

# **Resistance to development projects in Latin America:**

## **Taking stock of the role of law**

09 August 2019 (time and place TBC)

Universidad del Rosario, Faculty of Jurisprudence, Bogotá

### **Call for submissions and active participants**

It is generally accepted in the Law and Development literature that law has multiple, and often conflicting roles in setting development agenda and its outcomes. On the one hand, it can be complicit in creating, perpetuating and/or expanding inequalities, violence and social tensions, and on the other hand it can have emancipatory potential as it enables people to challenge arbitrary and/or harmful decision-making of relevant authorities or private actors. Law also has a crucial role in providing the constitutional framework that orders a given society, from global level and state policies, to day-to-day life at a local level. From a more critical angle, law is perceived as part of the development apparatus, meaning that it is implicated in governing “underdeveloped” countries and poor populations in ways that create and perpetuate both global and local inequalities. Indeed, these tensions of multiple functions of law often trickle down from global structures and international legal frameworks. Here, law upholds the structure of global political economy on the one hand, while at the same time it provides means to ensure the boundaries of individual autonomy to resist and contest the same structures it constitutes (e.g. human rights).

Development projects are instances where these multiple functions of law come together and are triggered all at the same time. For instance, in case of projects that aim to extract or render certain natural resources productive, law often provides the structure of rights and obligations that enable economic transactions. It also equips both public and private actors with coercive tools to enforce project-related decisions, even against the will of the affected communities. At the same time, law is sometimes perceived as a safeguard that ensures equitable decision-making processes, leading up to just and sustainable development solutions. Legal frameworks governing development projects create even greater challenges in post-conflict settings, where relationship between the international and national agendas on the one hand, and local peace and reconciliation processes on the other do not necessarily go hand in hand.

For example, in Colombia projects such as the Urra Dam, Ituango Dam (Hidroituango), the Quimbo Dam and the Buenaventura seaport, just to mention some examples, epitomise the tensions mentioned above. For instance, the Buenaventura case has proved the centrality of legal arrangements in creating the conditions for the seaport to flourish. These conditions include not only a framework to promote liberalisation, commercial transactions and the expansion of port infrastructure, but also coercive mechanisms (e.g. penal and police force regulations) aimed at cleansing the land and neutralising opposition, particularly from impoverished and displaced populations. At the same time, law has provided affected communities with tools for resistance and contestation for instance in the form of collective rights, land protection and participatory and consultation mechanisms. In the aftermath of the peace agreement

signed by the Colombian government and the Revolutionary Armed Forces of Colombia (FARC) in 2016, development has become central to reconciliation efforts. The peace negotiations included promises of reparation to victims and peasants in the form of development projects. Funding is expected to come from multiple sources, including multinational financial institutions and development cooperation. In this context, the conflicting roles of law in development are very likely to manifest again.

This workshop sets out to bring together scholars interested in this intersection between law, development and bottom-up resistance. Its objective is to facilitate the conversation between those from a critical tradition of legal and political studies, constitutional and international law scholars, social anthropologists, political scientists, and also those who use doctrinal law for contesting authoritative decision-making. The aim is to critically appraise the role that law plays in the context of Colombia and Latin America more generally, in enabling and/or neutralising the efforts of social resistance to modern development agenda.

The workshop will cover questions such as (but are not limited to):

- Recent case law that invokes constitutional rights to challenge extractive industries, infrastructure projects, agricultural development projects (e.g. in the context of the current transitional justice process), overall what has come to be termed as mega-development projects;
- Recent trends in applying administrative procedures relevant to development projects, e.g. consultation requirements or environmental impact assessment;
- Role of law in public-private partnerships;
- The role of international investment law in conditioning government policies and spending;
- A role (and usefulness) of national and international environmental law in contesting development planning;
- Recent trend in the governance of the relationship between projects and communities, e.g. governance by contracts;
- Public interest litigation as an attempt to challenge development projects;
- The relationship between negotiation and formalisation processes of development projects, and the efforts of peace-building at the local level.

If you are interested in this topic and would like to attend this event, you can either present your research, or attend as an active participant.

If you prefer to present, please send us an abstract of max 300 words by 17 June 2019, to email [johanna.cortes@urosario.edu.co](mailto:johanna.cortes@urosario.edu.co) & [Giedre.jokubauskaite@glasgow.ac.uk](mailto:Giedre.jokubauskaite@glasgow.ac.uk).

If you'd like to attend without presenting your research, please drop us an email by the date indicated above and we will get back to you with further updates about the exact time and place of the event.

We also welcome suggestions for different format of presentations than academic presentations: e.g. debates, roundtables on a particular topic, or interviews with prominent scholars or practitioners.

The event is free of charge, but participants have to arrange their own travel and accommodation.

The event is organised by Johanna Cortes Nieto, Universidad del Rosario and Giedre Jokubauskaite, University of Glasgow.