

Global land commodification, national land reform and communal land tenure in Carangas (Bolivia), 19th-20th centuries.

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Introduction

Entering the 21st century, Bolivia's indigenous highland communities demonstrate a relatively high level of autonomy and agility. This is particularly discernible in the way in which their communal land tenure systems are currently upheld. Over the last decades, substantial steps have been taken towards a pluralist legal framework that provides these communities with strong tools to assert their territorial self-determination (Rojas 2012, BIF 2012, Achtenberg 2013). Particularly land titles have been highly instrumental in the production of local "counterspaces" for autonomous action (Andolina, Laurie and Radcliffe 2009, 100)

However, anno 2013, land rights security continues to be undermined by legal ambiguities, ecological-demographic constraints and socio-economic processes to which the Bolivian State nor local indigenous leadership has been able to formulate an effective answer. This insecurity recurrently surfaces in the form of intra- and inter-community land disputes, which point to the major challenge of conciliating rising expectations regarding local livelihood improvements with persistent intra-community inequalities.

The problem underpinning this apparently successful but simultaneously thwarted land rights security reinforcement stems from the ambiguities of accommodating different land administration logics within a national land policy framework. In effect, the form in which indigenous communal land control systems are incorporated in the national land legislation reveals an intentionally created "gap"; a room for heterogeneity for which indigenous communities have fought centuries-long struggles. At the same time, however, this gap burdens local indigenous leaders with the task of finding sustainable responses to the overpowering pressures on the land and the consequent contention over the land.

Paradoxically, it seems as the community's largest achievement may simultaneously constitute one of its weakest points.

This article questions the paradoxical character of legislating indigenous territorial rights and regulating communal land titles in the context of post-independence State-building. Thereto, it assesses how collective titles over the last two centuries have been abolished, tolerated and fortified in Bolivia's national land tenure framework. It particularly zooms in on the "land rights trajectory" of the highland communities that previously constituted the Carangas province (Oruro department) and have recently reintegrated into the native federation of Jach'a Karangas. For a large part of Bolivia's rural population the possession of a communal land title stands in sharp contrast with their former hacienda dependence. In the Carangas region, however, most lands have always remained in hands of the community and none of these collectively held lands were ever incorporated into the hacienda complex preceding its abolition through the National Revolution of 1952 and the subsequent land redistribution measures enacted in 1953. While Bolivia's revolutionary land reform –which formed part of a broader agrarian reform- is generally understood as a major trigger for the recovery of community lands and indigenous emancipation in general, 1953 had relatively little relevance for these communities. Still, the fact that their community lands did not need a land reform to be "recovered" does not mean that prevailing tenure systems simply correspond to centuries-long unaltered conditions. Rather, the "absence" of the 1953 reform in Carangas must be understood in relation to the region's longer "land rights trajectory," from its exemption from late 19th century enclosure laws to the post-revolutionary consolidation of communal land titles and their accommodation within a pluralist legal framework. Throughout that trajectory, State-community relations were renegotiated, which went accompanied by the creation, exploitation and contestation of legal "loopholes" and contradictions. This article looks into the active participation of indigenous communities and their leaders in shaping and seizing these "rooms for manoeuvre" and how these gaps materialized "on the ground" and "at what price."

After the communities of Carangas are briefly introduced, their "land rights trajectory" is framed within a global perspective on the commodification of communal land tenure systems. Subsequently, this trajectory is reconstructed from the first colonial titling operations up to the implementation of new instruments to guarantee indigenous territorial rights "as we speak." This reconstruction is based on a combination of field work in several communities of the Carangas region (between 2008 and 2012) with archival research in the provincial judicial archive in Corque (the former provincial capital) and the departmental division of the

National Institute of Agrarian Reform (INRA) in Oruro. The exploration of data that have received little attention so far in Bolivian historiography will give more texture to the regional diversity of the country's land question and is brought into dialogue with a *longue durée* and global analysis of land rights regulating processes.

Land and community in Carangas

Situated on the heights of the *altiplano* (the Central Andean Highland), the region at the center of this research covers a vast territory of high altitude semi-desert plains. Given the region's abundance of excellent grazing lands, the local population is principally dedicated to Andean pastoralism. This explains why the local administration of land gives key importance to collective access to land, as llama and alpaca herding is organized in an open fields system (Urioste, Barragán and Colque 2007, 79). In contrast, the soil hardly allows agricultural production to cover minimal subsistence needs. This explains why the region has faced little privatization pressures by agricultural entrepreneurs. Moreover, llamas have played a historical role in fomenting indigenous market participation, from colonial interregional llama caravan trade to contemporary llama meat commercialization. In combination with the region's border location, this explains why land control structures have mainly been affected by regional transportation (dis)connections towards the "outside" world (railways, trucks and roads) rather than land reform.

In addition to the region's limited aptness for cultivation, the preponderance of indigenous authority structures, its marginal connections to the market (despite its legendary contribution to colonial economic interconnections) and its infrastructural isolation have further pushed Carangas into the shadows of the centres of power and contributed to stereotypical representations of a static and backward society. While pastoralist zones typically figure as land reforms' blind spot, Carangas' "land rights trajectory" cannot be reduced to a linear unwrinkled storyline. By the same token, the successful maintenance of territorial and economic independence by indigenous communities has classically been reduced to a direct result of ecological and demographic-ethnic factors and governmental "backwardness". Since the 1980s-90s, with the development of subaltern studies, such autonomy has reinterpreted as an achievement resulting from indigenous people's resilience rather than isolation (Klein 1993, 112; Larson and Harris 1995). Similarly, key ethnohistorical researches on the Carangas communities have underscored their responsiveness to continuously changing historical contexts (see Gavira 2005, 2008 and 2010; Medinaceli 2010;

Mendieta 2008; Pauwels 1983, 1999 and 2006; Rivière 1982; Wachtel 2001). Still, several aspects of how this dynamic potential relates to changes in land tenure have remained unrecorded.



Grazing llamas at the foot of the Sajama mountain (own picture).

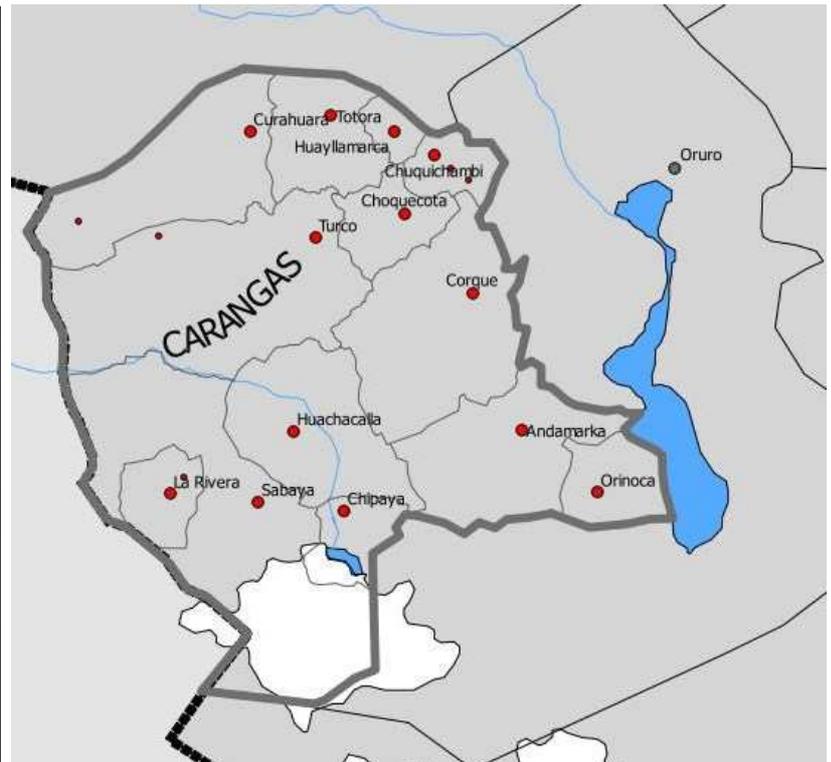
Since pre-colonial times, these were the lands of the Karanka people, who constituted an Aymara *suyu* or federation that was eventually incorporated into the Inca empire, and the Uru people, who first settled in the region (Medinaceli 2010, 95; Pauwels 1983, 70-1, 2006, 343-4). To date, the region's scarce population (49267 inhabitants according to projections for 2011, INE 2001) is still almost exclusively self-identified as Aymara (91,6%), Bolivia's second largest ethnic group, while the region's original Uru population has gradually been reduced to the single municipality of Chipaya (Instituto Nacional de Estadísticas 2001 cited in SEDES 2007, 16; Pauwels 1983, 186-193; Wachtel 2001). Under Spanish administration, this territory was incorporated as *la provincia de los Carangas* and remained a single unit in pre-revolutionary Bolivia, located in the Oruro department and bordering Peru until that country lost its southern departments to Chile (1883). In the second half of the 20th century, the province started to fragment into multiple provinces and municipalities (INRA 2001, 11).

Meanwhile, late 20th century efforts to enhance indigenous control over ancestral territorial rights have led to a more balanced coexistence of two overlapping territorial subdivisions, one state-centred ("official") and one community-based ("native" or customary). Having undergone substantial modifications through pre-colonial, colonial and post-independence times, the region is currently organized into eight provinces, constituted by municipalities (before cantons) whose boundaries largely coincide with those of the twelve communities or *markas* or their constituent communities, the *ayllus*. *Markas* (indigenous territorial spaces) are composed by a central village and a varying number of *ayllus*

(indigenous socio-economic units), each containing a cluster of *estancias* (household residence). On annual basis, the leadership over the *ayllu* is assigned through a rotational election system to a married couple of the community; they are guided by *marka* leaders and regional indigenous governance organisms. The latter are the “Western Council of Ayllus of Jach’a Karangas” (*jach’a* is Aymara for “great”) or COA-JK and the “Native Autonomous Council of the Native Nation of Uru Chipaya” or CAO-UC, nationally represented by the Quechua-Aymara-Uru federation CONAMAQ (*Consejo Nacional de Ayllus y Markas del Qollasuyu*) which aspires the reintegration of ancestral indigenous territories.¹



Bolivia (UN)



Carangas territory (own elaboration)

The implications of post-independence land titling programs for communal land tenure regimes in livestock herding societies such as those in Carangas can only be understood in the light of the complex coexistence of private and collective land use and property arrangements within the community (Urioste, Barragán and Colque 2007, 79). While members of the community individually hold the land of their family’s farm house (*estancia*) and the surrounding usufruct plots (*sayaña*), they also access collectively held lands for cultivation

¹ While the COA-JK (*Consejo Occidental de Ayllus de Jach’a Karangas*) was established already in late 1980s with support from regional and international development organizations (Canqui forthcoming; INRA 2001), the extremely marginalized Uru population confronted much more difficulties in asserting their territorial claims but was eventually recognized as “native indigenous peasant autonomy” (*Consejo Autógeno Originario de la Nación Originaria Uru Chipaya*) in September 2012 (OEP-TSE 2012), a status which the COA-JK so far did not manage to obtain.

and particularly pasture (*aynuka*). Within the community, “official” and customary law complement each other in defining the transfer of property rights (Sanjines 2005, 48-50). Individual plots are transferable through intergenerational succession, but cannot be sold, as all lands always return to the community, under supervision of the indigenous community leaders. Individual usufruct rights and access to collective lands are guaranteed through the annual payment of a contribution (until the 1980s collected by the State as a head tax) and the fulfilment of rotating community responsibilities. Thus, access to land is conditioned by one’s affiliation to a particular *ayllu*, but is therefore not equally distributed among all community members.² While the population (as well as the livestock) increases, the only way to multiply the land base is by subdividing the *sayañas*. This explains why the search for ways to reinforce individual or familial land rights security occurs essentially within the framework of the community and why this search is intrinsically entangled with internal community struggles.

Excluded from communal social control is the urban centre of the community and mining concessions which are open to market transactions. Until the counter-enclosure program of the 1953 agrarian reform made an end to the predominance of the haciendas in the Bolivian highlands, not a single hacienda had been established in the entire province (Rivière 1982, 99). Although mining concessions³ and private properties of the mestizo elites in the rural towns presented a form of local hacienda substitutes, most lands remained all that time in hands of the community.

Global land commodification & communal land rights

In their introduction to a recent dossier on land rights in the Journal of World-Systems Research, Araghi and Karides resolutely state that “*the history of capitalism begins with the transformation of land rights*” (Araghi and Karides 2012, 1). In a contribution to the same dossier, Wallerstein stresses that “*legitimizing ownership by legal title is a fundamental process of the capitalist world-economy*” and even calls the systematization of land rights implementation “*the single most important change imposed by the modern world-system*” (Wallerstein 2012, 7). Of course, the titling of land as a world-historical process has a much

² In the community of Turco, for example, each family currently accedes statistically to 314.10 ha, but this average contains extremes from barely 40 ha up to 1800 ha (H.A.M. Turco 2007?, 47).

³ Mining was of key importance to the region’s colonial history (see for instance Gavira 1999, 2008 and 2011), but from the late 18th century on the mines were abandoned, mainly due to technical problems, contributing to the region’s protracted marginalization.

longer history, but particularly “*since the fifteenth century, land markets in every world region have dissolved the constraints imposed by states and local communities and converged towards a shared world system*” (Richards 2009, 70). As the Bolivian case demonstrates, this outcome is however highly ambiguous, evidencing a convergence at the global level in terms of market integration and rural-urban migration in simultaneity with a heterogenization at the local level in terms of land fragmentation and diverging stakeholder interests (Urioste 2001, 4).

This complex global history of land rights transformation can be interpreted as a trajectory of incorporation, concatenated by successive social transformations fuelled by conflictive negotiations over the allocation of land rights. Starting around the symbolic date of 1492, Araghi and Karides distinguish five key features that structure this process, including the formalization of property rights (titling programs), the fixation of property (demarcation operations), the rationalization of land use (productivity as a condition for property rights), the “liberation” of rights to the land (disentailment), and the “liberation” of labor on the land (proletarianization) (Araghi and Karides 2012, 1).

Underlying to these land rights legislation measures is a shifting vision on the role of property in relation to “progress.” In line with the same authors’ chronological assessment of such projects, this shift can be divided into four historical periods (Araghi and Karides 2012, 1). In a first phase of primitive accumulation, communal tenure were safeguarded but subjected to colonial tributary arrangements (Larson 1998, 64-74). With the late 18th century establishment of the sanctity of private property, culminating in late 19th century liberalism, such communal claims were openly denied (Barragán 2012; Irurozqui 1999; Langer and Jackson 1990). Subsequently, the emergence of developmentalist notions, which subjected the sanctity of private property to its social function, opened the door for 20th century protection measures regarding community lands (Assies 2009, 297; Aylwin 2002, 49). In the newest phase of globalization, neoliberal privatization pressures paradoxically coincide with a return to juridical pluralism the reconfirming that, despite all homogenization efforts, uniformism remains a historical exception (Assies, van der Haar and Hoekema 2000; Benton 2011; Sousa Santos 2012).

A particularly vulnerable but also destabilizing role in relation to this shifting vision is played by indigenous peoples. While exposed to an increased risk of losing property, access and administrative rights over land and other natural resources due to the effects of socio-economic marginalization and reduced decision-making power (ILC et al. 2007, 3), their collective control over the land accounts for “*the most fundamental challenge to capitalism*

(...) *because it denies the overarching dominance of private property rights*” (Fenelon and Hall 2009, 7). In Andean countries, and under Bolivia’s new constitution (2009), this latest phase is backed by indigenous political empowerment that push for a shift towards a new development paradigm of *el vivir bien* or “to live well” (*suma qamaña*, in Aymara) which questions the developmentalist principle of “to live better” (Farah and Vasapollo 2011; Houtart 2011 ; Mignolo 2009).

How is this process reflected in the case region of this research? In order to assess the local manifestation and reverberations of land rights legislation, but also of less visible vagaries, “lacunas” and undercurrents of this process, three factors common to all processes of land reform need to be taken into account.

First of all, projects that push for a transformation in the relation to the land inevitably interact with ecological processes. As stressed before, climatologic-geographical factors are key in explaining Carangas’ marginal inclusion in successive land reform programs. Moreover, as land reforms tend to prioritize territorial continuity, such operations have effectively undermined the principle of ecological sustainability and complementarity that underpins the organization of land access and use in highland, and particularly Andean, environments.⁴ While the enactment of land reforms is often triggered by ecological strains, they seldom manage to formulate an adequate answer to (or even on the contrary, often further foments) those challenges.

Second, and accepting the premise that “*land is fundamentally a political question masked by a legal veneer*” (Wallerstein 2012, 8), land reform must be fundamentally approached as a political instrument. While land reform is never enacted in a vacuum, it is commonly presented as one-size-fits-all solutions, and accordingly camouflages multiple-stakeholder negotiation processes, fails to address overlapping tenure systems and local (conflicts over) inequalities in primary resource needs (Assies 2006; Kay 1998, 9). Therefore, its implementation rarely produces a transparent outcome or the desired socio-economic effects. The “land rights trajectory” of Carangas makes clear that changes in land ownership and the assimilation of communal land administration with national regulations are underpinned by local processes of ethnogenesis, marginalization and elite formation. Particularly the case of how the Uru have been deprived of equal land rights, but also the way in which local elites

⁴ In the long term, post-conquest titling operations have gradually dismembered the Karanga of their directly and indirectly controlled territories in ecologically complementary regions (cfr. infra). On a shorter term, the 1953 reform, despite its limited direct influence in the region, has –in combination with the seeping through of inheritance legislation- seriously challenged the sustainability of llama pastoralism in the Carangas region (López García 2003, 15-6, see also Llanque 1995, 97).

manage to “coopt” land regulation procedures demonstrate how *“failing to address historical power imbalances can lead to the contradictory result that legal empowerment of a customary community can simultaneously lead to the disempowerment of certain groups or individuals within that community”* (Ubink and van Rooij 2011, 25).

Third, land reform always result in a compromise that leaves the ultimate resolution of “the” land question open to future generations. Hence, land reform needs to be analysed within a longer, cyclical time frame and in relation to broader transitions. By the same token, the substantial change of Bolivia’s post-1953 countryside can be ascribed both to pre-existent patterns of legal struggle, violent resistance, political representation as well as to slowly materializing breakthroughs in demographic growth, bureaucratization, technological and transport innovations, rural-urban migration, schooling as well as new cultural-religious conceptions (Ayllu Sartañani 1992, 43-5; Benton 1999).

After more than 500 years of capitalist expansion, to which rural zones such as Carangas have been actively contributing since early colonial silver routes took shape, titling procedures have effectively embedded communal land tenure systems into national legal frameworks. Still, while having been subjected to successive land reform initiatives, communal land tenure systems –although unchallenged nor unaltered- have remained in place. Therefore, communities such as those in Carangas present a fascinating laboratory to explore the dialectics of communitarian self-determination and capitalist expansion. They underscore that, while its course seems to depict a straightforward story of privatization, displacement and depeasantization, (land rights) incorporation processes are interspersed with counter-enclosures, revolutions, modifications, negotiation and alliances (Araghi and Karides 2012).

Keeping disentanglement at bay: The maintenance of the tributary State-community pact

In order to grasp the impact of post-independence changes in communal land systems, it must be understood how, since early colonial times, collective land rights had been squarely framed within an asymmetrical but vital relationship between the *ayllus* and the State. The mutual bond in which the latter guaranteed communal land rights in return for fiscal revenues has been coined by Tristan Platt as a virtual reciprocity pact which would continue to regulate State-community relations until well after independence (Platt 1982, 1984, 1987).

From the late 16th century on, the Spanish Crown ordered the regular execution of land inspections during which indigenous landholding entities obtained (read: purchased) official property deeds or *títulos de composición* (Zagalsky 2009). Around 1645, when Carangas was subjected to such census, the population had been “reduced” into eight principal communities, who each paid 1000 *pesos fuertes* to be granted communal land titles (Klein 2011, 35-6).⁵ While securing collective access to land within the community, this titling operation simultaneously legitimized the absorption of a large part of the fertile lands that fell under the discontinuous territorial control of the Karanga, as distant as the Pacific coast and the eastern valleys, by Spanish(-descending) landowners (Rivière 1982, 63; Pauwels 1983, 89-92). Moreover, these recurrent inspections also served to elaborate and update taxpayers lists, including. The Spanish Crown guaranteed the community’s tenure rights, leaving usufruct and property rights to the community’s internal management, in return for the payment of a head tax, called the *tributo*, and the fulfillment of labor services in the mines, known as the *mita*, by all heads of nuclear households. These property titles and census lists still deliver the material evidence of a contractization process that moulded the ritual relation of Andean communities to land into a formal commitment (Platt, Bouysse-Cassagne and Harris 2006, 323; Pauwels 1983, 150-1). At the same time, however, the implied tributary pressures were a trigger for pragmatic participation in the colonial market economy (see Larson and Harris 1995) and secured a form of State protection. Hence, this pact actually contributed to the Andean communities’ preservation of “a limited, but none the less real, margin of autonomy” (Platt 1984, 6).

Despite important shifts in this “*composición* policy,” the foundations of the reciprocity pact started to crumble with the late 18th century circulation of liberal ideas. In Bolivia, however, plans to dismantle corporative landownership were only applied to indigenous communities about a century later, particularly with the proclamation of the “Disentailment” law (*ley de Exvinculación*) of 1874.⁶ Aimed at converting collectively owned

⁵ However, most copies of those documents which are currently kept at in the Registry books (Derechos Reales) in Oruro, are dated in 1545. Indeed, the date of the purchase documents was afterwards often manipulated and antedated to the first years after Spanish arrival in order to give more weight to the deeds (Bacarreza 1910, in Pauwels 2006, 374; Pauwels 1983, 130).

⁶ After widespread resistance to Bolívar’s measures to abolish the *tributo* and financial dependence upon its revenues impeded the new regime to radically break with the colonial agrarian policy in the first decades of independence (Antezana 2006, 90-3), the declaration of community lands as State property in 1843 (Ovando Sanz 1985, 60) and the radical, although short-lived, decree of 1866 that exposed communal land titles to sale transactions (Ovando Sanz 1985, 123) announced the breakthrough of this major enclosure operation. It was only when the mining revival provided the National Treasury with an income source that dethroned the *tributo* as the prime stabilizer of the country’s finances and when the Pacific War (1879-1883) subsequently urged for extra income sources that the law would finally be implemented.

lands into individual held marketable plots, this law provoked the large-scale expropriation of highland communities, particularly in the La Paz area and concentrated between 1880 and 1930, in favor of the expanding hacienda system (Klein 1993, 157). Despite this massive land grabbing, indigenous resistance and networking, both within as beyond the limits of legal action, and the government's financial constraints contributed to the incomplete implementation, the manipulation, and the regionally differentiated outcome of the law (Barragán 2012; Irurozqui 1999).

In the Carangas province, the planned land inspection and partition operations, known as *Revisitas*, to allow the transition from a tributary to a cadastral system were even never executed. In effect, it can be stated that the tributary pact, inherited from colonial times, continued to regulate community-State relations at the departmental level, as communities continued to pay the indigenous territorial contribution. The fact that enclosure had been “kept at bay” in Carangas, can be largely attributed to the lack of incentives for hacienda encroachment due to its unattractive soil and the strength of indigenous self-government. However, while ecological and demographical factors are indeed key (Grieshaber 1980), it must be stressed that Carangas’ “circumvention” from one of the most dramatic attacks to communal land tenure is far from a story of mere isolation. Through a series of strategies, ranging from fiscal arrangements⁷, over formal exemptions,⁸ and other legal achievements in creating or profiting from loopholes in the law, to more violent but coordinated ways of blocking the start-up of land reform operations⁹, disentailment efforts “retreated” from its territories. In the process, the colonial *composición* titles played a vital role in asserting “Andean claims to collective existence” (Larson 2004, 53-4). However, a more detailed assessment of these strategies is the topic of another paper.

⁷ In 1866, a compensation deal was settled, according to which all communities of the Carangas province payed a contribution to the departmental treasury in order to be exempted from the proclaimed reform measures. ANB, Sucre, Ministerio del Interior, vol. 188, no. 56, Prefectura Oruro, 1867. Grieshaber (1977, 199, cited by Langer 2009, 547) has earlier hinted at a deal between the communities of Oruro and the government, however without finding proof of the purchase.

⁸ In 1927, all indigenous people occupying non-disentailed community lands were exempted from cadastral operations and the cadastral tax for and as a result continue to pay the *contribución indigenal* as established by the 1874 law, subjecting thereby their properties to evaluation and registration procedures. (Calderón 1927, 73-6, 138 and 209-212).

⁹ Opposition against *Revisita* intervention culminated at several moments into local revolts and the province's participation in a region-wide indigenous rebellion during the federal war of 1899. AJC, 1866, no. 985; 1869, no. 1100, f. 5; 1875, no. 1421; 1876, no. 1476 and no. 1478; 1884, no. 1805 and no. 1814; 1895, no. 2302; 1900, juicios penales, no. 3 and no. 2434; 1903, juicios penales, no. 3; 1904, juicios penales, no. 11; 1906, juicios penales, no. 28 and no. 33. ANB, ANB, MI, tomo 272, no. 79 (1893, Oruro dept., 6.6.1893) and tomo 286, no. 53 (1895-1896, Prefectura y comand. Gral. de Oruro, 25.10.1895). See also Condarco 2011 [1964]; Mendieta 2008; Pauwels 1983, 244; Portal 1896, 3.

In short, the preservation of communal land control was never a “given”. Even for the so-called “free” communities, this preservation came at a certain price. Similar as for effectively expropriated communities, that “price” must be primarily understood in terms of conflict (Langer and Jackson 1990, 171-92). From annual governmental reports it becomes clear that anti-disentailment protest in Carangas was triggered not so much by usurping landlords, but by inter-communitarian land disputes.¹⁰ The nearly countless number of lawsuits on land dispossession and consequent demarcation procedures archived in the provincial court in the 1870-1930 period evidence an overall increase in land inroads. At the intra- as well as inter-community level, competition was provoked by disparities in (demographic and superficial) size as in resources (more productive or varied lands, strategic trade location), provoking unequal competition between large usurping commoners or entire communities and smaller –and sometimes even disappearing¹¹- neighbors (Bacarreza 1910, in Pauwels 2006, 376).

What is particularly highlighting, although not exclusive to this specific region, is the ambiguous role played by provincial mestizo elites, the so-called *vecinos* (village residents) in the provoking and manipulation of these land conflicts.

When most mines in the region were abandoned from late colonial period on (Pauwels 2006, 342), several Spanish(-descending) miners, in possession of civil rights but without access to community lands, started to settle in the rural villages and mixed with the former indigenous elites, living from the remuneration of public offices and commercial activities (Cottyn 2012; Pauwels 1983). In search for extra resources, this very small but powerful group started to occupy community lands, a process that culminated –not coincidentally- when communal land tenure security became more precarious in the 1880s (Pauwels 1983, 211; Ayllu Sartañani 1992, 85). A combination of expropriation and social networking strategies eventually led to their registration in the taxpayers lists, thereby allying themselves

¹⁰ ANB, MI, tomo 272, no. 79 (1893, Oruro dept., 6.6.1893). González 1929, 15.

¹¹ A striking case of community erosion through depletion and merger of *ayllus* is given in Corque, where an *ayllu* reduced to only 10 *contribuyentes* and motivated by “the slavery to which their authorities bound them” petitioned in 1886 their voluntary and unanimous incorporation in a small neighboring *ayllu*. AJC, 1886, no. 1919, f.28v-29.

with communities in their resistance to liberal land privatization projects.¹² This subtle process provoked their gradual integration into the community.¹³

Because of their ambiguous attitude, these provincial elites would steadily lose the governmental support that had initially served to consolidate their power in the villages (Lima 1921, 110-12; Mendieta 2010, 277). The net result was that at the eve of the 1952 National Revolution neither private estates nor a landlord class –thus neither a direct motive for rural revolt– had encroached the Carangas communities. Although the *vecino* class would only gradually lose their monopoly, their “humiliation” –in the words of the locals today– has to large extent mitigated and concealed the “rupture” of 1952-3.

The 1953 Agrarian Reform in Carangas: Rupture without/beyond reform?

Under the slogan *la tierra para quien la trabaja* (“the land to those who work it”), the nationalist-revolutionary government of president Paz Estenssoro proclaimed an Agrarian Reform Law on August 2nd 1953. In fact, this was a retroactive answer to the indigenous invasions of hacienda lands by dispossessed peasants in the wake of the National Revolution of 1952 (Klein 2011, 214-5; Gotkowitz 2007). In the eyes of the political leaders of the revolution, excessive land concentration and coerced labour relations hindered the capitalist transformation of the country.¹⁴ Hence, haciendas had to be abolished, with exception of the eastern lowlands, where ample growth margin was given to private landed estates (Urioste

¹² In late 19th century and early 20th century, provincial and departmental authorities recurrently referred not just to the obstacle of indigenous rebellion to implement the land reform, but to the involvement of the *vecinos* in their protest. AJC, 1884, no. 1814, f. 1; ANB, MI, tomo 297, no. 75 (1897, Informe Prefecto, fs. 16v-17); Archivo de la Prefectura, Oruro, 1896-1898, libro 62, cited by Mendieta 2008, 389; Atristaín, in Aramayu 1898, xi; Bacarreza 1910, in Pauwels 2006, 373; Lima 1921, 110-112.

¹³ A clear case of double *vecino-indigenous* status is observable in the family history of the López, who were originally Spanish miners, but settled in the village of Turco, where they came to exert a monopolist political, jurisdictional and commercial control over the community. Powerful as they might have been, the López could never compete with the community’s solid control over the land. In basis of skillful judicial manipulation and authority abuses, they knew to opportunistically move between two –supposedly mutually excluding– worlds, simultaneously enjoying all the privileges provided by their *vecino* status as the access to community land once registered as indigenous taxpayers. Today, the López do not longer occupy a differentiated status within the community. Cottyn 2012; Pauwels 1983, 235.

¹⁴ At the eve of the Revolution, 60% of all rural proprietaries occupied only 0,3% of Bolivia’s land base, distributed in plots of less than 5 ha of agricultural land each, while at the other extreme 1,7% owned together 66% of all the land, possessing each over 5000 ha of agricultural land. 38% was in hands of only 9% of all rural landowners and was exploited under a semi-feudal regime in which the landlord extracted agricultural labor and personal services from tenant peasants. Kelley and Klein 1981, 71, on basis of the Agrarian Census of 1950; Chávez 2009 [1956].

2001, 2-3). Thus, in terms of land administration, the Agrarian Reform explicitly targeted hacienda lands, announcing its redistribution among expropriated commoners and former hacienda workers in the form of private property over individual plots and undivided (*proindiviso*) property over collective lands. This was a process of “peasantization”, in which the indigenous population was channelled into clientele ties initially controlled by the military and subsequently restructure by syndicalist intervention in State-community relations (Rivera 1987, 100; Urioste 2001, 11-2).

While the haciendas in the western part of the country were effectively abolished and agribusiness sector progressively expanded its frontier into the eastern lowlands, few agrarian or land transformations materialized in the highland regions where hacienda lands and landless peasants remained absent. The fact that “they were already free”, converted these communities in a blind spot of the governmental reform programme as well as of many posterior land reform research. Explicit attention has however been given to the reform experience of free communities by Assies 2006, Benton 1999, Carter 1964, McEwen 1975, Kelley and Klein 1981, Sanjines 2005 and Urioste, Barragán and Colque 2007. For this category of rural production units, the reform prescribed the consolidation of communal land tenure through the adjudication of collective titles for the entire community, without distinguishing individual from collectively used plots, in substitution of the colonial *titulos de composición* (Urioste, Barragán and Colque 2007, 27).

This technical-judicial titling procedure required a previous field inspection by the so-called “mobile agrarian brigades” of the National Council of Agrarian Reform (*Consejo Nacional de Reforma Agraria*) or CNRA (Solón 1995, 18-9). Their visit to the –by then-fragmented province of Carangas only occurred in the late 1970s.¹⁵ Some communities would obtain their property titles the next decade, but others would not hear of the Agrarian Reform institution again before its reorganization under the following land reform.¹⁶

The expectations stirred by the operation seem to affirm the proposition that “*property boundaries in the hamlets are understood by people as a symbol of their advancement*” (Goodale and Sky 2000, 15). Although the topographic operation only perambulated *ayllu* boundaries without measuring into inter-household limits, this intervention did however infringe indigenous leaders’ attributions. Still, the brigades’ arrival was perceived by

¹⁵ The titling operation has been reconstructed on basis of field work, particularly in the community of Turco (2008-9 and 2011-12), and the archive of the departmental INRA (National Institute of Agrarian Reform) office in Oruro (AIO); see particularly AIO, Oruro, Provincia Sajama, no. 40535-B for the case of Turco.

¹⁶ For instance Turco, AIO, Oruro, Provincia Sajama, no. 40535-B., f. 33, 36, 50-2, 94. See also Urioste, Barragán and Colque 2007, 98.

contemporary villagers as the first governmental effort to assess and elucidate undefined, overlapping and conflicting land claims *in situ*. At the end of the perambulation of an *ayllu*, the results were presented in a public session in order to discuss and clarify possible disagreements over *ayllu* limits which had now been fixed on paper. The operation concluded with the granting of one single title for the entire *ayllu* that guaranteed equal undivided and absolute property rights for the members of the (husband and wife of each household). *Ayllu* leaders received an accompanying map of the registered boundaries and a list with all beneficiaries, however without specifying each household's individual lands.

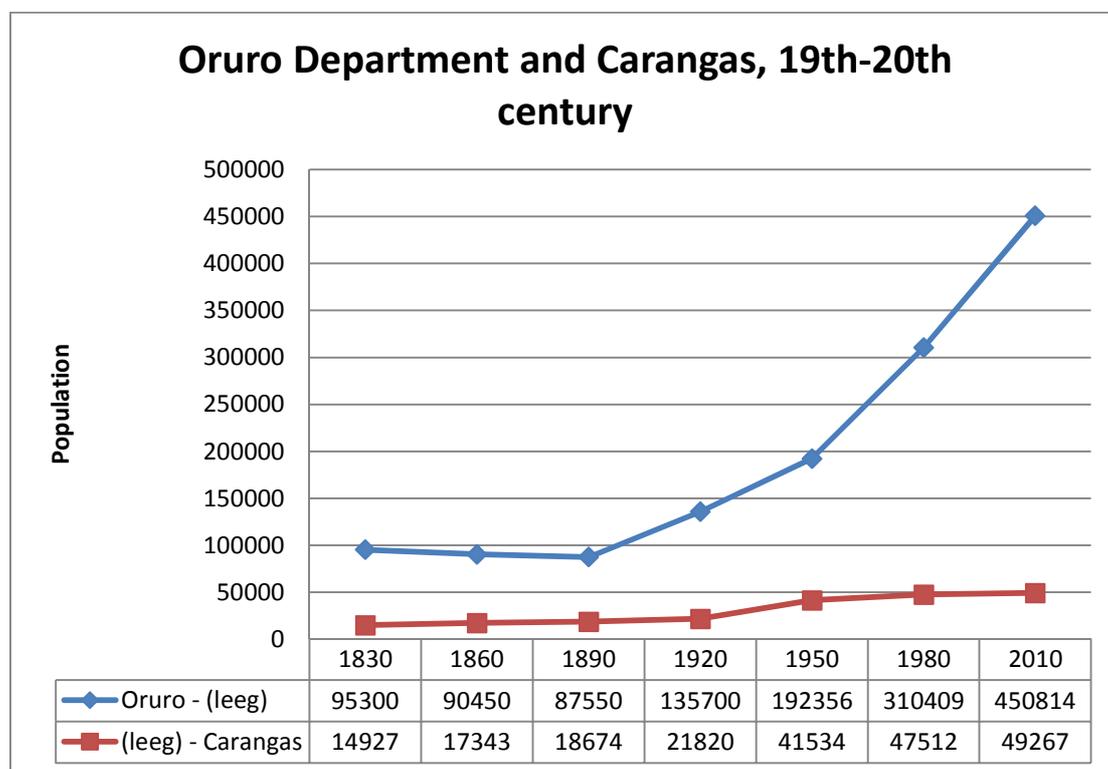
Still, the people in Carangas conceive the 1953 reform as of little relevant. Rather, local memories of the revolution are dominated by other breakthroughs, particularly the universalization of suffrage and the expansion of schooling on the countryside, which left a much more tangible impact on the daily life of the commoners.¹⁷ Instead of the land rights consolidation procedure, community members identified the “upgrading” of their community as a cantonal administrative unit as a more effective solution to their marginal livelihood conditions (Sanjines 2005, 26-7). In fact, they confused “*a law of land distribution with a rural development law that has never been promulgated*” (Sanjines 2005, 30). They thus “skipped” the syndicalist reorganization of their communities (at least until the 1980s)¹⁸, thereby blocking an important vertical tool for post-revolutionary governments to secure the indigenous vote and permitting a more steady continuation of communal decision-making structures. Their efforts at fomenting the “cantonization” of their communities provoked a process of urbanization and aimed at narrowing their distance to the State infrastructure and budget. Although the proliferation of provincial and cantonal divisions at times stimulated processes of communal reinforcement, it implied an effective incorporation into State structures and fuelled the fragmentation, competition and ecological debilitation of communal entities (Abercrombie 1998, 309-14; Ayllu Sartañani 1995, 104).

In fact, either for community lands that had “escaped” or were effectively parcelled out during the pre-revolutionary hacienda expansion, the “real” enclosure happened in the decades after 1953, not so much through the implementation of a reform law but as the outcome of increasing demographic pressures (Klein 1993, 131). Both the previous land reform as the 1953 reform provoked a rise in latent discontent and insecurity –despite the formal guarantee of collective land titles- over resource allocation. As the growth rate graph

¹⁷ Based on own field work in Turco, 2008-2009. See also Sanjines 2005, 24.

¹⁸ Field work in several communities of the former Carangas province, 2008-2009 and 2011-2012. McEwen 1975, 401-7.

indicates, the post-1950 population explosion in the Carangas area was to large extent undercut by a massive rural exodus to the departmental capital, and further away. Quantitative data to confirm the accompanying process of land fragmentation are however lacking as the central State decided not to harmonize intra-*ayllu* land property. This deliberate non-intervention, that is, to not specify internal limits of *pro indiviso* properties, presented both a deficiency in institutional support as an achievement in terms of self-determination (Urioste 2005, 17). At the one hand, the governmental ignorance on the exact distribution of land in quantity or quality, has been detected as a problematic “gap” left by the 1953 agrarian reform (Kelley and Klein 1981, 127). Moreover, nor are indigenous community provided with exact information or instruments to clarify or resolve intra- and inter-communitarian boundary conflicts. At the other hand, this non-intervention principle attests a fair effort to respect communitarian autonomy.



Post-independence population growth in the Oruro department and the communities of Carangas.¹⁹

Although the link between the 1953 reform and the late 20th century recovery of indigenous communal land claims is far from straightforward, an underlying long-term shift towards (the

¹⁹ Own elaboration on basis of indigenous taxpayers registers (ANB, Sucre, Revisitas, no. 225-9, Revisita de Carangas, 1838, 1852, 1860, 1864, 1867, 1871 and 1877) and national censuses (1831, 1900, 1950, 1976 and 2001 and the projections for 2010 by the National Institute for Statistics, INE). See also Blanco 2006 [1904], 20; Chávez 2009 [1956]; Lima 1921, 5; Rivière 1982, 102.

search for) complementarity between communal and private property rights is nonetheless observable. However, the reform failed to address pre-existing incentives for land dispute, which by far exceeded the potential containment of the institutional measures. On the contrary, local conflicts over land were further fuelled by the emergence of new rural elites and particularly by the escalation of demographic pressures on an increasingly fragmented and qualitatively degraded land base.

From TCO to TIOC: Indigenous territorial demands announce the return of legal pluralism

In the last decades of the 20th century, while a lot of *proindiviso* communities were left in uncertainty about the status of their land rights, it became clear that the reform had been “abandoned” somewhere halfway (Urioste 2005), if not reversed (Rojas 2012). Due to the margin of interpretation and manipulation of the reform law and the deficient technical-financial capacity of the Bolivian state, major changes at both the national and the grassroots level still remained forthcoming (Eckstein et al. 1978, 22). Even more, the national land distribution was again marked by an asymmetric proportion between a growing group of *minifundio* landowners, occupying extremely small highland plots of less than 1 up to 20 hectares, and a small group of *latifundio* landowners, now concentrated in the lowlands and including estates of over 5000 hectares (Cerruto 1990; Chumacero 2012; Urioste 2005, 24-5). Hence, the agrarian question was bound to reappear on the political agenda. While Bolivia’s previous reforms focused on the highlands, successive reforms are principally addressing lowland demands to secure and equal access to land (Nuñez 2013). Despite this regional shift, it would provide the communities of Carangas –no longer a single province– and the native umbrella federation of Jach’a Karangas with new tools for the consolidation of communal land tenure rights.

Pressured by the popular mobilization of peasant and indigenous organizations, a new constitution was enacted in 1994, introducing the concept of “Original Community Lands” (*Tierras Comunitarias de Origen*) -or, in short, TCOs. This was a major innovation as a TCO title explicitly recognized indigenous rights to communal control over resources, customs and forms of decision-making (Campero 1999, 479). In 1996, this instrument was adopted by the new land reform law (*Ley 1715*), commonly known as the INRA Law, which refers to the reorganized National Institute for Agrarian Reform (INRA). Its objective was to normalize and modernize the agrarian property situation as inherited from previous governments

(Urioste 2005, 19). Thereto, all post-1953 land property documents and titling procedures were cancelled and subjected to a technical-judicial regularization operation, termed *saneamiento* (Art. 64. Ley 1715; Mendoza et al. 2000, 53), a process in which international financial cooperation was vital (Andolina, Laurie and Radcliffe 2009, 107). For the communities of the Carangas region, the new land reform meant that their only recently obtained *proindiviso* titles were to be replaced by a TCO title.²⁰

While the pursued land titling operation entailed important advances in terms of securing indigenous territorial rights, it simultaneously framed customary land tenure systems within a “false” dual framework (Chumacero 2012; Urioste 2009, 55). Under the new law, the previous double entitlement in ex-hacienda communities of exclusive and *proindiviso* property was annulled, forcing commoners to choose between individual and collective rights instead of recognizing the coexistence of both in rural highland communities. This confusion over the (in)complementarity of individual and collective rights within the national land legislation inflamed feelings of insecurity that challenged intra- and inter-community relations and (re)integration.

At the level of the demand, conflicting visions over the scale of TCO claims already caused uncertainty (Urioste, Barragán and Colque 2007, 108-10 and 148-9). The TCO *saneamiento* process was to be implemented at the level of the community, leaving interior boundaries, ownership and inheritance to “internal” customary regulations (INRA 2008, 85). Thus, when the COA-JK submitted a TCO demand in 2001,²¹ the execution of their petition would imply the subjection of inter-*ayllu* and -*marka* land use and property regulations to the regional supervision by the COA-JK. For the families whose communities had obtained a *proindiviso* title since the 1970s brigade visit, this meant the “absorption” of their definitive, “perfect and full” individual property rights by an umbrella TCO title (Sanjines 2005, 42). Indeed, the beneficiaries of the 1953 reform had to explicitly renounce their family property rights in favor of their inclusion in the collective rights of the TCO. Moreover, the titling costs

²⁰ The INRA concluded in 1996 that, in the majority of the cases, the delineation procedure had been executed incompletely, incorrectly or exceeding the legally stipulated term, invalidating the resulting *pro indiviso* titles. AIO, Oruro, Provincia Sajama, no. 40535-B, fs. 73-5, Informe jurídico INRA, 11 December 1996.

²¹ The TCO procedure includes a preparatory step in order to certify the demanding entity as an “indigenous peasant people” from the Ministry of Indigenous Affairs (INRA 2008, 85). Therefore, official demands necessarily provide detailed data on the history of the territory and its people, the preservation and regulation of communal decision-making systems and native customs and ceremonies, making these documents very interesting sources, not only for its factual information but also for implicitly alluding to a kind of 19th-century style of nationalist history writing. See for example the demand file of the COA-JK TCO-0403-0001 (INRA 2001) and the ethnic certification of Corque Marka (Ministerio de Asuntos Indígenas y Pueblos Originarios 2005).

of such extensive territory, Chile's required cooperation to title Jach'a Karangas' long international border and the challenge of conciliating all overlapping administrative and landowning entities and involved levels of decision-making and jurisdiction made the execution of the TCO demand unviable (Sanjines 2005, 43-4).

As the initial enthusiasm of some member communities to reconstitute the ancestral Jach'a Karangas territory had been seriously curbed, the *ayllus* and *markas* eventually started up more modest procedures. These demands were neither free from major obstacles, usually located in latent or open conflicting interests over individual community members petitioning an opt-out²² or overlapping TCO claims (such as commercially strategic border crossings), State properties (such as the National Park of Sajama) or mining concessions. But by the time the *saneamiento* of these smaller units was concluded or even initiated, a new "Agrarian Revolution" had been proclaimed.

Under the government of Bolivia's first indigenous president, Evo Morales, long-standing indigenous and peasant demands were answered in 2006 by modifying the INRA law, which after ten years left hardly 10% of the country's land base with a land title (INRA 2008, 153). The Law on the Communitarian Restoration of the Agrarian Reform (*Ley de la Reconducción Comunitaria de la Reforma Agraria*) reaffirmed the legal security of land rights for indigenous and peasant groups, subjected medium and large landowners to a revision of land titles and accelerated the redistribution of land (Rojas 2012). At an augmented titling tempo, all *markas* of Jach'a Karangas concluded the administrative phase of the TCO procedure and went over to the technical land inspection by late 2008.²³ The following year, Bolivia adopted a new constitution, declaring the country a "Plurinational State." In response to the claim that Bolivia's (inherited) dual land policy still failed to grasp the coexistence and complementarity of individual and common access to land within indigenous communities (Urioste, Barragán and Colque 2007, xxxvii; Urioste 2008, 8), the constitutional reform opened more room for heterogeneity in local customary land tenure systems. The established guarantee of non-intervention on part of the State in the internal organization of land use and property, leaving this to the supervision of indigenous community leaders, was reinforced by converting the TCOs into "Indigenous Original Peasant Territories" (*Territorio Indígena Originario Campesino*) or TIOCs. The innovation of this

²² The TCO principle offers the possibility of excluding oneself out of the TCO as "third party", hence depriving the community of a particular piece of land. However, in Carangas this usually receives general disapproval from other community members, hence only a minority has resorted to this procedure. In Turco, for example, a little more than 15 per cent of the population had opted for an individual title by 2008 (H.A.M. Turco 2007?, 46).

²³ Own field work. INRA and COA-JK visit to Curahuara de Carangas, March 10th, 2012.

new status was located in the extension the collective “land” rights to “territorial” -hence not merely concerning the surface- rights (Rojas 2012).

By February 2011, 191 very diverse –in size and composition- indigenous territories had been recognized in the entire country, including nine TIOCs within the claimed Jach’a Karangas territory (Chumacero 2011). However, only seven of them explicitly registered as belonging to the indigenous people of the *Karanka* while the other two denied any affiliation. Some of these territorial units had already acquired a TCO title in 2006, while the regulation of other units still remained unresolved by 2012, which was the final year of the titling program’s established term.²⁴ Beginning 2013, 90% of the land in the Oruro department had been regulated and included in the rural cadaster (La Patria 7.2.2013). While all municipalities –either as TIOC or under other modalities- had been included in the process, the titling of over 400000 hectares still remained paralyzed due to conflicting communal, municipal and provincial territorial interests, usually stemming from longstanding disputes between neighboring populations.

In short, although key progress in balancing collective-individual complementarity has been made since the INRA law (Chumacero 2012), legal innovations have encountered serious difficulties to live up to the heightened expectations (Urioste 2008, 8; Rojas 2012). While counting as a major achievement for indigenous self-determination, the principle of governmental non-intervention in intra-community land issues simultaneously entails a potential challenge for local land rights security. With the concession of a TCO or TIOC title, indigenous leadership becomes, maybe not exclusively, but at least co-responsible for the solution of, and squarely involved in the complex network of different stakeholders related to, these disputes (Sanjines 2005, 42-3). While intra-community conflicts are continuously popping up due to small land intrusions, followed by litigations mediated by the *ayllu* leaders and community assemblies, inter-community land disputes are usually backed by much longer histories and more substantial/strategic interests, hence harder to solve (Sanjines 2005, 52). As *ayllu* and *marka* leaders rest on a weak basis (lack of continuity, technical training and material resources and objective distance) and the division of competences over such agrarian matters remains unclear, this responsibility puts an extra pressure on indigenous authorities.

The uncertainty that looms over the responsibility of land conflict resolution underscores the need for mechanisms and spaces for inter-judicial and inter-cultural dialogue in order to secure an equal access to land without enforcing a simplification and assimilation

²⁴ Own field work. INRA and COA-JK visit to Curahuara de Carangas, March 10th, 2012.

of indigenous organizational systems within national legal frameworks (Ubink and van Rooij 2011, 10). In view of these challenges, steps are being taken both at the national level, with the formal reinstatement of pluralism (the *Ley de Deslinde*), as at the local level. The growing load of land and boundary litigations on the shoulders of community leaders has prompted the council of Jach'a Karangas to propose an internal *saneamiento* of community lands. By gathering detailed information on the exact distribution, in size and quality, of individually used lands, the council aims to provide all commoners with a personal title, which nonetheless remains bound to internal use, strictly unalienable and non-mortgageable. Although it remains uncertain if this will suffice to mitigate local land problems, it can prove to be an important step in inter-community conciliation. Simultaneously, there are signs of increased inter-institutional coordination between the INRA and indigenous representative organisms. However, when local communities cope with an extremely reduced and vulnerable land base, such relations result hard to pacify, as is demonstrated in the case of the Uru Chipaya, which led the INRA even to propose the donation of terrains in the eastern lowlands (Rojas 2013).

Concluding remarks. Collective land rights and the (re)creation of alternative spaces in Carangas.

After sixty years of recurring land reform initiatives, local struggles for improved land rights security and a secured level of autonomous land control continue to prevent Bolivia's land question from disappearing from the national political agenda. While bottom-up pressures have quite successfully contributed to the recovery and reinforcement of collective land rights, local land tenure systems have not remained unaffected by internal tensions and external pressures that exceed both institutional as community control.

Both the guarantees achieved regarding indigenous self-determination as the underlying challenges cannot be presented as directly resulting from post-revolutionary projects, but must be understood in relation to a longer historical trajectory of national land rights legislation. Over the last two centuries, the transition from a colonial tributary State to a liberal oligarchic State, a nationalist-revolutionary State, a neoliberal and currently to a "Plurinational" State went accompanied by successive land titling programs that moulded and remoulded the status of communal land rights. In the process, indigenous territorial units of several scales have "seized" the developed titling instruments to extend their claims beyond the legally defined options for communal self-determination. As a result, far from a "straight" course, this trajectory has deviated through the mutual shaping between community-based

land administration and national land reform projects in which collective land rights played an instrumental role in creating and amplifying indigenous communities' room for manoeuvre. However, the price they paid for the recovered control is that the weight of solving internal land conflicts, which often have long and delicate histories, came to bear on the shoulders of local community leaders.

In the Carangas region, the large majority of the population continues to accede land within the framework of the community, while facing the daily challenges of a rapidly eroding rural landscape. Over the last two centuries, the impact of 19th century privatization measures, post-1953 consolidation procedures and the most recent legal innovations in strengthening communal land tenure on their land rights has been somewhat "mitigated". While their relative isolation and insistence on communal autonomy has provided them with a secured margin of non-intervention by the State, it also implied that the solution of often extremely complex land conflicts is left to indigenous leadership and internal hierarchical struggles. On top of these conflicts, external pressures reflected in accelerating rural-urban migration, land degradation and inter-communitarian social differentiation push community beyond their limits of sustainability. Thus, it seems that the region's "salvation" also presents its biggest "damnation," or at least frustration. The ultimate question, then, is if the explicit recognition as indigenous territory and the implementation of legal tools to secure this status will prove strong enough to assert their vulnerable land rights (demands). In the light of the ongoing global land grab, the active construction of alternative geographies for communal futures by rural communities that have remained incompletely "incorporated" is likely to encounter its major threat in the simultaneous (re)creation of (pretended) *terra nullius* to satisfy the global demand for resources.

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