Rethinking territory and property in indigenous land claims

Penelope Anthias

Abstract

The recent proliferation of indigenous land titling processes has generated debate around the possibilities and limits of indigenous engagements with modern forms of cartography, territory, and property. This paper makes a novel contribution to these discussions by highlighting the contradictory effects of territory and property in indigenous land claims processes. My analysis departs from a consideration of multicultural cartographies of territorially-bounded indigeneity and their awkward articulation with the racial regimes of ownership (Bhandar, 2018) that undergird settler and postcolonial property systems. The paper then examines how this tension has played out in the mapping and titling of Native Community Lands in South-eastern Bolivia. I trace how the discursive and cartographic representation of Native Community Lands as bounded, contiguous spaces of indigeneity has been undermined by the socio-spatial effects of propertisation, which has reinscribed colonial hierarchies of race and property, leaving indigenous villages isolated within discontinuous fragments of less productive land. The paper concludes by examining how the "elusive promise of territory" continues to haunt resource politics in the Bolivian Chaco two decades after the creation of Native Community Lands.

Key words: territory, property, indigenous mapping, land titling, native title, Bolivia

Introduction

As they say, recovering territory is going to be a bit difficult. It's already like that—a piece here, a piece there.

- Guaraní community leader, Bolivian Chaco

Since the "territorial turn" of the 1990s (Offen, 2003), the mapping of indigenous territories, and their legalisation as property, has emerged as a central feature of both global development policy and indigenous rights activism. Indeed, the past decade has seen a renewed impetus for communal land titling, which is now being spearheaded by corporate-funded platforms and promoted as part of the solution to global climate change.[1] Meanwhile, the growing availability and decreasing cost of mapping technologies is fuelling a proliferation of counter-mapping "from below", producing new claims for collective territorial rights.

In the context of such processes, the possibilities and limits of indigenous and other subaltern engagements with cartography, territory, and property remains a politically urgent question. Global policy discourse tends to assume that formalisation of land rights will benefit poor, land-dependent communities, with little reference to the outcomes and legacies of previous ethnic titling initiatives. Meanwhile, a growing literature highlights the limits of a "legal-cartographic strategy" (Wainwright and Bryan, 2009) as a route to indigenous self-determination. Critics argue that communal mapping and land titling perpetuate essentialist understandings of identity and insert indigenous territories within

[1] Examples include the Rights and Resources Initiative (https://rightsandresources.org) and the Tenure Facility (https://thetenurefacility.org)

broader (state and capitalist) grids of legibility.[2] The most damming accounts situate indigenous land rights within a "neoliberal multicultural" agenda designed to weaken indigenous resistance to marketisation through limited forms of cultural recognition (Hale, 2005).

What both of these literatures have in common, however, is that they tend to treat territory and property as coherent and mutually supportive logics within indigenous land claims processes. Global advocates of communal titling frame property as a simple, transparent process through which indigenous claims to territory can be recognised, legalised and protected from encroachment by various kinds of "outsiders". Property, in such accounts, is the *means through which* territory will be delivered to indigenous claimants. Meanwhile, critical academic accounts draw attention to how property *and* territory, viewed as conjoined modern technologies of rule, work together to efface alternative indigenous ontologies of land and reinscribe state sovereignty over indigenous socio-natures. Brenna Bhandar argues that forms of property ownership, articulated through a language of sovereign territory, confine indigenous land claims to a "restrictive economy of owning, knowing and being" (2011: 227). Wainwright and Bryan highlight how a "legal-cartographic strategy" re-inscribes state sovereignty over indigenous territories, by locating indigenous land claims "within the state's territory" (2009: 164).

There is certainly much to be said about the limits of property and territory from an indigenous perspective and their mutual implication in ongoing histories of indigenous

[2] See Bryan, 2009 and 2012; Mollett, 2013; Bryan and Wood, 2015; Peluso, 1995; Ng'weno, 2007; Hodgson and Shroeder, 2002; Bhandar, 2011; Radcliffe, 2011; Sparke, 2005.

dispossession. Nevertheless, this paper argues that treating property and territory as a "double act" misses an important dimension of indigenous land claims – namely, the disjuncture between the promise of *territory* and the legal-material outcomes of *property*. It is important to clarify what I mean by territory and property in this context. Territory in this paper does not refer exclusively to the state's territory (although this is also relevant), but rather to the modern concept of "a discrete, sharply bounded and spatially fixed area, premised on spatial exclusivity" (Blomley, 2016: 593), which is "under the control of a group of people" (Elden, 2013: 322). This modern concept of territory informs the discursive and cartographic representation of indigenous territories as bounded and contiguous spaces of indigeneity (what I call "territorially bounded indigeneity"). Territory is thus a utopian *idea* but one that has political effects, shaping aspirations, imaginaries and practices around indigenous land claims. This conception of territory is distinct from a Lefebvrian notion of territory as an outcome of *territorialisation* – a process in which competing imaginaries and projects enter into conflict and articulation (Lefebvre, 1991; Brenner and Elden, 2009; Halvorsen, 2018). It is also distinct from indigenous conceptualisations of territory as an assemblage of more-than-human relations. My intention is not to efface or contest these alternative meanings of territory, both of which inform my account, but merely to provide analytical clarity.

On the other hand, property in this article do not refer exclusively to private property, but rather to all forms of state land title, including both individual and collective indigenous forms of property. Native Community Land titles, issued as an outcome of the SAN-TCO land titling process, are thus considered here as a form of property. However, this

requires a caveat: in some cases, states award indigenous peoples titles (or other legal documents) recognising their rights to territories, but without awarding them property rights over land within these territories. This applies, for example, to native title in Australia, which does not annul the property rights of other land claimants within native territories.[3] Similarly, in 1997 the Bolivian state awarded indigenous peoples documents recognising their territorial claims as Native Community Lands. These documents were not property titles, but merely signalled that these claimed areas would be subject to the SAN-TCO titling process – a process for adjudicating individual and collective (indigenous) property rights within these territories. The outcomes of this propertisation process are a far cry from the territory that was recognised by the state in 1997.

As this illustrates, the meanings of property and territory in indigenous land claims processes can be both confusing and ambiguous. Indeed, a central contention of this paper is that this ambiguity serves to obscure the gaps that frequently open up between territorial recognition and indigenous resource control – gaps that indigenous peoples are forced to confront in their everyday lives and broader struggles for self-determination. While these distinctions between property and territory may play out differently in different legal and social contexts, a key task of critical scholarship is to tease apart these distinctions and, in doing so, expose dynamics that are hidden by dominant representations of indigenous territories. While international policy discourse and indigenous rights law treat property as a straightforward means of legalising indigenous territories, the process of propertising territory is rarely straightforward. Rather,

[3] Presentation by Cameo Dalley at Governance at the Edges of the State Conference, University of Copenhagen, 28-30th August, 2019.

multicultural cartographies may be undermined in practice by their imbrication in "racial regimes of ownership" (Bhandar, 2018) and broader processes of postcolonial territorialisation, leaving indigenous peoples to "pick up the pieces".

My analysis draws on the example of Bolivia's Native Community Lands, collective indigenous territories created in 1996 during an agrarian reform process financed by the World Bank. I examine how the discursive and cartographic representation of Native Community Lands as bounded and contiguous spaces of indigeneity has been undermined by the fragmentary effects of propertisation, which has reinscribed colonial hierarchies of race and property, leaving indigenous villages isolated within discontinuous pieces of land. This disjuncture between the cartographic promise of indigenous territories and the legal-material outcomes of propertisation has ongoing political effects. Notwithstanding the shift from multicultural to "plurinational" governance under the government of Evo Morales (Postero, 2017), multiculturalism's "elusive promise of territory" continues to haunt indigenous resource politics in the Chaco, shaping both everyday land relations and broader struggles around resource governance.

This paper draws primarily on 26 months of research (between 2008 and 2014) on/in Native Community Lands in the Bolivian Chaco, which combined multi-sited participant observation, documentary analysis, in-depth interviewing, participatory mapping, focus groups and a household survey. Additional research was conducted in 2016, 2017 and

2019.[4] Writing about indigenous territorial claims as a white European woman raises important questions about positionality and the political objectives of research. I began this research in 2008 as a volunteer in a local NGO supporting indigenous TCO claims in Tarija Department. From the outset, my research charted an ambivalent path between activist solidarity with indigenous claimants and an ethnographically grounded critique of multicultural recognition. Ultimately, however, the conflictive outcomes of Native Community Lands and the ongoing marginalisation of Chaco indigenous peoples have created political imperatives that differ from those of activist research. The main objective of my academic writing has been to make visible Guaraní experiences and critiques of these processes and the challenges they pose to activist and policy agendas.

The paper is structured as follows. Section 1 considers the role of territory and property in indigenous land claims processes, focusing on the multicultural concept of territorially bounded indigeneity and its awkward articulation with the racial regimes of ownership that characterise settler and postcolonial states. Section 2 traces how these tensions between territory and property have played out in the context of Native Community Land claims in the Bolivian Chaco, from the elaboration of agrarian law, to the mapping of territorial claims, to the allocation of property rights. The third and final section of the paper considers how the "elusive promise of territory" continues to shape indigenous

[4] I have previously written about the dynamics and outcomes of the Itika Guasu territorial claim in a book (author citation). This paper draws on this ethnography to develop an original theoretical argument regarding the disjunctures between territory and property in indigenous land claims processes. My intention is to bring to the fore a theoretical insight that is central to Guaraní experiences of legal-cartographic recognition over the past decade, but which was not developed in the book, which focused on elaborating the various "limits" the Guaraní of Itika Guasu have faced in the course of their struggle for territory.

resource politics in the Bolivian Chaco, both in everyday land conflicts and in negotiations over hydrocarbon development in Native Community Lands.

1. Rethinking territory and property in multicultural governance

i) Territorially-bounded indigeneity

In recent years, the mapping and titling of indigenous collective territories has emerged as a central aspect of multicultural governance, as well as a key strategy of indigenous movements.[5] Underpinning this "territorial turn" (Offen, 2003) is the association between particular, ethnically identified groups of people and specific bounded and contiguous areas of land. As Joe Bryan (2009) notes, the political effectiveness of maps of indigenous territories is a function of their ability to work through existing categories and concepts – namely, an understanding of indigeneity as territorially bounded. This conception of indigeneity is infused with colonial power; it effaces complex histories of territorial dispossession and struggle, and situates indigenous peoples in a "savage slot", as "boundary objects through which notions of the West, the nation, and nature are constituted" (26). It also reflects the influence of cultural ecology on early indigenous mapping projects, an approach which seeks to explain cultures as a function of the environments in which they had evolved (28).

As other scholars have argued, territorially bounded indigeneity imposes a series of restrictions on indigenous claimants. Indigenous peoples may be required to demonstrate

[5] This followed earlier examples of indigenous mapping in Central America (see Bryan and Wood, 2015).

a special relationship to nature, to a pre-colonial past, and to particular forms of (non-capitalist) development – something Karen Engle (2010) has termed "territory as culture". In some contexts, indigenous claimants are required to prove their continuous historical occupation of land and the absence of overlapping claims in order to achieve state recognition (Bhandar, 2018; Povinelli, 2002). Indigenous claimants are thus simultaneously called on to affirm their cultural difference and to conform to a modern conception of territory as "a discrete, sharply bounded and spatially fixed area, premised on spatial exclusivity" (Blomley, 2016: 593).

Indigenous territories can be understood in the context of liberal multicultural approaches to managing difference; as a way of spatialising what Elizabeth Povinelli (2011a and 2011b) has termed the "governance of the prior".[6] They echo a long history of "ethnic spatial fixes" through which colonial rulers sought to administer colonised populations in "mutually exclusive and ethnically discrete spaces" (Moore, 2005: 14). Colonial ethnic territories were instrumental to settler projects of territorial appropriation, erasing existing tenure regimes, suppressing land markets, and restricting the mobility of colonised peoples (Ibid; Simpson, 2015). In a similar vein, today's indigenous territories must be analysed in a context of broader processes of capitalist territorialisation and associated countermovements and environmental fixes ([author citation]).

[6] Povinelli argues that late liberal governance rests on the enactment of two distinct modes of social being: the autological subject and the geneaological society. In the case of the autological (settler) subject, "the human is staged as an individuated subject struggling to author her own life and destiny…against a horizon of open possibilities" (2011a: 23). In the case of the genealogical (indigenous) society, the subject is constrained by various kinds of inheritances that prevent her from authoring her life and destiny. This racial and temporal split prevents indigenous difference from disrupting the narratives of becoming of the settler state, but it also raises the question of "how to allow cultures a space within liberalism without rupturing the core frameworks of liberal justice" (26, my emphasis). Indigenous territories offer one kind of solution.

However, indigenous territories are not merely a modern technology of rule. Just as colonial native territories acted as a site of anti-colonial resistance (Moore, 2005; Simpson, 2014), contemporary indigenous territorial claims are an important site for strategic, place-based forms of resistance to ongoing forms of indigenous dispossession; one of the many ways in which indigenous peoples struggle "in the teeth of Empire" (Ibid.). As Bernard Nietschmann famously argued (1995), the alternative to indigenous peoples mapping territory may be that these same territories will be mapped by others. However, it is important to distinguish between a strategic defence of indigenous territorial claims and the treatment of such territories as a transparent representation of indigenous geographies. As other scholars have argued (Bryan, 2009; Mollet, 2013, Bhandar, 2011), the inscription of fixed boundaries of territory and identity diverges from the relational and processual understanding of identity and space of many indigenous peoples, as well as non-humanist ontologies of life. It also differs from indigenous oral traditions of "mapping" – for example, through stories and songs (Johnson et al., 2006). In a compelling critique of the Australian state's construction of native territories, Aboriginal scholar Irene Watson writes:

> The idea of an inside and outside determines boundaries, and boundaries which have been constructed from a place of power, invoke a closure. The Australian state in imposing boundaries does this from a place of power and not law, as it draws its imagined lines across the earth's body. It constructs these lines in an attempt to displace laws of ruwi and also to enclose a place, one that is beyond closure, in the same way that the universe and beyond is (2002: 255).

This paper echoes these critiques, revealing how the boundaries of Native Community Lands effaced local Guaraní imaginaries of a borderless world grounded in reciprocal,

more-than-human relations. At the same time, however, I highlight how indigenous efforts to conform to territorially bounded indigeneity can have a transformative effect on indigenous subjectivities and aspirations. The mapping of indigenous territories as contiguous and bounded spaces, notwithstanding the compromises this involved, gave rise to indigenous expectations for legal rights to and political control of these spaces – expectations that have been undermined by the process of propertisation.

ii) Racial regimes of property

In the 1990s, the World Bank began financing the creation of national legal frameworks for titling indigenous territorial claims in many Latin American states. This followed the 1989 establishment of the International Labour Organisation (ILO)'s Convention 169, which stipulated that "governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession", including by establishing "adequate procedures…within the national legal system" (Article 14). Property was thus framed as the means through which indigenous territories were to be recognised, legalised, and protected.

In a recent (2018) book, Brenna Bhandar uses the term "racial regimes of ownership" to highlight the centrality of race to the formation of modern legal subjectivity. This is useful for thinking about liberal property in general and the constitutive role of colonial relations in its historical emergence. For the purposes of the present discussion, however,

the concept is most useful for understanding the ongoing centrality of race to settler and postcolonial property regimes.[7] Bandhar shows how the colonial appropriation of indigenous lands has been historically predicated upon ideologies of European racial superiority and legal narratives that legitimate settler colonial practices while racialising those deemed unfit to own property (see also Razack, 2002; Harris, 1993). For example, racial regimes of ownership often draw on notions of productive land use, attributing value (and consequently rights) to those who are defined as having capacity, will and technology to appropriate land.

Such conceptions of race and property inform the dynamics of indigenous land titling processes in at least two ways. First, they are enshrined in national legal property regimes. While state property regimes change over time, reflecting shifting rationalities of rule, they are also cumulative, reflecting previous sedimentations (Moore, 2005:3). Thus, when indigenous land rights were incorporated into Bolivian agrarian reform law in 1996, they had to be accommodated within an existing racial regime of ownership. As I elaborate below, this regime privileges private property claims and is grounded in colonial understandings of land's economic and social function. Second, racial regimes of ownership are also present in the form of popular conceptions of the relationship between race, property and citizenship, which do not necessarily correspond with national legal

[7] While Bhandar draws a distinction between settler and postcolonial property regimes (25), Bolivia's Chaco frontier complicates this distinction. State territorialisation in this region occurred more than half a century after Bolivia's formal Independence, through a process of internal colonialism in which settlers were awarded rights over indigenous lands and bodies. The racial regime of ownership in the Chaco is thus postcolonial but resonates with settler colonial property regimes, which are driven by the need to secure the land base for settler populations. The distinction here is that settlers are not white Europeans, but rather *mestizo* (mixed race) Bolivians who are nevertheless positioned within a racial hierarchy as more legitimate subjects of property than Chaco indigenous peoples.

frameworks. As detailed in the next section, Bolivia's Native Community Lands were fiercely contested by non-indigenous land claimants in the Chaco, who mobilised racialised notions of rights and productive land use associated historical processes of frontier settlement and agrarian reform. This echoes what legal anthropologists have observed about how transnational discourses of rights become "vernacularised" in the context of local understandings of rights and justice (Merry, 2005). As this reminds us, property has a political life beyond the "dead letter of the law", becoming an arena for competing imaginaries and claims (Keenan, 2014; Lund, 2008).

The presence of competing land claims relates to a second aspect of liberal property that is relevant to indigenous territories: the difference between *inclusion* and *access*. As Hirsch et al. (2011) observe, liberal discourses of property tend to frame exclusion as negative and avoidable – a problem that can be remedied through moves to "inclusion". In discursive terms, indigenous territories signalled the inclusion of previously excluded indigenous groups into a new regime of multicultural citizenship (Postero, 2007; Gustafson, 2009). Native Community Lands were celebrated as an extension of Bolivia's "unfinished agrarian reform" of 1953 (Kay and Urioste, 2005). Contrasting such inclusionary narratives, Hall et al. note that on-the-ground struggles over land use and tenure confront "exclusion's double edge": the fact that one person or group's access is predicated on another's exclusion (2011: 8), as "even the poorest people, farming collectively and sustainably, cannot make use of land without some assurance that other people will not seize their farms or steal their crops" (4).

While this arguably ignores indigenous tenure systems, it draws attention to a fundamental difference between state recognition of indigenous *territories* and their translation into *property*. In propertising territory, state officials and indigenous claimants are forced to deal with the existence of competing land claims within these areas. In the Bolivian Chaco, such competing claimants were numerous and diverse, ranging from small farmers, to cattle ranchers, to absentee landlords. Exploding the multicultural myth of territorially-bounded indigeneity, the land titling process encountered an "entangled landscape" composed of "specific articulations of multiple forms of sovereignty and hybrid spatialities that coexist in the same geographical territory" (Moore, 2005: 223). At stake here is an encounter between a modern capitalist logic of ethnic spatial ordering and the messy realities of postcolonial territory, grounded in a century of indigenous dispossession and frontier settlement.

It could be argued that these dynamics are not so much an outcome of *property* as of the disjuncture between the multicultural project of indigenous territories and the production of territory (Lefebvre, 1991) at a postcolonial frontier. While this is undoubtedly the case, it was through the process of propertising indigenous territories that this disjuncture became apparent. Moreover, the way in which competing land claims are articulated and adjudicated must be understood in the context of a racial regime of ownership, which consistently prioritises the rights of settlers. As I will describe in the next section, the result has been a process of hierarchisation and fragmentation that has dismembered Native Community Lands into hundreds of separate polygons and awarded the most valuable lands to non-indigenous claimants. This process of racialised hierarchisation has

unfolded in several stages: through the *elaboration* of law (in power-infused national policy arena), through the *implementation* of law (a process overseen by elite-governed regional institutions), and *at the margins* of the law (through informal agreements and irregular practices), as legal norms were adapted to local understandings of rights. Rather than the collective territory they were promised, Guaraní communities have witnessed a proliferation of internal property boundaries and barbed wire fences that leaves many of them trapped within the constrained spaces they occupied prior to the titling process.

2. Territory and property in Bolivia's Native Community Lands

i) Inserting indigenous land rights in agrarian law

Created under Bolivia's 1996 INRA law as part of a neoliberal agrarian reform process financed and overseen by the World Bank, Native Community Lands are defined as:

> the geographical spaces that constitute the habitat of indigenous and originary peoples and communities, to which they have traditionally had access and where they maintain and develop their own forms of economic, social, and cultural organisation in a way that guarantees their survival and development. They are inalienable, indivisible, irreversible, and collective, composed of communities or groups of communities, exempt from seizure and imprescriptible (Article 41.5, my translation).

As this makes clear, TCOs are illustrative of the logic of territorially-bounded indigeneity discussed above. The reference to indigenous peoples' "habitat" draws directly from ILO

Convention 169, demonstrating the continuing influence of cultural ecology on the legal framing of indigenous territorial rights (Bryan, 2009). Bolivian Aymara scholar Silvia Rivera Cusicanqui argues that TCOs rested on "a theatricalization of the 'originary' condition of ["indigenous"] people rooted in the past and unable to make their own destiny" (2010: 98). In her account, the spatial and temporal fixing of indigeneity in TCOs both cordoned off a mestizo nationalist identity from the "decolonizing impulse" of an indigenous majority in Bolivia, and bracketed indigeneity from globalised flows of capital accumulation facilitated by a neoliberal reform agenda. While this underplays the heterogeneous imaginaries that underpinned TCOs' emergence (discussed below), it highlights how TCOs were embedded in a neoliberal vision of territorial ordering, in which vulnerable land-based populations and biodiverse natures were to be spatially cordoned off from a broader landscape of marketisation ([Author citation], 2015).

If TCOs are emblematic of territorially-bounded indigeneity, then it was through property (indigenous land rights) that these territories were to be legally recognised and purportedly protected. The legal-bureaucratic process for assigning property rights in TCOs is called *saneamiento de TCO* (SAN-TCO), which literally translates as "sanitising" or "cleaning up". Confusingly, "TCO" can refer both to the contiguous spaces claimed by indigenous peoples (TCO claims) *and* to the form of collective property awarded to indigenous peoples as a result of the SAN-TCO titling process (TCO titles) – which, as we will see, is associated with much smaller and discontinuous areas of land. This slippage in meaning itself demonstrates how the conflation of territory and property in indigenous land claims works to obscure the legal and material outcomes of

such claims. For clarity, I will refer in the remainder of this paper to 'TCO claims" and "TCO-titled land".

Notwithstanding the legal description of TCOs as indigenous peoples' "habitat", their insertion into Bolivian agrarian law required indigenous land rights to be qualified and hierarchised in relation to pre-existing forms and logics of property, as well as national territorial sovereignty. This resulted in a series of legal caveats regarding indigenous peoples' rights to Native Community Lands. The first of these is betrayed in the name "Native Community Lands", which diverged from indigenous demands for "territory", which were seen to threaten the territorial integrity of the Bolivian state. Related to this, Native Community Lands – contrary to indigenous demands – excluded ownership rights to the subsoil, which remained patrimony of the Bolivian state.

A further point of contention related to the rights of non-indigenous land claimants within TCOs. During the 4-year national debate over the elaboration of the INRA Law (1992-96), landowner organisations staged multiple mobilisations demanding the protection of private property rights in indigenous-claimed territories (Urioste and Pacheco, 1999). As a result of such lobbying efforts and prevailing attitudes within the state, the INRA Law stipulates that all private property claims within TCOs will be recognised, and indeed prioritised, provided claimants demonstrate fulfilment of an "economic social function" – that is, that land is used productively.[8] Notably, this applies not only to land claimants already in possession of a land title, but to *any* claimant who has possessed land for more

[8] Medium sized land claimants are required to demonstrate productive land use, whereas small farmers (as well as indigenous peoples) automatically qualify.

than two years. Such provisions resonate with two entrenched and interlinked logics of Bolivian agrarian reform: land regularisation and the social function of property. While the former leans towards a legitimation of the status quo, the latter – notwithstanding its radical origins in the 1952 agrarian revolution – subjects property claims to racialised interpretations of productive land use.

As this demonstrates, even at the point of their legal elaboration, TCOs were inserted into a racial regime of ownership that constructs indigenous peoples as less deserving of property rights than non-indigenous land claimants. By putting indigenous claimants in a position of *inferior* right compared to private land claimants, the INRA Law violates the principle, established in ILO Convention 169, of indigenous peoples' *pre-existing* rights to their territories (Paredes and Canedo: 21, Almaraz, 2003). Even in the INRA Law, then, we can begin to witness a disjuncture between the logic of territorially-bounded indigeneity and the translation of indigenous territories into property rights.

The INRA Law does, to some degree, address this contradiction. It states that, once all other property claims in a TCO have been legally resolved, indigenous peoples can be posthumously compensated by the state for territorial losses to private claimants through the allocation of state lands adjacent to the TCO claim or, where no such lands are unavailable, through the forced sale of private properties within TCOs. In other words, having dismembered TCO claims by subjecting them to a racial regime of ownership, the state can reconstitute them (albeit in adjacent spaces) through a market-based strategy of

land purchases. In practice, however, these compensatory measures have rarely, if ever, been implemented.

The legal compromises described above provide part of the explanation for the fragmentary outcomes of TCO land titling in the Bolivian Chaco (and throughout much of the Bolivian lowlands), producing a proliferation of internal boundaries *within* TCOs, which has undermined the very notion of collective indigenous territories. However, if this was partly a foregone conclusion of the INRA Law, then it was also a product of the social dynamics of titling process, which saw national legal norms adapted to local understandings of sovereignty, rights and justice and multicultural maps challenged by on-the-ground realities of land control. I now turn to a discussion of one TCO claim, TCO Itika Guasu in Tarija Department, to illustrate how the tensions between territory and property have played out in practice. Before turning to the titling process itself, I examine how the logic of territorially-bounded indigeneity was adapted, understood and challenged in local processes of indigenous mapping in the Bolivian Chaco.

ii) Mapping a territorial claim

Traversed by the Pilcomayo River, TCO Itika Guasu comprises 36 Guaraní communities and represents the largest of five TCO claims in the Chaco region of Tarija Department in South-eastern Bolivia. These communities began organising during the late 1980s to free themselves from a system of debt peonage known locally as *empatronamiento* – the

result of a century of state-backed indigenous dispossession in the Bolivian Chaco.[9] Supported by two local NGOs, they began by occupying private hacienda land, renegotiating labour contracts, and forming cooperatives to farm maize. In 1987, they founded their own organisation, the Guaraní Peoples' Assembly of Itika Guasu. Shortly afterwards, they began elaborating a territorial claim. These organising activities took place in the context of a wave of indigenous resurgence across the Bolivian lowlands, where "territory" was emerging as a central demand and articulating a concept of a nascent lowland indigenous movement.

While the concept of "territory" was informed by transnational indigenous rights activism, its meaning in Itika Guasu was grounded in local experiences. This includes recent experiences of unfreedom under *empatronamiento,* combined with oral memories of a time before the arrival of settlers, in which grandparents enjoyed free movement, material abundance, and reciprocal relations with non-humans. Notions of cultural identity, wellbeing, and autonomy (or being *iyambae* – free, without an owner) are thus linked to unrestricted access to territory and the subsistence practices this enabled – of shifting cultivation, hunting, fishing, and the collection of forest products. It is this open land frontier to which many Guaraní hoped to return to through their territorial claim.

[9] Bolivia's largest lowland indigenous group, the Guaraní defended an extensive territory from Inca, Spanish, and Bolivian forces until the late nineteenth century, when an expanding cattle ranching economy and a series of state military campaigns led to a gradual erosion of their territorial base. The 1892 Kuruyuki Massacre is widely seen as marking the effective end to Guaraní military resistance. The Chaco War (1932-5) brought further Guaraní displacement, as ex-combatants were encouraged to settle the Chaco's gas-rich lands. Many of these settlers acquired formal land rights during the 1952 agrarian reform, leading to the spread of *empatronamiento* ([Author citation], 2018).

Contrasting this vision of a borderless world, the process of elaborating a territorial claim required the *fixing* of territorial boundaries. As Bolivian anthropologist and activist mapper Sarela Paz put it, the objective was "to command an area with limits". As she described, early efforts at mapping indigenous territorial claims took place before the INRA Law's elaboration and were informed by the ILO Convention 169's reference to indigenous peoples' "traditional habitat". Activist mappers like Sarela sought to identify this "traditional habitat" using indigenous place names and drawing on colonial and missionary archives for evidence of historic land occupation. In Itika Guasu, the result was a map that far exceeded the fragments of land then occupied by Guaraní families, incorporating urban centres and transgressing provincial and departmental boundaries.

State officials quickly dismissed such territorial claims as unviable given the presence of non-indigenous settlers within these spaces and the fact that they threatened the internal spatial order of the state. In this context, the Guaraní and their activist allies began to make pragmatic decisions about what to include in, and what to exclude from, their territorial claim. According to then NGO Director Miguel Castro, they began by excluding the nearby (mainly non-indigenous) urban settlement of Entre Ríos and main roads. By excluding some Guaraní communities to the east, the Itika Guasu territorial claim was kept within the administrative limits of O'Connor Province, while the administrative limit of Tarija Department was used as the territory's northern boundary.

As this demonstrates, even before it came to the land-titling process, translating the multicultural concept of territorially-bounded indigeneity into a territorial *claim* posed

problems for those cognisant of local geographies and institutional power relations. In order to win state recognition, indigenous peoples were forced to move away from a discourse of "ancestral" rights and make pragmatic concessions to state and settler geographies. While this article has distinguished cartographic imaginaries of territory from the dynamics of propertisation, the elaboration of territorial *claims* occupies an intermediate space between territory and property; while such claims are expressed as cartographic representations, their elaboration and evaluation involves the anticipation of competing property claims and on-the-ground conflicts over land access.

In conclusion, the mapping of a territorial claim in Itika Guasu involved adapting a politically powerful discourse of territorially-bounded indigeneity (enshrined in ILO Convention 169) to the political and geographical limits of settler and state geographies. While it was indigenous peoples' agency – in the form of marches, land occupations, and organising – that pushed the Bolivian state to recognise TCOs in 1996, the task of mapping territorial claims fell largely to non-indigenous activists and NGOs. As already noted, the bounded territorial claims that emerged from these processes diverged from Guaraní visions of the world without borders inhabited by their grandparents.

Figure 1 around here

Notwithstanding this divergence, the mapping process also had important effects on Guaraní imaginaries of "territory". According to Miguel Castro, prior to the mapping process:

> [The Guaraní] didn't talk about their territory; they talked about their land. But when they entered into this [mapping] process, they started to change; this ancestral notion of land started to change. First because of the influence of the theoreticians, let's say, of "indigeneity," who said, "What you need is a territory, and territory is this, that and the other." The concept they now have of territory isn't an indigenous concept; it's a very well-meaning interpretation of the técnicos [non-indigenous advisors]. So there is a change, you see? There is a change in the idea of territory.

While this individual's perspective is a subjective one, it points to the imaginary of a bounded territory – associated with the TCO claim – has become an important reference point for many Guaraní. This is most evident at the level of indigenous politics, where TCO claims have served as a guiding imaginary for indigenous struggles across the Bolivian lowlands for the past three decades. As a cartographic and political imaginary, TCO claims have come to play a decisive role in mediating indigenous engagements with other territorial actors, from NGOs, to state institutions, to hydrocarbon companies. So too have they remained central to indigenous governance, providing the territorial structure and logo for indigenous organisations, and acting as a basis for territorial management plans, development projects, and, most recently, claims for indigenous autonomy (Tockman, 2015).

To some extent, it could be said that – at least at the level of indigenous politics – Guaraní visions of "recovering territory" have become *territorialised* around TCO boundaries (see Figure 1 above). As such, the mapping of TCO claims has had transformative effects, with the contingent and power-infused struggles that determined these territorial boundaries largely forgotten. Nevertheless, a persistent contradiction – and intense frustration – for many Guaraní lies in the fact that this imaginary of spatially bounded and contiguous indigenous territories has not been matched by the legal outcomes of the Native Community Land titling – and still less by the material realities of indigenous land control. I now turn to examine the dynamics and outcomes of this titling process.

iii) Propertising territory

[Figure 2 around here]

In the aftermath of the INRA Law and against the politically-charged backdrop of the 1996 March for Land and Territory, the Bolivian State recognised thirty-three Native Community Land claims, among them TCO Itika Guasu. As should already be clear, the recognition of these TCO claims did not amount to an awarding of collective property titles over these claimed areas. Rather, it marked the beginning of the SAN-TCO land titling process, with all the caveats described above.

During the course of the titling process, the Guaraní of Itika Guasu faced many challenges. As already noted, global imaginaries of territorially-bounded indigeneity diverge from the socio-territorial realities of most indigenous peoples in Bolivia, who share their ancestral territories with a variety of non-indigenous actors, following diverse histories of colonisation and frontier settlement. In Itika Guasu, these "third parties" (as they are legally known) were heterogeneous, ranging from the Guaraní's former *patrones* (hacienda bosses) to small migrant farmers living in comparable conditions to Guaraní communities. According to NGO staff, the presence of these other actors was intentionally underplayed in the territorial claim presented to the state.[10]

At the point of allocating land rights, however, these competing claimants could no longer be ignored. When state cartographers entered the territory to begin the cadastral survey, they were met with violent threats from landowners who had previously relied on indigenous labour to make their haciendas viable. State officials had little understanding of multicultural conceptions of indigenous rights, but rather saw their task as "sanitising" the territory (*saneamiento*) – recording GIS points and awarding property titles that could be used to meet national targets for hectares titled per annum. Combining this technocratic mind-set with racist expectations of what property claimants look like, they initially overlooked Guaraní communities altogether. Two of three surveying teams began by measuring the property boundaries of private haciendas, with the result that Guaraní families who lived within hacienda boundaries as former peons were made

[10] Besides the map of the territorial claim, this included a package of documentation referencing the Guaraní's historic occupation of the area and contemporary land use practices.

invisible on the resulting cadastral maps. Following complaints by the Guaraní organisation, the surveying work was eventually redone.

This did not, however, prevent the fragmentary effects of the titling process, which saw TCO Itika Guasu divided into 517 separate polygons, consisting of hundreds of private property claims, whose boundaries left Guaraní families imprisoned in the fragments of land they already occupied. For those that lived within private haciendas, the establishment of Guaraní "communal areas" required informal negotiation with landowners, most of whom eventually agreed to "cede" small areas of land (usually the worst lands), the remainder of their properties remaining subject to the titling process.

Following the identification of property claims through the cadastral survey, these claims were subject to a legal-technical evaluation, which involved the on-site collection of evidence relating to properties' Economic Social Function, followed by the office-based evaluation of this evidence. These processes were marked by racialised and class-based inequalities and irregular practices. During INRA's fieldwork, wealthier land claimants attempted to bribe state officials and "rented" cattle from neighbouring ranchers to evidence the "economic social function" of unproductive properties. During the office-based stages of the process, landowners used personal or family connections within INRA to influence the evaluation of their property claims. Organised around two local cattle ranching organisations, they presented legal complaints before the National Agrarian Tribunal, lobbied regional and national authorities, and blocked the allocation of departmental state funds for the TCO titling process.

In defending their property claims, private land claimants mobilised colonial discourses of race, property and citizenship. They emphasised their and their ancestors' contributions to agricultural and meat production, and historical processes of state territorialisation (including in the 1930s Chaco War with Paraguay), while framing the Guaraní as lazy, unproductive, untrustworthy, manipulated by outside interests, and a threat to regional development ([Author citation]). What made such discourses so powerful in the context of the TCO titling was that they were shared by many state officials responsible for implementing the process. As the former (2000-2004) Director of INRA Tarija admitted to me in an interview (Tarija city, 2009): "I think that all the sectors without distinction should be required to use the land. . . You can't justify that [an indigenous] people have so much unproductive land . . . It doesn't serve any purpose; they're going to be a threat to society|.

Such racialised discourses also helped wealthier landowners (who included absentee landlords) garner support from poorer *campesinos*, many of whom felt marginalised both by ethnic rights discourses and by the class-based inequalities of the titling process. This demonstrates how racial regimes of ownership can work to maintain the status quo, precluding the formation of inter-ethnic alliances in favour of land reform. Some poorer land claimants, who lacked personal connections or money for bribes, sent letters to INRA stating their intension to "defend their property with their lives" – a chilling reminder of how "exclusion's double edge" surfaces in processes of ethno-territorial recognition. The result of these racialised micro-politics is that, after two decades of TCO

land titling, roughly two thirds of the land in TCO Itika Guasu – and, notably, the most productive land – remains in the possession of non-indigenous landowners (Figure 2).[11] The land titled to the Guaraní is discontinuous, interspersed with properties titled to private claimants or with an unresolved legal status. These outcomes echo the results of TCO titling across the Bolivian Chaco, where roughly 10% of land within TCOs has been legally awarded to Guaraní claimants (Figure 3).

[Figure 3 around here]

Ultimately, indigenous land rights have been squeezed into the spaces left between privately claimed areas: a geography of absence. In Itika Guasu, such free spaces were few and far between. In many cases, land recovered as TCO land is little more than the areas occupied by communities before the titling process. This fragmented territory is a far cry from Guaraní dreams of returning to the borderless world of their grandparents. It also contrasts the cartographic representation of TCO claims as contiguous spaces of indigenous ownership – a representation that has been used by the state to fuel false perceptions of indigenous land control in Bolivia and paint TCOs as the "new *latifundios* (large estates)" (Garcia Linera, 2012). In short, while the mapping of indigenous TCO claims (influenced by multicultural discourses of territorially-bounded indigeneity) itself involved pragmatic concessions to state and settler geographies, the titling of these territories raised further challenges. In the context of a racial regime of ownership (which

[11] By 2012, the Guaraní of Itika Guasu had been awarded legal title to 90,540 hectares, or 38.4 percent of the total TCO area. Some 25,452 hectares (10.8 percent) of the TCO land has been titled to third party claimants, distributed among 136 properties. A further 74,696 hectares (31.7 percent), distributed among 198 properties, are privately claimed but remain in a state of legal limbo. Of the remaining TCO land, 27,969 hectares (11.9 percent) are identified as state land and 8,563 (3.6 percent) are designated "untitled."

was both legal and vernacular), it produced a process of hierarchisation and fragmentation that has undermined the very notion of collective indigenous territories. In the final section of this paper, I examine how this "elusive promise of territory" continues to shape territorial and resource politics in the Bolivian Chaco, two decades after the creation of Native Community Lands.

3. The elusive promise of territory

When discussing the outcomes of their TCO claim, Guaraní leaders in Itika Guasu often highlight the disjuncture between the vision of a contiguous territory and the fragmented outcomes of the titling process. As one Guaraní leader described: "It's arriving one bit at a time, but not all. It's a single big TCO but it's only arriving bit by bit". Using a popular metaphor, he complained that the TCO's internal boundaries "shut you in a room," when the Guaraní "live in a single house, a single patio." Although he used the Spanish *patio* (courtyard), the reference here is to the Guaraní *oka*, a shared communal space that in this context symbolises cultural differences in how land is imagined and inhabited. The implication was that TCO titling had failed to recognise or accommodate Guaraní ways of life (*ñande reko*).

For many Guaraní, the failure to achieve rights to a single contiguous territory is interpreted as a failure of the legal-cartographic strategy in general. As another man put it: "We began thinking of reclaiming and consolidating the territory, but it hasn't been easy. Up till now we haven't managed to consolidate 100 percent; TCO Itika Gausu still hasn't been achieved." Another leader echoed this sentiment, noting: "Our hope was that [the government] would title the *whole* [TCO] demand that the [Guaraní organisation]

had made... but the government hasn't done that". An elderly *mburuvicha* (community leader) put it simply: "The government isn't fulfilling; it hasn't given us the territory that it had to give us". National Guaraní leaders echo these complaints; as then APG Autonomies Officer Milton Chacay told me in 2011: "This initial territorial consolidation that we [the Guaraní of Bolivia] had imagined isn't going to be possible unless there's a radical change with respect to the *tenancy* and the *property* of land" – something he saw as inviable given the Morales government's support for new peasant settlement in TCOs.

In August 2009, leaders from the Guaraní People's Assembly of Itika Guasu (APG IG) wrote to the vice ministry of land demanding the indefinite suspension of the TCO titling process. Their letter highlights the gap between Guaraní aspirations for rights to a collective territory (the TCO claim) and the fragmentary outcomes of the titling process, stating: "The APG IG wants to express clearly that its position is that 100 percent of the TCO should be registered (titled), that is, that the INTEGRITY of the Native Community Land should be maintained". To this end, the letter demands the annulment of all "irregular" third party land claims (those acquired through corrupt means) and proposes that those that have legally justified their titles should be purchased by the state or expropriated for incorporation in the TCO. Such demands highlight how the gap between "territory" and "property" has become a central point of contention for Guaraní leaders, giving rise to broader critiques of state land-titling and the search for alternative strategies to reconstitute "territory" from the ruins of propertisation.

Despite the political changes that have followed the 2005 election of Evo Morales,

multiculturalism's elusive promise of territory continues to haunt indigenous territorial politics in the Chaco, in ways that are both mundane and spectacular. In rural communities, Guaraní villagers are forced to contend with the gap between a lingering vision of the TCO as a collective territory and the on-the-ground realities of land control. In 2011-12, I spent six months in a community that is surrounded on all sides by private properties, which are either privately titled or in a state of legal limbo. Landowners' erection of barbed wire fences during the titling process has exacerbated problems of access for Guaraní villagers, who rely on a variety of forest products, some of which are only found within the boundaries of private properties. Such daily challenges of land access belie the promise of territory that animated the early days of Guaraní resurgence. As the community's elderly *mburuvicha* concluded: "reclaiming territory is going to be a bit difficult. It's already like that—a piece here, a piece there".

These fragmentary titling outcomes also create conflicts over resource management between Guaraní communities. As noted above, during INRA's initial surveying work, Guaraní communities were measured separately with "communal spaces" that were defined by the boundaries of neighbouring private properties. In the context of one conflict over some palm trees, which are used by women to make handicrafts, people from a neighbouring village argued that the trees were located within *their* land, as verified by INRA's measurements. In contrast, people from my host village appealed to the imaginary of a collective territory to argue that they had *just as much right* to the trees as their neighbours. As one man put it: "Why do we speak of the TCO? What is the organisation for? You see? In that case, there is no border". The "bright lines" of property

(Blomley, 2009) have thus led to a hardening of boundaries and a moral economy of exclusive ownership, even as some Guaraní continue to imagine the TCO as a single collective territory.

At a regional level, the tensions between territory and property have become a defining issue in Guaraní resource conflicts with extra-territorial actors. This has been most contentious in the context of hydrocarbon development, where oil companies have sought to take advantage of the fragmented landscape of property to bypass indigenous demands for consultation (author citation). In another high-profile case in 2009, the APG IG president ended up in a legal dispute with the departmental state road-building company over its purchase of an oil worker's camp within the TCO's boundaries.[12] In a remarkable twist, however, Guaraní leaders have also sought to reconstitute "territory" *through* their negotiations with hydrocarbon companies. A 2010 agreement with Repsol provided written recognition of the Guaraní's ownership of the *entire* TCO territory and not merely the fragments of land titled to them by INRA. As the APG President explained, announcing the agreement to communities in 2011, "We [gained] full legal recognition of our property over the Native Community Land". In the following years, APG IG leaders began describing their organisation as "property owner of TCO Itika Guasu" and referring to the TCO as a Native Community *Territory*. Ironically, efforts to recapture territory from the ruins of propertisation are articulated by some leaders through a discourse of the territory *as property.*

[12] Surprisingly, this resulted in a judicial ruling that affirmed the Guaraní's rights to consultation over any project within the entire TCO claim and instructed the Bolivian state to consolidate the Guaraní's land rights within the TCO.

These brief examples demonstrate how the disjuncture between territory and property remains at the heart of Guaraní resource politics in the Bolivian Chaco. While TCOs could be viewed as empty vestiges of multicultural recognition, it is their elusive promise – their failure to fully materialise – that makes them a powerful animating force, pushing indigenous peoples towards a critique of recognition politics and the search for alternative strategies for reclaiming territory. Indigenous demands for territorial autonomy under the Morales government (Tockman, 2015) are a direct outcome of the legacies of TCOs – part of a broader effort to transcend the limits of multicultural recognition and re-centre claims for resource control and self-governance (Postero, 2007). Ironically, however, a major obstacle to the implementation of indigenous autonomy in the Chaco (and in much of the Bolivian lowlands) is the fragmented status of property rights within TCOs (Albó and Romero, 2009). Given the MAS government's support for extractive industry and new peasant settlements in TCOs, this does not look likely to change in the near future. As such, the struggle over the tense relationship between territory and property in TCOs looks set to continue.

Conclusion

This paper has examined the contradictory effects of territory and property in indigenous land claims and how this continues to shape the legacies of legal-cartographic recognition in the Bolivian Chaco. Drawing on the example of one Native Community Land claim, I have traced how the discursive and cartographic representation of indigenous territories as bounded, contiguous spaces of indigeneity has been undermined by the socio-spatial

effects of propertisation, which has worked to privilege the rights of non-indigenous landowners and left indigenous villages isolated within discontinuous fragments of the least productive lands. Today, more than two decades after the Bolivian state recognised Native Community Lands, this disjuncture between territory and property continues to shape territorial and resource politics in the Bolivian Chaco, grounding broader indigenous critiques of state recognition and animating alternative and contested strategies for recovering territory.

In highlighting these contradictions, my intention is not to reify a modern conception of territory as an object of indigenous struggle. When the Guaraní of Itika Guasu began organising in the late 1980s to free themselves from a regime of debt peonage, they did not imagine a bounded and collective territory composed of thirty-six communities. First and foremost, they hoped to return to living *iyambae,* "without an owner". This not only required the breaking of labour contracts with hacienda bosses, but also the ability to move freely through the Chaco, hunting, fishing, and planting maize wherever they saw fit. To many older community members, it is this vision of territory as a life-world and open land frontier that remains the unfulfilled aspiration of the territorial claim. Nevertheless, the process of mapping and claiming a collective and bounded territory – TCO Itika Guasu – also had transformative effects on Guaraní imaginaries and aspirations. When the Bolivian state recognised Itika Guasu as a Native Community Land, many leaders and community members believed this would give them access and rights to the land and resources within the entire territory. While the territory's boundaries were the result of pragmatic concessions, and effaced complex histories of

dispossession and struggle, they also became an important reference point for Guaraní organisational politics, territorial governance, and negotiations with outsiders. Above all, the TCO has provided the unifying goal and political horizon for the past three decades of territorial struggle. The same is true for indigenous peoples throughout the Bolivian lowlands.

However, as in many TCOs, this vision of a collective territory in Itika Guasu has been undermined by the very process of propertisation through which it was supposed to be delivered (or, in local terminology, "consolidated"). The reasons for this, I have suggested, must be understood in the context of a multicultural concept of territorially bounded indigeneity and its tense articulation with a racial regime of property amidst the entangled landscapes of the Chaco. The ways in which these tensions play out in other geographical contexts is a matter for further empirical investigation. However, teasing apart the articulation of territory and property in indigenous land claims – and the resulting gaps that can emerge between recognition, rights and resource control – remains an important task for critical scholarship. Without it, communal land titling initiatives may create false impressions of indigenous land control while obscuring ongoing processes of indigenous dispossession.

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