

## ETHNIC PEOPLES IN COLOMBIA: CITIZENSHIP, VICTIMHOOD, AND DIFFERENTIAL APPROACHES TO PEACEBUILDING

It is now widely understood that ethnic peoples in Colombia (and Latin America more broadly) are the victims of historical discrimination due to their territorial connections, identity and cultural processes, and prolonged state failures to guarantee their rights; and that they have also borne the brunt of more recent violent conflicts. When peace talks between the Government of Colombia (GOC) and the Revolutionary Armed Forces of Colombia (FARC) began in 2012, it became essential to re-examine the role Afro-Colombian, Black, and Indigenous peoples<sup>1</sup> play in Colombian society, and how they have been affected by violence. In response to the persistent advocacy of ethnic organizations over the four years of official negotiations, a separate (though reduced) “ethnic chapter” was included in the final Peace Accord to provide a set of “principles, safeguards, and guarantees” to

secure the rights of Colombia’s ethnic peoples and restore those that were violated as a result of the conflict.<sup>2</sup>

Considering the Peace Accord and its implementation within the longer (and continuing) history of racial- and ethnic-based structural discrimination, epistemic violence, and resistance opens opportunities for examining the concepts of “peace,” “justice,” and “reparation,” and sets the scene for a differential response to post-conflict which takes a greater variety of experiences into account. This Spotlight outlines the process of gaining ethnic rights and the emergence of “ethnic citizenship” in Colombia, the inclusion of ethnic rights in the Peace Accord, and the implications not only for ethnic peoples, but for Colombian society as a whole.

### THE EMERGENCE OF AN ETHNIC MOVEMENT: INTERNATIONAL CONTEXT

Ethnicity emerged as a significant issue of political concern in the 1980s, largely due to the growing number of indigenous movements demanding alterations to land rights, political participation, and cultural autonomy. Ethnic organizations were classified as a “new” social movement (NSM), along with projects as diverse as modern environmentalism, feminism, gay rights, and the peace movement, and their focus on the variety of political spaces to be occupied was novel in that it meant “politics” was not seen as outside of everyday life, but rather constitutive of it, and, as such, inseparable from its social and cultural elements. Many NSMs also emphasized identity, and asserted the right to a cultural space for its expression.<sup>3</sup> Numerous governments thus challenged responded with constitutional and legislative reforms to recognize and deliver special rights to those marginalized by the “classic republican nationalism of homogeneous citizenship”<sup>4</sup> which characterized most post-independence states.

The emergence of ethnic people as social and political actors, and the expression of their demands along the lines of ethnic difference and recognition, is also closely related to the development of an international jurisprudence that characterizes ethnic rights as human rights.<sup>5</sup> The growing international interest in Indigenous matters is illustrated by a number of agreements, including the International Labor Organization’s Convention 169 (ILO C169), which was ratified by most Latin American states by 2000, and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted in 2007. Such mechanisms have promoted the language of citizenship, rights, and democracy in ethnic movements, and forming claims for land, access to resources, and cultural difference as claims for universal human rights has helped them attain international legitimacy and universal appeal.

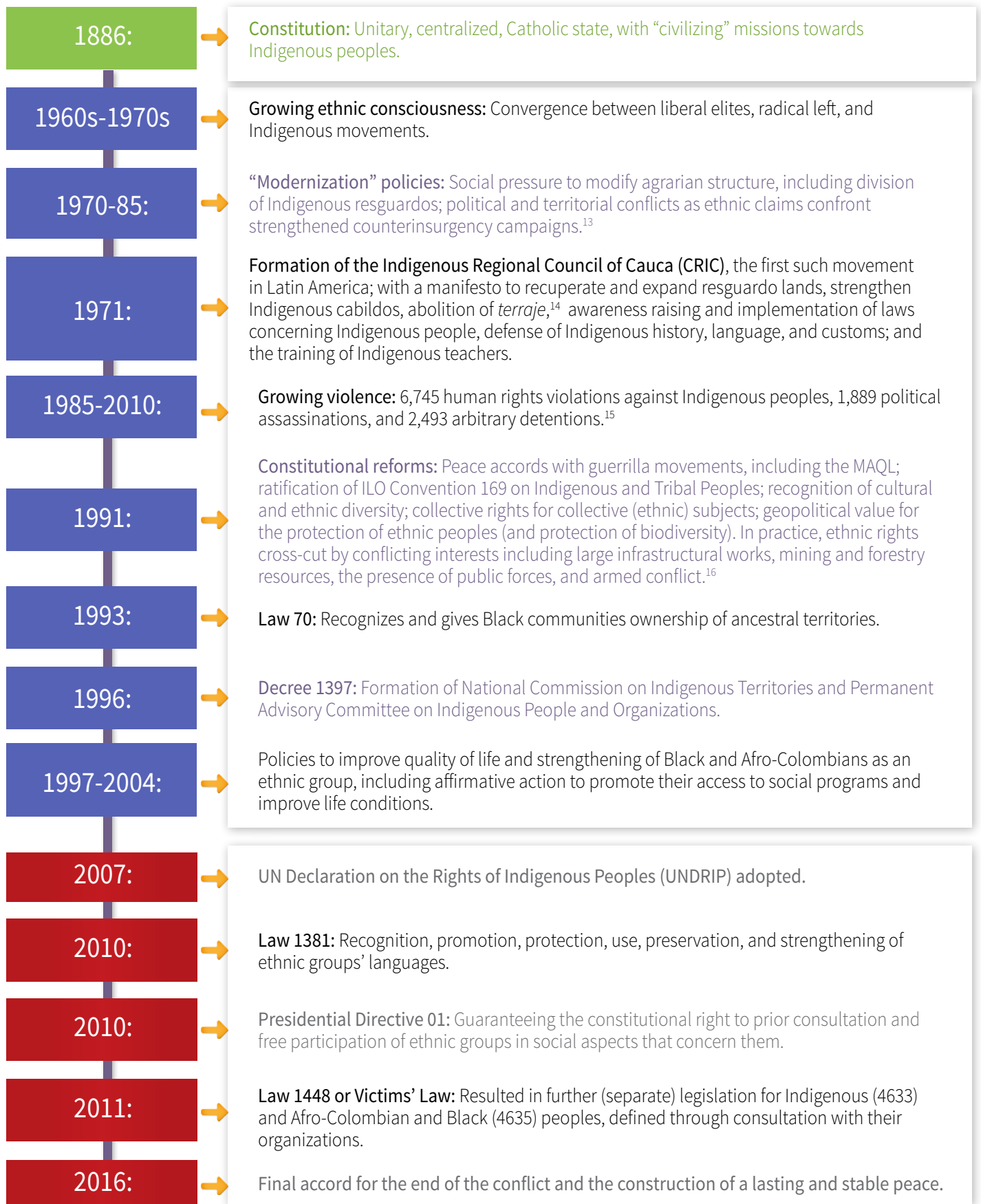
### THE EMERGENCE OF AN ETHNIC MOVEMENT: COLOMBIAN CONTEXT

In Colombia, this process took place through a (continuing and intercultural) political process in which ethnic responses to marginalization, repression, and assimilation have ranged from armed resistance (the Quintín Lame Armed Movement, MAQL, in the 1970s), to the rejection of armed groups (the understanding reached with the FARC-EP in Cauca in 1987), and open dialogue with the state. Engagement with these actors, as well as with existing agrarian organizations and national society, has increasingly been from the standpoint of ethnic difference, in which a particular cosmovision and historical resistance to outside invasion are key to legitimizing and promoting the recuperation of (collective) ethnic identity, lands, and autonomy; while colonial-era legislation (in the form of *resguardos*<sup>7</sup> and *cabildos*<sup>8</sup>) has provided the legal foundation for these claims. This new “ethnic citizenship” involves whole communities in marches and public displays of ethnic identity and demands for rights, opening up new spaces for political action when opportunities for (traditional) democratic participation are diminished (for example, under state repression of class-based claims in the 1960s and 70s).<sup>9</sup>

The incremental recognition of ethnic rights in Colombia culminated in their inclusion in the 1991 Constitution, and in subsequent laws and decrees for the formation of traditional authorities, the titling of communal lands, and prior consultation for the exploitation of natural resources through the 1990s (see timeline). However, these rights have been crosscut, often violently, by other contradicting interests, including those of illegal and state armed actors and counter-insurgency warfare; illegal drug trafficking and the eradication of illicit crops; agribusiness and the commercial interests of the landed elite; large-scale infrastructural projects and extractive economies; and the national justice system. Over the past 15 years, the Constitutional Court has issued almost 20 rulings declaring the unconstitutionality of the situation of ethnic groups’ rights due to the differential impacts of violent conflict.<sup>10</sup>

### KEY LEGISLATION AFFECTING ETHNIC PEOPLES IN COLOMBIA





As a consequence, ethnic movements have also pioneered the use of the category of “victims of the armed conflict,” becoming key players in the larger peace movement, and drawing on a discourse of (individual) human rights, within the framework of their collective rights as ethnic actors. In fact, ethnic organizations have also opened opportunities to examine our definitions of key terms such as “territory,” “victimhood,” and “reparation,” for example through legislation for the application of the 2011 Victims’ Law (Law 1448) for Indigenous (Decree-Law 4633) and Black and Afro-Colombian peoples (Decree-Law 4635). The latter two consider the collective harm suffered by ethnic peoples, and (particularly in the Indigenous case) acknowledge the effects of violence on the reciprocal relationships between humans, places, and other-than-human beings; recognizing ethnic territories as the subjects of rights, and consequently victims of the armed conflict in themselves.

Although national legislation continues to reproduce legal standards and exclusions with regards ethnic identities (by prioritizing concepts such as development, progress, and culture, for example), spaces for destabilizing the distinction between the given/natural and the constructed/cultural have also emerged since 2011, opening opportunities for us to imagine the world otherwise, and for the state to design attention and reparation services that respond to more diverse realities. In considering territory as a victim, for example, ethnic peoples can contest the state’s understanding of harm, which is usually limited to “material” (environmental), “moral” (psychological harm), or “cultural” (threatening their different modes of being and acting in the world), to consider the necessity for “spiritual healing,” oriented towards reestablishing (reciprocal) relationships between a particular ethnic community and their animate territory.<sup>17</sup>

Community-based memory projects developed during the armed conflict, such as those enacted by the Peace Community of San José de Apartadó (Antioquia) or the community of *Kitek Kiwe* (Cauca), also illustrate the political, contingent, and contextually specific nature of “peace,” understood not only as a process in relation to war, but also as (place-based) community construction and the exploration of alternatives to state models of restorative or punitive justice.

### KEY FIGURES: ETHNIC PEOPLES AND VICTIMS

ETHNIC PEOPLES ACCOUNT FOR:

13.8%



of the total population of Colombia<sup>20</sup>

12%

of registered victims of the armed conflict<sup>21</sup>

64.7%

of Indigenous peoples face **cultural and physical extinction** due to state neglect, incursions into their territories, and cultural and material factors affecting their autonomous development

Afro-Colombian and Black peoples have been most affected by **forced displacement**, confinement, and the armed conflict in general

### THE PEACE ACCORD: DIFFERENTIAL TERRITORIAL AND ETHNIC APPROACHES

It has become general wisdom that the struggle for land has been the engine of armed conflict in Colombia, which has been played out over *terrain*<sup>22</sup> as armed groups seek to command geostrategic spaces, populations, and economies. In this understanding of territory as a political technology, collective ethnic territories are considered an obstacle to the expansion and control of armed groups, the state, and powerful economic interests, resulting in regionally-differentiated violent coercion,<sup>23</sup> and the prioritization of land ownership over other conceptions of *territory* when it comes to building peace.

The Peace Accord, although it outlines an innovative project for building “territorial peace” based on greater territorial integration, social inclusion, and strengthened democracy,<sup>24</sup> also largely focuses on the distribution, tenure, and production of land, and follows a somewhat limited conception of territory as the scenario for implementation, and as (rural/peripheral/ungoverned) spaces which have not been properly filled by state institutions. In implementing the Accord, we must therefore be cautious of repeating the same rationale of “decentralize-to- pacify” and territorial practices of “clear, hold, and build” that were co-opted by paramilitary groups (in the Urabá, for example) during the early 2000s.<sup>25</sup>

In the current case, while the formulation of 16 Development Plans with a Territorial Focus (PDET) Action Plans has been completed with the participation of more than 200,000 civil society representatives, including ethnic peoples,<sup>26</sup> their implementation is reliant on state-level decision making and financing; and scandals have already arisen concerning irregularities in the management of peace contracts.<sup>27</sup> A related area for concern is the new 2018-2022 National Development Plan,<sup>28</sup> which has been criticized for focusing on military and agro-industrial consolidation at the expense of victims’ rights,<sup>29</sup> and which follows a conception of territory based on the resource-based aspects of *land* and *terrain*, rather than a fuller notion which would allow for a differential and more innovative approach to “development” and “peace.” In short, current processes again stop short of re-thinking the state or re-imagining the nation (and its spatial manifestations) in a way that would guarantee non-repetition and promote spatial justice, social equity, and a dignified life in the territories.<sup>30</sup>

In illustration of this, the original Accord was defeated in the plebiscite of October 2016 in part due to racialized territorial differences in which those who faced the worst of the war were not considered fully part of the nation, and areas with class and race privilege voted against an accord which would have helped address a system of inequality. Internal displacement increased threefold over 2018, with significant impacts in regions with notable ethnic populations indicating a continuation of the same racialized and violent territorial processes.<sup>31</sup>

In terms of the Peace Accord’s ethnic approach, the inclusion of a last-minute “ethnic chapter” goes some way to compensating for the lack of participation and an appropriate differential ethnic approach throughout the negotiation process. In this chapter, the GOC and the FARC recognize that ethnic peoples have contributed to the construction of sustainable and lasting peace, progress, and the economic and social development of the country, whilst also suffering from historic injustices through colonialism, slavery, exclusion, and dispossession (of their lands, territories, and resources), and the internal armed conflict. They also acknowledge the need to provide guarantees for the full exercising of their human rights and collectives, in the framework of their own aspirations, interests, and cosmovisions. The chapter also lays out guarantees and mechanisms concerning each of the five points of the Peace Accord, based on international (including ILO C169 and UNDRIP) and national legal structures.<sup>32</sup>

The principal safeguard for the interpretation and implementation of the Accord for ethnic peoples is based on their free and informed prior consultation and consent, which has the potential to promote intercultural dialogue and to strengthen Colombia’s democracy. However, the risk is that consultation is treated as a participative procedure, which involves ethnic peoples in state projects but does not question the model of development being proposed, the power asymmetries involved, or the persistence of colonialism; that is, pursuing “neoliberal multiculturalism” and the guaranteeing of freedom of contract and due process at the expense of “counterhegemonic multiculturalism,” which prioritizes self-determination and the redistribution of resources and power, as promoted by ethnic movements and the UNDRIP.<sup>33</sup>

Red flags on this situation include the continued delays in the approval of legislation for creating congressional seats for 16 victims of the armed conflict,<sup>34</sup> and security guarantees for ethnic communities. In the latter case, the “Integrated Security and Protection Program for Territorial Communities and Organizations” launched by the GOC as part of Peace Accord implementation in April 2018 was produced without consulting ethnic authorities, and did not foresee the strengthening of ethnic peoples’ own collective security systems such as the *Guardia Indígena* and the *Guardia Cimarrona*, as stipulated in the Accord’s ethnic chapter. The failure to include these internationally recognized organizations indicates state reticence towards guaranteeing ethnic communities’ rights to consultation, and towards recognizing their organizational autonomy.<sup>35</sup> A year later, violence in ethnic territories has increased, as have threats against their leaders,<sup>36</sup> while the GOC has launched a “Timely Prevention and Protection Action Plan” (PAO) which was not consulted with civil society organizations and has been criticized for its militarized approach.<sup>37</sup> As a result, ethnic authorities demanding a differential approach to security and protection have tended to be stigmatized, rather than supported, by the state.<sup>38</sup>

## LESSONS LEARNED AND CHALLENGES

**1** The armed conflict and its effects on ethnic peoples cannot be understood without considering their experiences and relationship with place and other-than-human-beings, as well as links with memories and imaginaries for the future.<sup>39</sup>

**2** Violence produces individual and collective transformations, and not only in humans and their “representations” of the world, but rather also in the spirits, animals, and objects with which they interact.

**3** The hegemony of the state in determining what is real needs to be examined, and the material (not only the cultural) existence of other entities like spirits and animal-keepers need to be recognized, in order to defend the multitude of worlds which exist on the planet on their own terms (which may also include “modern” practices, science, and technology); that is, the “pluriverse.”<sup>40</sup>

**4** Past experiences should be drawn on to ensure “territorial peace” can be turned into lived reality, rather than stopping at the “pacification” of different regions consolidating a

territorial model of the centralized state serving oligarchic economic interests.

**5** Past agreements, promises, and laws concerning ethnic peoples need to be implemented in full, as well as considered as central to, rather than additional to, new iterations of national legislation.

**6** Through prior, free, and informed consultation and consent laws, ethnic peoples and their territories are often seen as “obstacles to development.”<sup>41</sup> Their stigmatization by parts of the state and civil society needs to be challenged, and support needs to be offered them in developing their own conceptions of peace, justice, and memory, as well as alternative projects to achieve them.

**7** Seeing territory as a subject of rights and as a victim of armed conflict helps to address “difference” not only in cultural frameworks for understanding the world, but in terms of the knowable world itself.

**8** Positive rights need to be built, celebrating the existence of other

worlds and beings and recognizing their agency, rather than defining them by their vulnerability.

**9** The concepts of “development” and “economy” need to be rethought in order to find alternatives to development, “different economies,”<sup>42</sup> and an emancipatory “other politics” of self-determination and dignity.<sup>43</sup>

**10** With high levels and continuing displacement, ethnic peoples who live in urban and suburban areas, and their interrupted relationship to their territories and lifeways also need to be considered, as do their sense of belonging and dynamics of social interaction limited by impassable boundaries.<sup>44</sup>

**11** Ethnic peoples and their organizations should be included in defining their own security and protection measures, with a focus on prevention and including collective responses. The Guardia Indígena and Guardia Cimmarona are already effective defense bodies which should be strengthened.

<sup>1</sup> From here on referred to as ethnic peoples

Office of the High Commissioner for Peace. 2016. “La paz es conmigo: los pueblos étnicos como protagonistas en la construcción de paz.” Available at: <http://www.altocomisionadoparalapaz.gov.co/herramientas/Documents/Cartilla-etnias-paz.pdf>

Stavenhagen, Rodolfo. 2002. “Indigenous Peoples and the State in Latin America,” in Rachel Sieder *Multiculturalism in Latin America: Indigenous Rights, Diversity and Democracy*. Basingstoke: Palgrave MacMillan, 24-44. p.32.

Wade, Peter. 1997/2010. *Race and Ethnicity in Latin America*. London: Pluto Press, Second Edition. p. 1

Sieder, Rachel. 2002. “Introduction” in Rachel Sieder (ed.) *Multiculturalism in Latin America: Indigenous Rights, Diversity and Democracy*. Houndmills: Palgrave Macmillan, 157-183. p. 1

Cosmovision: A modern conceptual category incorporating secular and spiritual behavior, mythic characters, and historical experience into politically effective discourse.

Resguardo: Legally recognized and inalienable collective Indigenous property.

Cabildo: Traditional council recognized as an Indigenous community's legal representative and authority responsible for the application of their laws and customs.

Troyan, Brett. 2008. “Ethnic Citizenship in Colombia: The Experience of the Regional Indigenous Council of the Cauca in Southwestern Colombia from 1970 to 1990.” *Latin American Research Review*, 43(3): 166-191. p.182

Colectivo Copal. 2017. *La consulta y el consentimiento previos, libres e informados de pueblos étnicos frente a los Acuerdos de La Habana*. Universidad Nacional: Bogotá.

Reales Jiménez. 2015. “Slavery, racism and manumission in Colombia (1821-1851).” *Revista Análisis Internacional*, 6(1).

Ibid: p.90

Jimeno, Myriam et al. 2015. Op Cit.

Terraje: Rent paid by a worker to the owner of the land they work.

Villa, William and Juan Haughton. 2005. *Violencia política contra los pueblos indígenas en Colombia 1974-2004*. Bogotá: CECOIN, OIA.

Jimeno, Myriam, et al. 2015. Op cit.

Ruiz Serna, Daniel. 2017. “El territorio como víctima. Ontología política y las leyes de víctimas para comunidades indígenas y negras en Colombia.” *Revista Colombiana de Antropología*. Vol. 53(2): 85-113.

Jimeno, Myriam et al. 2015. *Después de la Masacre: Emociones y Política en el Cauca Indio*. Bogotá: Universidad Nacional de Colombia.

Courtheyn, Chris. 2016. “Memory Is the Strength of Our Resistance’: An ‘other politics’ through embodied and material commemoration in the San José Peace Community, Colombia.” *Social & Cultural Geography* 17(7): 933-958.

DANE. 2005. “La visibilización estadística de los grupos étnicos colombianos.” Available at: [https://www.dane.gov.co/files/censo2005/etnia/sys/visibilidad\\_estadistica\\_etnicos.pdf](https://www.dane.gov.co/files/censo2005/etnia/sys/visibilidad_estadistica_etnicos.pdf)

The 2005 census criteria for ethnic peoples were defined by cultural or physical self-identification as Black/Afro-Colombian, Indigenous, or Rom.

Unidad de Víctimas. 2019. Available at: <https://cifras.unidadvictimas.gov.co/>

Elden, Stuart. 2010. “Land, terrain, territory.” *Progress in Human Geography*. Vol 34(6): 799-817

Cairo, Heriberto et al. 2018. “Territorial Peace’: The emergence of a concept in Colombia’s Peace Negotiations.” *Geopolitics*, 23(2): 464-488.

Government of Colombia. 2016. “Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace.” p.6. Available at: <http://especiales.presidencia.gov.co/Documents/20170620-deja-acion-armas/acuerdos/acuerdo-final-ingles.pdf>

Bailvé, Teo. 2012. “Everyday state formation: Territory, decentralization, and the narco landgrab in Colombia.” *Environment and Planning D: Society and Space*, Vol 30: 603-622.

Agencia de Renovación Territorial. 2019. Available at: [http://www.renovacionterritorio.gov.co/especiales/especial\\_PDET/](http://www.renovacionterritorio.gov.co/especiales/especial_PDET/)

Semana. “Marlon Marín se irá a juicio por las irregularidades en los contratos de la paz.” *Semana*. January 1, 2019. Available at: <https://www.semana.com/nacion/articulo/marlon-marin-se-ira-a-juicio-por-las-irregularidades-en-los-contratos-de-la-paz/599740>

DNP. 2019. “Bases del Plan Nacional de Desarrollo 2018-2022.” Available at: <https://www.dnp.gov.co/Plan-Nacional-de-Desarrollo/Paginas/Bases-del-Plan-Nacional-de-Desarrollo-2018-2022.aspx>. See also the Indigenous minga organized on 10 March and lasting almost a month in protest at the National Development Plan and unfulfilled promises (<https://www.elespectador.com/noticias/nacional/la-minga-indigena-una-pelea-historica-por-las-tierras-del-cauca-articulo-849063>); as well as the national strike organized to protest the National Development Plan (<https://www.elespectador.com/noticias/nacional/el-pais-se-prepara-para-el-paro-nacional-de-este-25-de-abril-articulo-851823>)

Colprensa. “Gobierno planea prorrogar la Ley de Víctimas.” *El Colombiano*. February 3, 2019. Available at: <https://www.elcolombiano.com/colombia/paz-y-derechos-humanos/gobierno-planea-prorrogar-la-ley-de-victimas-JE10147709>

Cairo, Heriberto et al. 2018. Op cit.

Agencia Anadolu. “Más de 30.500 colombianos han sido desplazados en 2018.” *El Espectador*.

December 28, 2018. Available at: <https://www.elespectador.com/noticias/paz/mas-de-30500-colombianos-han-sido-desplazados-en-2018-articulo-831398>

Government of Colombia. 2016. Op cit. p.217.

Colectivo Copal. 2017. Op cit. p. 24.

El Espectador. “Las circunscripciones de paz que no fueron.” *El Espectador*. November 21, 2019.

Available at: <https://www.elespectador.com/opinion/editorial/las-circunscripciones-de-paz-que-no-fueron-articulo-824654>

Verdad Abierta. “Indígenas y afros, excluidos del nuevo programa de protección para comunidades.”

Verdad Abierta. April 27, 2018. Available at: <https://verdadabierta.com/indigenas-y-afro-excluidos-del-nuevo-programa-de-proteccion-para-comunidades/>

Office of the Ombudsperson. 2018. “En 2018 han sido asesinados 164 líderes sociales y defensores de derechos humanos.” Available at: <http://www.defensoria.gov.co/es/hube/noticias/7706/En-2018-han-sido-asesinados-164-lideres-sociales-y-defensores-de-derechos-humanos-Defensores-de-DDHH-Cauca-Antioquia-Defensor%C3%ADa-del-Pueblo-Carlos-Negret-Mosquera-1%C3%ADderes-sociales.htm>

Verdad Abierta. “A quién protegerá el Plan de Acción Oportuna para defensores de derechos humanos?”

Verdad Abierta. November 22, 2018. Available at: <https://verdadabierta.com/quien-protegera-plan-accion-oportuna-defensores-derechos-humanos/>

Colombia 2020. “Vientos de guerra en el Norte de Cauca.” *El Espectador*. February 3, 2019. Available at: <https://colombia2020.elespectador.com/territorio/vientos-de-guerra-en-el-norte-de-cauca> and Colombia 2020. “La Unidad de Protección no responde al llamado de indígenas amenazados”: Senador Feliciano Valencia.” *El Espectador*. December 14, 2018. Available at: <https://colombia2020.elespectador.com/territorio/la-unidad-de-proteccion-no-responde-al-llamado-de-indigenas-amenazados-senador-feliciano>

Cairo et al. 2018. Op cit.

Pluriverse: A collection of worlds with partial connections between them, all being enacted and unfolding without collapsing. Escobar, Arturo. 2015. “Territorios de diferencia: la ontología política de los ‘derechos al territorio’.” *Cuadernos de Antropología Social*, 41: 25-33.

Ibid p. 31

Ibid. p. 35

Courtheyn, Chris. 2016. Op cit. p.15

Cairo et al. 2018. Op cit. p. 470