary resource conflicts in Latin America, which tempers optimism about "post-neoliberal" resource governance and highlights the continuing challenges faced by indigenous populations engaged in struggles for territorial control and resource justice.

As the introduction to this book makes clear, any discussion of resource justice must take into account questions of redistribution, recognition and representation. Yet, as well as considering how effectively these "three Rs" are addressed by specific resource governance regimes, it is important to reflect on how resources figure within broader postcolonial struggles for social justice. While extraction creates new dynamics, it also maps onto existing geographies of power produced through uneven processes of colonization, nation-building and social struggle. Across Latin America, these racialised geographies are being challenged and transformed in a variety of ways by indigenous movements. How is the "new extraction" (Bebbington 2009a) affecting these broader transformations? This question is particularly pertinent in Bolivia, where state-led hydrocarbons development is now framed as the basis for "plurinational" and "decolonizing" development. By placing a recent hydrocarbons conflict in the context of a broader indigenous struggle for land and territory, I aim to provide some initial reflections.

The chapter is structured as follows. It begins by placing the guaraní land struggle in Itika Guasu in two key contexts: the postcolonial and the neoliberal. It then describes how hydrocarbons development in the TCO shaped – and ultimately jeopardized – indigenous land rights, by mapping onto a racialized geography of rights at

the very moment that this faced transformation. It then explores why this occurred, arguing that indigenous land rights became intimately connected with a series of other indigenous claims in the context of extraction. The chapter then goes on to describe how the dynamics of this conflict have shifted under the Morales government (since 2006) and what resources the guaraní have drawn on to achieve recognition of their demands. The chapter is based on fieldwork conducted in Tarija department in 2008-9 and 2011. Key methods include in-depth interviewing, community-level participant observation and analysis of documents and cartographic data.

Postcolonial territory: the struggle for land rights in Itika Guasu

The guaraní, Bolivia's largest lowland indigenous group, continue to live primarily within their ancestral lands in the Chaco, a semi-arid but biodiverse plain extending over parts of Bolivia, Paraguay, Argentina and Brazil. In Bolivia, guaraní communities live in parts of Santa Cruz, Chuquisaca and Tarija departments. Itika Guasu is the largest guaraní area in Tarija, located in a transitional zone between the sub-Andean valleys and the Chaco. Although the guaraní were not defeated militarily until the 1890s, the following century proved devastating, as waves of colonization left them dispossessed, marginalized and, in many cases, trapped in exploitative labor relations. Although initially driven by an expanding cattle ranching economy, the colonization of the Chaco was consistently aided by state attempts to "seat sovereignty" in this resource-rich region. In the period after the Chaco War with Paraguay (1932-5), which is still framed in Bolivia as an oil conflict, ex-combatants were encouraged to occupy gas-rich

lands, whose dispersed and largely indigenous population was seen as insufficient to guard against future incursions. Early hydrocarbons development, which began in the 1920s, assisted this process of colonization by opening up roads into formerly inaccessible areas of the Chaco and facilitating their settlement (Octavio Ribera 2008). During the 1952 agrarian reform, which had an explicit agenda of lowland colonization, many of these new settlers acquired land rights, leading to a more aggressive occupation of indigenous lands and the spread of exploitative labor practices.

By the 1980s, most guaraní of Itika Guasu who had not migrated to Argentina were either enslaved under a system of debt bondage on haciendas or living a precarious existence on marginal land. It was in this context that these communities began to organize in 1987, following contact with guaraní leaders from the neighboring department of Chuquisaca. In 1989, the guaraní of Itika Guasu established their own territorial organization, the *Asamblea del Pueblo Guaraní Itika Guasu* (Guaraní People's Assembly Itika Guasu, APG IG). Land rights were quickly identified by the new organization as key to breaking dependency on *patrones* and establishing the basis for alternative livelihoods. In 1996, the APG IG's territorial demand was among those presented by the guaraní following the lowland indigenous March for Territory and Dignity, which took place as a new agrarian reform law, the INRA Law (which established TCOs), was being debated in Congress. A year later, Itika Guasu was formally recognized as a TCO and began the long and complex titling process, known as SAN-TCO. Among other stages, this process involves the evaluation of private "third party" claims within the TCO, which may be recognized alongside the collective land rights of indigenous claimants. The state is obliged to compensate indigenous claimants

for any privately-titled land, either with land adjacent to the TCO or by expropriating private land owners.

While there is not space here to do justice to this history of indigenous dispossession and resurgence, this brief description gives an indication of what was at stake in TCO titling for the guaraní of Itika Guasu. Beyond its legal complexities, TCO titling promised a radical transformation of ethnic power relations in a region where indigenous people had never before been imagined as rights-bearing citizens. A various scholars have noted, “maps and indigeneity are not alone sufficient for transforming [colonial] power relations” (Bryan 2009:31, see also Sletto 2009). Indeed, as a tool for realizing indigenous aspirations for “territory”, TCO titling has received numerous critiques, mainly from indigenous peoples themselves (Paredes and Canedo 2008, Almaraz 2002). However, in a context where indigenous peoples had few options available to them, TCO titling did become a central, if imperfect, tool within a broader decolonizing project.

Two faces of neoliberalism: the INRA Law and the Law of Capitalization

If the land struggle in Itika Guasu emerged from a specific regional history of colonization, then it must also be placed in a broader context: that of neoliberalism, implemented in Bolivia from the mid-1980s. The general characteristics of neoliberalism and the specific ways in which it played out in Bolivia have been described in detail elsewhere (see especially Kohl and Farthing 2006, and Perreault 2006). Here, it is

sufficient to note a few of the ways in which neoliberal reform enabled, motivated, and ultimately conditioned the guaraní struggle for land rights in Itika Guasu.

Guaraní organization in Itika Guasu was part of a wave of indigenous resurgence throughout lowland Bolivia (and Latin America more broadly) from the late 1980s, which emerged through articulation with emergent transnational networks of development actors promoting indigenous rights (Andolina et al 2005, Gustafson 2009, Valdivia 2005). At the same time, lowland indigenous mobilization for land rights occurred in a context where these peoples were facing increasing incursions from extractive industries in their lands, as a result of neoliberal economic restructuring. These reforms, which began in 1985, included the gradual privatization of state-owned companies and measures to promote foreign direct investment, particularly in extractive industries.

These new threats and opportunities were of course not unrelated, as Hale's (2002) concept of "neoliberal multiculturalism" makes explicit. According to Hale, "proponents of the neoliberal doctrine pro-actively endorse a substantive, if limited, version of indigenous cultural rights, as a means to resolve their own problems and advance their own political agendas" (2002: 487). Indeed, the INRA Law formed part of a package of multicultural reforms implemented during the mid-1990s, alongside a second wave of neoliberal reform, which included the capitalization and restructuring of the hydrocarbons sector (Kohl 2006, Hindery 2004). These investment-friendly policies fuelled a boom in hydrocarbons development, particularly in Tarija where key gas reserves are located beneath indigenous ancestral lands.

I have referred to these two contexts, the postcolonial and the neoliberal, because the story that follows is partly about the "contingent articulations" (Tsing 2005) that emerged between cultural rights, extractive development and the racialised geographies of one territory. As the following sections show, these articulations created a set of contradictory, and at times explosive, dynamics that emerged during the late 1990s and have continued to play out under the government of Evo Morales.

TCO titling and hydrocarbons development in Itika Guasu 1996-2006

"Recalcitrant elites", intransigent institutions

In a context where colonial discourses and power structures remained largely intact, TCO titling faced multiple obstacles from the outset. During the early years of the titling process, guaraní leaders were met with violent threats from local cattle ranchers, which evolved into coordinated actions to obstruct the progress of land titling by exerting pressure on regional institutions. The effectiveness of this opposition was aided by the fact that regional institutions, including the land reform agency, INRA, remained governed by elites who were generally hostile to indigenous land rights. Equally obstructive was a lack of political will to recognize indigenous territorial claims at the national level. The incorporation of TCOs within the INRA Law had been a reluctant concession to indigenous and donor pressure by the neoliberal government of Gonzalo Sanchez de Lozada, which remained ideologically committed to a market-led model of agrarian reform.

These obstacles at least partly account for the poor results of TCO titling in Itika Guasu. Today, fourteen years after the TCO was legally established, the guaraní of Itika Guasu have received title to 90,539.9 hectares, 38 percent of the total TCO area (Fig. 7.1). This area is discontinuous, interspersed with private properties and generally the least productive land in the TCO. These obstacles and results echo those witnessed in other TCOs in Bolivia during this period (Guzmán et al. 2008).

FIG. 7.1 HERE

Securing rights for capital: Repsol's arrival in TCO Itika Guasu

> *There was the TCO but inside there was a third party who said "this is my property: here is your property, here is mine". What Repsol did is enter this property, measured but still without title, entered and said "I want to work in your property. That is to say, renting a part of your land, I'm going to work here, I want to live here". Repsol settles there, was a tenant. . . INRA legally certified this case. I told them clearly that they were concentrating on conserving the huge interests; INRA knew, loads of people knew, but they preferred not to admit it, to let [Repsol] settle, and give them security of where to live.*
>
> *- Guaraní leader, APG Itika Guasu*

TCO Itika Guasu overlies Campo Margarita, which forms part of what is undisputedly Bolivia's largest gas field (figure 7.2). Beginning in 1997, Campo Margarita (part of the Caipipendi Block) has been operated by the Spanish company Repsol YPF, who shares

the concession with its partners British Gas and Pan American Energy (a subsidiary of BP).

FIGURE 7.2 HERE

Repsol signed a mixed-risk contract with YPFB for activities in Caipipendi Block on 14th May 1997, nearly two months after the TCO was officially recognized. Shortly afterwards, the company began its operations in Campo Margarita, including the drilling of four gas wells and the construction of a processing plant, airstrip and access roads. This meant that the TCO was in a legal state of "immobilization" throughout the course of Repsol's activities. Under this status, all property rights within the TCO are subject to revision and indigenous claimants have priority rights until private titles have been awarded.

In spite of this, when Repsol entered TCO Itika Guasu in 1997, the APG IG were not informed of planned activities. Instead, the company established its operations within properties claimed by non-indigenous cattle ranchers, with whom it signed land use agreements and negotiated compensation payments. Legally, these contracts must be negotiated with the legal proprietor of the required land. In this case, however, they were made with third party claimants within the TCO whose land rights had not been established. It is important to note that, during the course of the TCO titling process, third party claimants may be awarded titles or may have land confiscated or reduced, depending on a variety of factors, including whether land is used productively (fulfils an Economic Social Funcion or FES). Evaluating these claims requires extensive fieldwork;

for example, in a cattle ranching region like Itika Guasu, evaluation of the FES requires the rounding up, marking, and counting of cattle, a time-consuming process carried out with participation of indigenous monitors. Predicting the final results of TCO titling without conducting fieldwork activities is impossible.

In fact, official documentation from INRA's fieldwork (conducted in 2000) suggests that several claimants with whom Repsol negotiated were ultimately unable to prove productive use of their properties. While the titling process highlighted problems faced in justifying these claims, so far none of this land has been awarded to the guaraní. Not only did the land use agreements pre-empt the results of land titling, but there is also evidence that in at least one case Repsol's presence influenced them. In the case of an airstrip, it appears that infrastructure built by Repsol was used as evidence of productive land use, thereby legitimizing the individual claimant's property rights (fieldwork interviews, see also CEADESC et al 2006).

Having heard varying accounts of INRA's collusion in legally validating these land use contracts, I asked the agency's former director on what legal basis this occurred. He explained that the agreements had been validated on the basis of titles awarded following the 1952 agrarian reform. Beyond the fact that all pre-existing titles were legally subject to revision under the SAN-TCO titling process, their existence in these properties is noteworthy. INRA documentation produced at the start of the TCO titling process suggests that a minority of non-indigenous inhabitants of Itika Guasu possessed formal land titles in 1997. Those that did so represent the longest-standing and most powerful landowning families of the region. In fact, almost all Repsol's infrastructure is located in what were formerly two of the region's largest haciendas.

As noted above, the awarding of titles to mestizo settlers in this region after the first agrarian reform was instrumental to guaraní dispossession, and based on colonial discourses that excluded them from citizenship rights. It is precisely this geography of rights that the TCO titling process set out to transform. However, just at the moment when these ethno-territorial power relations were set to be reconfigured, the emergent geography of extraction mapped onto and secured them. For the guaraní, INRA's willingness to sacrifice their rights to provide legal security for Repsol represents the latest link in a chain of historical collusions between the state and local elites in this region.

Land rights as a basis for other indigenous rights

> *What [Repsol] said is: "If you're not owners of the territory, while you're not owners of the territory, you can't question the work we're doing". It couldn't be clearer.*
>
> *- NGO Coordinator working with the APG IG*

While the land use agreements described above initially took place without the knowledge of the guaraní, the agreements were to become subject to extensive scrutiny and contestation in the context of an ensuing conflict over indigenous rights and hydrocarbon development in TCO Itika Guasu. As the social and environmental impacts of extraction became apparent (see CEADESC et al. 2006, Perreault 2008), the guaraní began to make sustained claims for the recognition of their rights. These claims were

articulated with reference the International Labor Organization (ILO) Convention 169 (ratified by Bolivia in 1991), which requires governments and companies to consult with the peoples living on the land prior to permitting resource exploitation, and states that they should participate in the benefits of such activities and receive "fair compensation" for any damages they sustain as a result of these activities (Articles 6 and 15). In 2003, the APG complained about their lack of consultation and demanded land use payments, compensation for social and environmental impacts and measures to monitor and address these impacts. This was the beginning of a long and bitter dispute that was not resolved until late 2010 (discussed below).

It was in this context that the APG IG began to scrutinize the means by which Repsol had established itself in the TCO and identified the legally dubious land use contracts as a means by which the company had sought to avoid recognizing their rights. The guaraní first raised the issue of the land use contracts in a meeting with Repsol's subcontractor, Maxus, in February 2003, where they demanded land use payments. According to an activist who participated in this meeting:

> *[Maxus said]: "We've sorted it out; we've paid land use payments to the owners." And there the answer was: "There are no owners precisely because all rights are under a process of revision. And the preferential right is with the [guaraní] people, with the TCO. So if you've paid, you've paid wrong, you've paid before knowing who is the final owner, you've paid wrong." And if in the end they determine that the owner is different from who they paid, the company would have to pay again. Because to pay wrong is to pay double, isn't it?*

In March, Maxus flatly rejected this claim in a letter to the APG IG. Later that month, another meeting was held, this time between the APG IG, Maxus and INRA, in which INRA officials were called upon by the APG IG "to explain the situation of the land titling process in Itika Guasu, through which companies should respect the preferential right of the APG and mitigate the environmental impact" (CERDET 2006). In April, following a complaint by the APG to the Ministry of Hydrocarbons, Maxus agreed to fund a development plan proposed by the APG IG and to make payments based on the market value of land. However, the agreement was framed as a goodwill gesture and explicitly rejected the guaraníes' rights to consultation or compensation.

These concessions failed to satisfy the guaraní and on 28th May 2003 they blockaded the Margarita Bridge, bringing extractive activity to a halt. Within days, the government had ordered a military division from Villamontes to break up the demonstration. In the months that followed, the APG and Maxus reached a compromise over land use payments and signed the final version of the first development plan, which remained a voluntary agreement.

However, the APG's battle with Maxus and Repsol for recognition of its rights continued in the years that followed and the land use agreements continued to resurface as a pretext for defending or contesting other guaraní claims. In 2006, an APG environmental monitoring team sent to inspect the four gas wells concluded in a report: "This terrain is property of the TCO, for which reason they should have consulted, given that it is in a process of land titling and therefore immobilized" (CEADESC 2007). Repsol responded with a document entitled 'Social-environmental development in Caipipendi Block', in which it claimed:

> *All the contracts made with proprietors of the zone, called third parties by the indigenous were made following verification of their property rights, certified by the same National Institute of Agrarian Reform, so that the air strip, the gas wells, the Margarita plant and other installations are found in properties that will be titled to the said third parties.*

This letter explicitly rejects the APG's claim to consultation on the basis that the properties hosting its operations belonged to third parties and not to the guaraní. In the years that followed, Repsol continued to refuse to recognize either the guaraníes' land rights or their right to consultation and compensation.

Cultural rights versus neoliberal capitalism?

That Repsol's demand for legal security should trump the guaraníes' still unconsolidated territorial claim may not appear surprising. Recent political ecology literature has provided numerous examples of how processes of capitalist territorial restructuring shape the rules and institutions that govern access to and control of natural resources, often to the detriment of poor resource-dependent communities (Peet and Watts 2004, Tsing 2005, Sawyer 2004, Bury 2005, Bebbington 2009b, Holt-Gimenez 2007, Le Billon 2001). The above discussion echoes these accounts, revealing how a neoliberal state ultimately privileged the territorial requirements of transnational capital over the guaraníes' legally recognized rights to their TCO. However, this was not simply a case

of the state enacting policies and laws that from the outset favored private companies; what we see instead is the flexible implementation of a legal norm originally designed to recognize the cultural rights of indigenous peoples. This is important because recent critiques of cultural rights have tended to rest on their assumed compatibility with neoliberal economic development (Hale 2002, 2005). According to Hale, "collective land rights actually help advance the neoliberal model by rationalizing land tenure, reducing the potential for chaos and conflict" (2005:13). The case of Repsol in Itika Guasu suggests that, as a governmental fix, indigenous land rights may work better in theory than in practice. In terms of limiting the destructive effects of neoliberal development on indigenous peoples, it is in territories targeted for extraction that indigenous land rights are most needed. However, it is precisely in these territories, like TCO Itika Guasu, that these rights are most likely to be subordinated to economic development.

The above account of neoliberal resource governance in Itika Guasu provides an important counterpoint to the discussion that follows. As has been well documented (Kohl 2006, Perreault 2006, Postero 2010), the election of Evo Morales as Bolivia's President in 2005 was, broadly speaking, the product of a social responses to neoliberalism and, more specifically, popular demand for a more just regime of hydrocarbons governance. At the same time, however, Morales's election was the product of a broader set of indigenous demands directed at addressing Bolivia's colonial legacy. These demands centered on the vision of a "plurinational" state, which would offer new forms of participation and more substantive rights for indigenous peoples. How have these two shifts – from multicultural to plurinational governance, and from private to state-led extraction – affected the way resource conflicts are managed? By describing

how the intertwined struggles over land and gas in Itika Guasu continued to unfold under Morales's Movement to Socialism (MAS) government (2006-11), the next section highlights some of the changes, continuities and contradictions that this project has entailed.

Extraction, TCO titling and indigenous rights under the MAS government 2006-11

Frustrated hopes, mounting tensions

Part of the dispute cited above, over land rights as a basis for other rights, occurred in 2006–that is, after Morales took office. As this example suggests, the election of an indigenous president did not bring an immediate resolution to the APG IG's unfulfilled demands. To the contrary, the early years of the Morales government saw an intensification of this conflict, as the guaraní became increasingly impatient at the new state's apparent reluctance to recognize their rights. Guaraní leaders describe how their repeated appeals to the Morales government for support in their ongoing battle with Repsol were consistently met with silence or evasion. As one guaraní leader complained in 2009:

> *To date, [the government] haven't reached any conclusion about who is right, the APG or the company – they keep telling us: "No, we haven't reached a conclusion". We've already shown them all the documentation, but all the government has done is to remain silent. How can they say they guarantee*

indigenous rights when there are guilty parties who have committed violations and contamination, social and cultural impacts?

The guaraní were told by the government that their negotiation with Repsol was between "private parties" and that the state could not intervene. Another leader described the exchange as follows:

In negotiations [the government says]: "You are the people of Itika, you're a private people, it's a negotiation between the oil company and you." The reply of the organisation: "No, you're the father of the nation; you have to comply with the law, not the oil company."

In July 2010 the APG IG sent a letter to Morales, who they addressed as "the President of the Plurinational State", expressing their anger at the granting of 20 new environmental licenses to companies to operate in the TCO, without prior consultation. Despite significant progress at a national level (Fundación TIERRA, 2011), land titling in Itika Guasu has remained practically paralyzed since 2006, partly due to ongoing funding shortages. The APG IG's attempts to secure a share of departmental gas rents for TCO titling in 2009 were thwarted by regional opposition, while attempts to release money from an Indigenous Fund, which receives 5 percent of IDH, were blocked due to the Fund's committee's failure to reach consensus. This Fund was originally demanded by the guaraní as direct compensation for the disproportionate effects they suffer from gas extraction. The fact that it came to be shared between indigenous and peasant

organizations nationally, with MAS ministers on its committee, is cited by APG leaders as an example of this government's betrayal.

Other indigenous territories in Tarija have faced similar problems regarding land titling since 2006 and have become increasingly vocal in expressing their disillusionment (see Bebbington and Humphreys Bebbington, this volume). This is revealed by the following passage from a statement issued during a recent assembly of Tarija's three indigenous groups:

> *With the new governmental administration we held the hope of a better tomorrow for our children, but until now we don't feel a real change in our lives. Even worse, our communities are threatened by the growing advance of the oil and gas industry, the extension of the agricultural frontier, the formation of new elites that take advantage of the gas rents that come from our territories, without us until now having been able to achieve the titling of our lands and territories, and a direct benefit from the resources exploited. (Statement: "To the Plurinational State and the Population of Tarija")*

As this passage highlights, indigenous land rights continue to be imagined both as a means of protection from the territorial impacts of extraction and as the basis for claims to participate in its economic benefits. Frustration about the partial implementation of these rights is compounded by the fact that, under the 2009 Constitution, "consolidated indigenous territories" (that is, titled TCOs) provide what is often to only viable route to indigenous autonomy (Albó and Romero 2009).

Gas as an obstacle to TCO titling under Morales

In recent years, the frustrations described above have been a subject of extensive debate and analysis by the guaraní of Itika Guasu. In 2008-9, numerous assemblies were held to discuss the "land issue", which had been the APG IG's main priority over the previous decade. During these discussions, participants often arrived at the same question: "What is the obstacle?" As noted above, obstacles to TCO titling over the previous decade had been numerous. By this point, however, a single explanation had come to the fore. As one leader explained in 2009:

> *If we review the UN Declaration, the ILO, the New Constitution of the current government, the Hydrocarbons Law 3058, it's clear . . . before the government or someone wants to intervene or exploit those resources, they must go through a process of consultation, because it's inside a TCO. And that is not foreseen in the new contracts . . . the reason why we don't advance with the consolidation of the TCOs is that we are going to directly intervene, we're going to demand that they comply with the norm and go through a consultation process, and if it's going to affect us directly, we can say that we don't agree and they're not going to exploit.*

By 2009, the idea that gas interests represented the main obstacle to the conclusion of TCO titling had gained widespread currency in Itika Guasu. On the one hand, this theory can be seen as emerging from lessons learned over the previous decade:

that land rights strengthen other claims in the context of extraction and that transnational companies can gain state collusion to influence the outcomes of titling. In that sense, it points to the guaraníes' recognition of the *continuity* in state behavior under Morales.

At the same time, however, the above quotation reflects the guaraníes' understanding of the particular, indeed exacerbated, contradictions between indigenous rights and extraction under the Morales government. As this leader notes, the MAS government has strengthened indigenous rights in the context of extraction in important ways. In 2007, Morales passed decrees to implement the 2005 Hydrocarbons Law, which reaffirms indigenous peoples' right to prior and informed consultation, participation in the benefits of extraction, environmental monitoring in TCOs and compensation for direct, cumulative and long term social, cultural and environmental impacts. The same year, Bolivia signed up to the United Nations Declaration on the Rights of Indigenous Peoples, which recognizes indigenous peoples' right to not only consultation but also consent in the context of development projects in their lands. The 2009 Constitution also recognizes indigenous peoples' right to prior consultation and participation in the benefits of exploitation of non-renewable hydrocarbons resources that are found in their territories (articles 30.2, 352 and 403).

As the above quotation also highlights, these changes have been accompanied by the implementation of a new hydrocarbons regime. On 1st May 2006, Morales passed his "Heroes of the Chaco" decree officially "nationalizing" Bolivia's hydrocarbons reserves. Essentially, the new regime consists of higher taxes, the renegotiation of contracts with private companies, and the rebuilding of the state hydrocarbons company, YPFB. Under the new contracts, the remaining 50 percent of revenues, after the royalty (18 percent)

and IDH (32 percent), is split evenly between YPFB and the private company, resulting in an overall government share of about 54 percent. These changes have substantially increased national revenue from gas, which now funds a range of social programs, including old-age pensions and benefits for students and expectant mothers. Not only is Bolivia under Morales more dependent than ever on gas revenue, but the state is committed to bearing the cost of any delay to planned extraction; under the new mixed contracts, YPFB must cover the recoverable costs of private companies operating in Bolivia (Kaup 2010).

In this context, the implementation of indigenous rights presents a conflict of interest for the Morales government. For example, a consultation process requires the diffusion of detailed information on planned developments and a series of meetings with affected communities and indigenous authorities, which themselves require logistical support, such as transport of people from dispersed and often inaccessible areas. Furthermore, reaching agreement may itself require a lengthy process of negotiation. Given the tight time-frames of contracts with transnational oil companies and gas-receiving countries, this process could easily delay the granting of environmental licenses and ultimately jeopardize production and export targets, the cost of which would be borne by the Bolivian state.

The government's position is made more awkward by the fact that, unlike in the past, it must now negotiate directly with affected communities over planned extraction. As one guaraní leader explained, this puts the state in a difficult position regarding compliance with norms on indigenous rights:

There was a moment when it seemed that it was more the transnationals that were the owners, but now when they sign a contract they are partners, so the moment we consolidate our lands we are going to demand that they comply with the norms. And the government will have to respect that decision, and that creates an internal conflict between the oil companies who are going to exploit, and the national government, because we [the indigenous people] should come first.

That is not to say that state involvement in these negotiations always brings greater accountability. Another leader complained:

It's worse talking of Evo Morales being a partner…now the oil company says, "we're not alone anymore", it says, "you have to talk directly with the government" and if they authorize [extraction] we have to accept it.

This statement, read in conjunction with Morales's reported assertion that "it's a negotiation between the oil company and you", suggests that the new "mixed" contracts may be a pretext for a dual evasion of responsibility for indigenous rights by both transnational oil companies and the Bolivian state.

Shifting discourses of land, gas and nation

As the above quotations reveal, in making their claims the guaraní have been quick to draw on the new state language of plurinationalism, to cite new legal and constitutional norms guaranteeing their rights, and to point out the reasons why in practice these rights

are not implemented. In doing so, they expose fundamental contradictions within the MAS development agenda, undermining the official discourse of a "post-neoliberal" *and* "plurinational" Bolivia. It is perhaps because of this that their demands have provoked an intolerant response by the government. In private negotiations and public discourse, leading figures of the Morales government have repeatedly accused the guaraní of Itika Guasu of being "a threat to the country's energy development" and dismissed claims to consultation and compensation as *chantaje* (blackmail).

While this is not the first time a state has sought to delegitimize indigenous claims in the context of extraction, the tone of this discourse has shifted. In a context where nationalized gas reserves are portrayed as the basis for social development, those who contest extraction are increasingly framed as a threat, not only to the state, but also the Bolivian people. For a people whose claims to rights are an expression of a fragile and recently-granted citizenship, these accusations are particularly difficult to absorb. Increasingly, the guaraní have sought to defend themselves from such allegations, often by emphasizing that they do not oppose extraction *per se*. As one leader insisted:

> *The underlying fear is that . . . if they give us the TCOs with our resource wealth we´re not going to give them permission to explore the natural resources. And that's a lie . . . if the project guarantees, respects indigenous rights, the peoples are always going to say "go ahead, work" because its development for the country.*

However, this has not discouraged the guaraní from making claims; for it is precisely through the act of claiming rights that the guaraní experience and reaffirm their citizenship; as one guaraní leader put it, “If you don’t make them comply with the law, no one else will; you as a citizen have to say: ‘*Compañeros*, I have a law’”. In doing so, they defend a vision of plurinationalism, positioning themselves among the true architects and beneficiaries of this national project, which is being undermined not by their claims, but by the state’s denial of their rights. This is often frequently conveyed through an analogy of denied paternity; as another leader concluded: “what the government is doing is as if you had a son and you don’t want to defend him”.

Shifting strategies of land and gas

I have already provided some indications of how land titling and hydrocarbons development began to converge in indigenous-state negotiations under the Morales government. First, the guaraní now found themselves negotiating more directly with the state over the terms of extraction (or at least attempting to do so) at the same time their demands for TCO titling were being increasingly scaled-up from a regional to a national level. Second, the guaraní became increasingly convinced that hydrocarbon development was preventing the titling of their TCO, as part of a company-state conspiracy to evade recognising their other rights. In light of this, it is perhaps not surprising that the APG IG began to strategically link the land and gas issues in their negotiations with the state.

The first attempt came in the form of an ultimatum. In February 2009, the APG sent a letter to Evo Morales relating the decision that no type of operations in guaraní

territory would be allowed until titling of the TCO was completed. The letter was discussed in a departmental assembly held in April. Although the APG had not received a reply from Morales, it was claimed by the leaders at the meeting that the letter had succeeded in delaying the granting of authorisation to two other oil companies for operations in the TCO. Based on this achievement, participants reflected on the success of this approach. As one leader concluded: "it is necessary to reach decision-making political bodies, and finally realise that the hydrocarbons issue is intimately linked to the titling issue" (APG minutes). However, whatever ripples of unease it generated for the government, this ultimatum did not succeed in achieving either an advance on TCO titling or a cessation of hydrocarbon development in the TCO.

A few months later, the two issues were once again brought together. In May 2009, the APG Itika Guasu wrote to the Ministry of Land requesting the *suspension* of the TCO titling process. Ironically, this occurred just as INRA Tarija had secured funding to continue with the SAN-TCO process following several years of paralysis. The letter provides some insight into the reasons for this sudden u-turn. It begins by criticising INRA's failure to provide requested information on land titling and expresses frustration over the fragmentary effects of partial titling. The next passage is worth quoting at length:

> *"[The APG demands] the annulment of all the assignments to irregular third parties, that is, those who have violated their resource rights and/or [expressed] opposition to the APG IG and, the priority in this annulment should be all the assignments that coincide with the oil and gas exploitation or transport pipelines*

that pass through the TCO, making clear that none of the companies that are found operating in the TCO have complied with the rights to prior consultation, nor with the procedures for calculation of damages, for which reason ALL are operating illegally and don't have the corresponding environmental licences...all this demonstrates the total lack of defence of, and permanent violation of, our most elemental rights, including to property".

This passage reveals that the APG IG's decision to paralyze the land titling process was at least partly driven by concern that the process would consolidate third party claims within gas-rich areas of the TCO and, in doing so, weaken indigenous claims in the context of new and ongoing hydrocarbons projects. The resurgence of this issue (who owns land demarcated for extraction) points to striking continuities in resource conflicts under the Morales government, where the territorializing effects of extraction continue to collide with indigenous rights, and potentially jeopardise their implementation. The APG's decision can be read as an attempt to pre-empt a repeat of the experiences of 1997-2003, when third party land rights were used by Repsol as a basis for denying the guaraníes' claims to compensation.

At the same time, however, this change is framed by APG IG leaders as an important shift in strategy on land titling, based on the possibilities of the new political context. Rather than simply waiting in vain for INRA to complete the legal titling process, APG IG leaders now believe that they can get faster and surer results by purchasing private properties within the TCO. The potential for success of this strategy remains unclear, as do the possible terms of negotiations over land purchases. However, it does represent an important departure from the recent history of TCO titling in Itika,

where an imperfect law (the INRA Law) was tirelessly wielded by guaraní leaders as the only means of extracting rights from hostile regional elites and an ambivalent neoliberal state.

Of course, the crucial issue that arises is: how does the APG IG propose to pay for these properties? The answer is also provided in the letter. The cost of purchasing land, it proposes, will be met by a loan to the APG IG from the Indigenous Fund (see above), which "will be underwritten by the nationalised oil companies present in the TCO, that is, Transredes and YPFB". The repayment of these loans, the letter proposes, should be deducted from the payments that [the companies] should make to the APG IG for environmental licenses and compensation for damages. In other words, the proposal is that land titling be *overseen by* the APG IG and *funded by* a combination of gas rents (distributed to the APG) and anticipated compensation payments from ongoing hydrocarbons development in the TCO. Paradoxically, while hydrocarbon development has consistently been identified by APG IG leaders as the single biggest obstacle to the consolidation of their territorial rights, it is increasingly through negotiations over extraction that it seems possible to advance with the land struggle.

Extracting justice? The *Acuerdo de Amistad*

The above account has described how the APG IG have sought to defend their rights under the Morales government in ways that make explicit the links between land titling and hydrocarbons development. However, this is only one part of the story. Parallel to their negotiations with the state, the APG IG was engaged in a process of negotiation

with Repsol that took place in a transnational arena. As I have described, the APG IG's battle for recognition of their rights began with support from two Bolivian NGOs, CEADESC and CERDET. In 2006, these NGOs and the APG IG participated in an international campaign led by INTERMON-OXFAM entitled "*Repsol mata*" ("Repsol kills"), which sought to publicise the social and environmental impacts of Repsol's activities in Bolivia (see CEADESC et. al 2006). As part of this campaign, NGO representatives accompanied APG IG leaders to Madrid, where they visited Repsol's international headquarters. Although no agreement was reached between the APG and Repsol in the subsequent negotiations, the trip led to the forging of new transnational alliances and an important shift in the APG strategy. Shortly afterwards, the APG IG began a formal relationship with two European legal advocacy groups, who waged an international legal campaign against Repsol that played out over the next four years.

The negotiations described above, including the paralysis of TCO titling, occurred while this legal campaign was still underway and its outcome uncertain. This situation changed in December 2010, when the APG IG and Repsol signed a historic *Acuerdo de Amistad* (Agreement of Friendship). This agreement, which coincided with the beginning of a new wave of hydrocarbon development in the TCO, includes the payment of 14.8 million USD into an "Investment Fund" for indigenous development co-administered by Repsol and the APG IG. Under the terms of the agreement, Repsol has for the first time recognised the APG IG's rights under international law, *and* – something APG IG rarely omit to mention – their property rights to the entire area of the TCO. Speaking at the APG IG's twenty-second anniversary in March 2011, the President of the organization claimed:

> *We have signed without renouncing our rights and achieving full legal recognition of our property rights to the TCO and of the existence of the APG IG. We are proud of this agreement, which brings together some special conditions that makes it unique in Bolivia and even in Latin America… [Its principles] will serve as an example to other indigenous communities.*

There is not scope here for a discussion of all aspects of this agreement, or the dynamics it has created within and beyond TCO Itika Guasu. What is important to note here is the continuing importance of "scale-jumping" as a strategy for indigenous rights advocacy under the Morales government. That this struggle for indigenous rights should be resolved in an international arena, without participation of the Bolivian state, is perhaps surprising. It certainly runs counter to official discourse of a "post-neoliberal" Bolivia, where "an empowered state" (empowered by its sovereignty over the nation's gas wealth) was to "provide a protective shield for the social movements, an international armour for the growth of the social struggles" (Bolivian Vice President Garcia Linera, see Garcia Linera 2007).

And yet, even if this agreement was reached through transnational legal advocacy, it is in the context of the APG IG's relationship with the state and regional actors that it acquires meaning. APG IG leaders frequently frame the Investment Fund as a route to achieving not only territorial development, but also political autonomy. By establishing a degree of economic independence, they hope to transcend the kinds of cooption and conditionality that have characterised their relationship with the state and regional elites – not least under the Morales government. Perhaps even more powerful is

the question of recognition. By engaging with international law and acting through transnational alliances, the APG IG leaders feel they have found a way to force other actors to respect their rights, and to transcend the colonial power dynamics that have defined their engagements with the *karai* (non-guaraní people).

Ultimately, then, it is through their transnational alliances, and not through trade-offs with the state, that the APG IG have advance furthest in securing recognition of their rights. In doing so, they have established a new and uncharted course for territorial development in Itika Guasu – a concept that has been redefined by, and partially reconciled with, the reality of ongoing hydrocarbon development in the TCO.

Conclusion

This chapter has drawn attention to the continuities, as well as the novel characteristics, of resource governance under the Morales government. There is little doubt that this government is delivering, as promised, a very different regime for distributing gas rents and a renewed role for the state in the extractive process. And, of course, state-led extraction is only one aspect of a multi-faceted "process of change" currently taking place in Bolivia. Yet, it is important to be attentive to the challenges and contradictions that this project is giving rise to.

Through an examination of the guaraní struggle for land rights in Itika Guasu amidst ongoing hydrocarbons development, I have shown that indigenous rights–both to territory and to meaningful participation in hydrocarbons governance–continue to be subordinated to the territorial and temporal demands of natural gas extraction. This

subordination becomes ever more visible and contested in a political context that combines an official discourse of plurinationalism with increased state dependence on, and state involvement in, extraction. This is not simply a conflict between local claims and transnational, or more recently national-transnational, capitalist interests. From the outset, indigenous demands for territory have been framed with reference to global legal norms, which were translated into national policy in the 1990s in the form of TCOs and other multicultural rights. On the other hand, transnational companies do not merely swoop down from above to extract gas; they must navigate existing geographies, negotiate land use with local actors, and establish legal security from the state, represented by whatever individuals happens to occupy state functions within a specific regional context. It is in this process of territorialization that colonial geographies of power become enlisted, reproduced and potentially reworked.

As I have shown, in their struggle to establish their territorial rights and negotiate participation in the benefits of extraction, the guaraní have employed diverse strategies and acted at multiple scales. Under the Morales government, they have grounded their claims with reference to new national legal norms and discourse on indigenous rights, defending a vision of a plurinational citizenship that they themselves helped to construct. Furthermore, by demanding direct negotiations with central government over land and gas, they have shifted the scale of both these struggles, circumventing elite-controlled regional institutions in the case of land titling, and seeking to bring the state to account for the actions of a transnational oil company. Ultimately, however, it is by acting through transnational networks and outside of the state that the APG IG leaders believe they have finally succeeded in “extracting justice” in their

decade-long battle with Repsol. How far this success will redefine aspirations or strategies for territorial development in TCO Itika Guasu, and whether it will become a precedent for other indigenous struggles over territory and natural resources, remains to be seen.

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